

***A CALL TO END
UNFAIR INSURANCE DISCRIMINATION
AGAINST UNMARRIED CONSUMERS***

**REPORT OF THE
ANTI-DISCRIMINATION TASK FORCE
OF THE CALIFORNIA INSURANCE COMMISSIONER**

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**John Garamendi
Insurance Commissioner
*Convenor***

**Thomas F. Coleman
Spectrum Institute
*Report Author***

TASK FORCE MEMBERS

Edith Adame *
Latino Issues Forum
Sanb Francisco

Thomas L. Berkley
Attorney at Law
Berkley, Schwartz & Carter
Oakland

Alice Bisno *
Vice Pres. for Govt. Affairs
Auto Club of Southern Calif.
Los Angeles

Hector Brolo
Harmandad Mexicana Nacional
Los Angeles

Robert Brown *
Board Director
Tri Visual Services
Fair Oaks

Hector Cavazos
Administrator
The Alcalá Law Firm
Stockton

Cary Cheldin
Executive Vice President
Crusader Insurance Company
Woodland Hills

Thomas F. Coleman **
Executive Director
Spectrum Institute
Los Angeles

Tom Conneely *
President
Association of California
Insurance Companies
Sacramento

Ken Cooley
Marcella Iglesia-Dorsett
State Farm
Sacramento

Frank Cruz
Manny Sanchez
Gulf Atlantic Life
Insurance Compaany
Los Angeles

Pamela Davis
President/CEO
Nonprofits Insurance
Alliance of California
Santa Cruz

Randy Dillon
Ventura-Dillon Corp.
Encino

Rosemary Fernandez
Attorney at Law
San Francisco

Stanley Fleishman *
Attorney at Law
Los Angeles

David Glover
Executive Director
Oakland Citizens for
Urban Renewal
Oakland

Frances Gracechild *
Resources for
Independent Living
Sacramento

Robb Greenspan *
The Greenspan Company
Los Angeles

Nettie Hoge
& Norma Garcia *
Consumer Union
San Francisco

Kathy Imahara
Asian Pacific American
Legal Center
Los Angeles

Marian Johnston *
Attorney at Law
Sacramento

Carl Jones
Congress for California Seniors
Sacramento

Herb Jones
Inner City Agents and Brokers
Los Angeles

Sharon L. Kalemkiarian *
Legal Aid Foundation
San Diego

Catherine J. Kisse-Sandoval *
Attorney at Law
Munger, Tolles & Olsen
Los Angeles

Muriel Kraszewski *
Farmers Insurance

Daniel Lamaute
Lamaute Financial Group Inc.
Los Angeles

Newell H. Laskey *
PFAIR, Policy Holders for
Auto Insurance Reform
La Mesa

Abby J. Leibman, Esq. *
Managing Director
California Women's Law Center
Los Angeles

Albert C. Lum
Attorney at Law
South Pasadena

Bob Lem
Chinese American Coalition
Monterey Park

Charles W. Martin *
Regional Vice President
Allstate
Orange

(list of Task Force members is continued on inside of back cover)

** members of Committee on Underwriting
Practices and Barriers to Coverage*

*** members of Workgroup on Marital Status
and Sexual Orientation Discrimination*

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CONTRIBUTORS TO REPORT

Author

THOMAS F. COLEMAN

Consultants

CHRISTOPHER McCAULEY

LAURIE McBRIDE

PAM WEDDERTZ

Department of Insurance

DOUG BARKER

MIKE JOHNSON

REID McCLARAN

PATRICIA RYAN

**For Further Information or to Obtain
Copies of This Report, Contact:**

Thomas F. Coleman
Spectrum Institute
P.O. Box 65756
Los Angeles CA 90065
(213) 258-8955

or

Jerita Wallace
Department of Insurance
300 S. Spring St., 14th Floor
Los Angeles, CA 90013
(213) 346-6460

EXECUTIVE SUMMARY

Unmarried adults, some 10 million strong, are one of the largest minorities in California. By the year 2000, unmarried persons will constitute a majority of the state's adult population.

Previous studies have documented widespread discrimination against unmarried consumers. This study has confirmed that many insurance companies discriminate against unmarried individuals and unmarried couples. Sometimes the discrimination is hidden or subtle but often it is quite obvious.

By being forced to pay higher premiums simply on account of their marital status, unmarried consumers are, in effect, subsidizing lower rates for married couples. This type of rate discrimination affects singles, divorcees, widows, and widowers. It has a particularly harsh and unfair effect on gays and lesbians who are precluded by law from marriage.

Companies that charge higher rates to unmarried consumers have not shown the Task Force any actuarial data to justify such marital status discrimination.

A survey conducted by the Task Force shows that some companies do not penalize consumers on account of their unmarried status. The Automobile Club of Southern California,

for example, does not discriminate on the basis of marital status in *any* of its insurance practices.

Several years ago, the Auto Club reviewed its practice of giving multiple-car discounts to married couples but not to unmarried couples. Its own analysis showed that its objectives could be achieved even if it eliminated marital status as an underwriting criterion. The Auto Club now grants the same discount to any two people who live together, as long as their cars are jointly owned and are garaged at the same residence. The company has not reported any adverse effect on its profits as a result of this change.

It is time for other companies, including those selling automobile, renters, and health insurance to end unfair discrimination against unmarried individuals and couples.

We trust that Commissioner John Garamendi will work with other elected officials to protect consumers from marital status discrimination. Consumers should not be economically rewarded or punished on the basis of a decision to marry

or not to marry. Marital status discrimination should be treated for what it is -- a violation of the fundamental right of privacy protected by the California Constitution.

"Insurance pricing by its nature is legitimately discriminatory as insurers attempt to charge a premium that reflects the true cost of each type of risk. Historically, insurers have found that for some lines of insurance, particularly auto insurance, married couples generated lower losses than single persons and have priced rates accordingly. Many speculate this it is lifestyle, rather than strictly marital status, that is responsible for the difference in loss costs and suggest that insurers should explore the use of lifestyle characteristics rather than simply rely on marital status as a pricing factor. This change in philosophy and insurance pricing would address most of the concerns [raised in this report]. The Exchange does not base rates on marital status, but we believe that lifestyle and similar characteristics are legitimate and reliable indicators of risk and should be allowed as insurance rating factors."

-- Alice Bisnow

*Interinsurance Exchange of
the Automobile Club of
Southern California*

SUMMARY OF RECOMMENDATIONS

1. Additional Resources. No current resources of the Department of Insurance are specifically focused on the problem of marital status discrimination even though such discrimination is unfair and pervasive. In order for the Department of Insurance to tackle the problem of discrimination against unmarried individuals and couples, the Insurance Commissioner should assign staff and direct resources to combat the problem. (See page 15)

2. Information Retrieval. The Department of Insurance does not tabulate the number of complaints it receives each year about marital status or sexual orientation discrimination or categorize the types of insurance discrimination about which unmarried consumers are complaining. The Insurance Commissioner should direct his staff to study the data collection and retrieval systems of the Department of Fair Employment and Housing (DFEH) which has years of experience investigating complaints of discrimination. DFEH classifies each complaint according to context (housing, employment, public accommodations), the type of discriminatory action (refusal to rent, eviction, firing, verbal insult) and the basis of the claim (sex, race, marital status, age, disability). The Department of Insurance should do the same. (See page 15)

3. Auditing. In addition to responding to complaints, the Commissioner should take a more aggressive stance toward solving the problem of marital status discrimination. The Department of Insurance should periodically audit the practices of a representative sample of insurance companies and agents to see if they are engaging in marital status discrimination. (See page 15)

4. Education. Consumers, brokers, and agents are often unaware that marital status discrimination may violate constitutional protections, statutes and existing regulations. Education is often the key to reform. The Insurance Commissioner should initiate a campaign to educate consumers, agents, and insurance company executives about current

legal protections against marital status and sexual orientation discrimination. The Department of Insurance should prepare a brochure advising consumers of laws and regulations against such discrimination and complaint procedures. The brochure should be distributed to civil rights groups, singles organizations, and outlets in the lesbian and gay community. (See page 15)

5. Cease and Desist Orders. The freedom of choice to marry or not to marry is a fundamental right protected by the right of privacy in the California Constitution. The Insurance Commissioner should acknowledge the fundamental right of adult consumers to be married or single. To protect that right from unwarranted interference, the Commissioner should begin to issue cease and desist orders against companies that discriminate against unmarried individuals or couples. Such action would also be consistent with the Commissioner's authority to enforce the Unfair Business Practices Act, relevant sections of the Insurance Code, and departmental regulations. (See page 16)

6. Litigation. Some existing statutes and regulations are vague and need judicial clarification. Others have loopholes that must be filled. The Insurance Commissioner can provide the necessary leadership to further strengthen protections against marital status and sexual orientation discrimination by participating in test cases when they come to the Commissioner's attention. To prevent future insurance discrimination cases from being decided by appellate courts without participation from the Department of Insurance, the Commissioner should request the California Supreme Court and all divisions of the Court of Appeal to notify the Commissioner when cases involving discrimination are pending before those courts. Even though appellate judges would not be required to honor such a request, they should know the Insurance Commissioner wants to be heard before precedents are created that may adversely affect insurance consumers. (See page 17)

7. Omnibus Regulation. Existing regulations have not stopped discrimination against unmarried individuals and couples. Based on the right of privacy, Insurance Code Section 10140(d), and the Unfair Business Practices Act, the Insurance Commissioner should issue a new regulation specifically declaring rate discrimination on the basis of marital status to be an unfair business practice and prohibiting companies from refusing to issue joint policies to unmarried couples. The regulation should apply to all lines of insurance. (See page 18)

8. Auto Insurance Regulation. When the Insurance Commissioner issues permanent regulations on Private Passenger Automobile Rating Factors, the use of marital status should be prohibited. This would make auto insurance regulations consistent with other basic legal protections, such as the constitutional right of privacy and the Unfair Business Practices Act. It would also bring auto insurance rating practices into conformity with the intent of Proposition 103 which was to base rating on factors related to individual responsibility and not class stereotypes. (See page 18)

9. Domestic Partner Coverage. The refusal of health insurance companies and Health maintenance Organizations to provide health coverage for the domestic partners of employees is a form of marital status discrimination. The Insurance Commissioner and the state Corporations Commissioner should take appropriate legal action to bring this discrimination to a halt. (See page 11)

10. New Legislation. In the next legislative session, the Insurance Commissioner should sponsor a bill prohibiting discrimination on the basis of race, religion, color, national origin, sexual orientation and marital status in all lines of insurance. (See page 18)

11. Joint Renters Insurance. The Insurance Commissioner should issue guidelines to assist companies that issue renters insurance to issue joint policies to unmarried couples without violating statutes requiring consumers to have an insurable interest in the

property to be insured. (See page 20)

12. Actuarial Data. Some insurance companies have insisted that unmarried consumers constitute a higher risk than married consumers. However, they have not supplied statistics to the Insurance Task Force to support this claim. Any actuarial data that is eventually provided by companies to the Insurance Commissioner on this subject should be rejected unless the data is current, detailed, accurate, statistically representative and scientifically valid. (See page 16)

13. "Save at the Pump." Save-at-the-Pump is a new, more efficient auto insurance system in which every driver is automatically covered with a basic insurance policy that is paid for through surcharges on gasoline purchases, auto registrations, drivers licenses, and tickets for moving violations. Under the plan, everyone who drives must pay. Bad drivers pay more because they are surcharged when they renew their license and when they pay a traffic tickets. The plan also includes a "no fault" system which reduces lawyer's fees, agent's commissions, and unnecessary red tape. Senator Art Torres has introduced a Save-at-the-Pump bill in the Legislature. It is expected to fail due to strong opposition from trial lawyers and insurance agents. Therefore, an initiative drive is being launched. The Insurance Commissioner should support a ballot measure to codify a Save-at-the-Pump Auto Insurance Plan into law. (See page 19)

14. Universal Health Care Coverage. Our current health care system excludes too many people and is too costly to those who are covered. Many people are also excluded due to discrimination. Insurance Commissioner Garamendi has developed a proposal for universal health care coverage for California. Some states, such as Hawaii and Oregon are already implementing health care form plans. President Clinton is about to unveil a proposal for a national health care plan. It is time for society to recognize health care as a right for all rather than a privilege for those who can afford it. A plan for universal health care coverage should be enacted without further delay. (See page 19)

PURPOSE AND METHODOLOGY OF TASK FORCE

Although insurance is a necessity for everyone, it is often priced as if it were a luxury. Obtaining and maintaining insurance -- health, life, automobile, homeowners, renters, and more -- is essential to protect our assets, to protect family members, and in some instances is required by law.

For many years, millions of California consumers have been frustrated because insurance has not been available to them, either due to excessively high prices or due to outright discrimination.

When John Garamendi became California's first elected Insurance Commissioner, he pledged to use the resources of his office to fight all forms of discrimination in the insurance marketplace. He recognized that many Californians experience discrimination when trying to purchase the insurance they need for both their personal and commercial security.

Commissioner Garamendi has expressed his commitment to the creation of a statewide marketplace in which people will not find insurance coverage either unavailable or unaffordable based on factors such as race, ethnicity, gender, marital status, sexual orientation, family structure, age, or disability.

To focus attention on this important public policy issue and to develop strategies to combat discrimination, Commissioner Garamendi convened an Anti-Discrimination Task Force (hereinafter referred to as "Insurance Task Force") in July 1992. He appointed a diverse group of consumers, business leaders, and civil rights leaders to serve on the Insurance Task Force.

Its 62 members have contributed a variety of perspectives to this study. In addition to consumer activists, members include insurance industry representatives from the Association of California Insurance Companies, the Professional Insurance Agents Association, and nearly a dozen insurance companies.

Civil rights advocates serving on the Task Force include advocates for the rights of women, people with disabilities, seniors, racial and ethnic minorities, children, inner-city residents, unmarried adults, and lesbians and gay men.

At the first meeting of the Task Force, members realized that the mandate was too broad for all issues to be studied by a committee of the whole. As a result, various subcommittees were formed to study subsidiary issues and to make recommendations in those areas.¹

A subcommittee on Underwriting Practices and Barriers to Coverage was convened to study various forms of discrimination against insurance consumers.

A workgroup of that subcommittee reviewed previous government studies on marital status and sexual orientation discrimination.² It analyzed existing legal protections, conducted a survey of insurance companies and brokers, consulted with an association of professional insurance agents, and reviewed critical feedback from members of the Task Force.³

This report contains the findings and recommendations of the Insurance Task Force concerning marital status and sexual orientation discrimination. (See page 80 for details on the process used in adopting this report.)

UNMARRIED CONSUMERS ARE A LARGE AND DIVERSE MINORITY

California is home to nearly 10 million unmarried adults.⁴ In most major metropolitan areas of the state, a majority of the adult population is not married.⁵ Projections from census figures indicate that by the year 2000 a majority of all households in California will not contain a married couple.

Although most adults do ultimately marry, about 10 percent remain single throughout their entire lives. This is double the historical rate of five percent, according to a recent report issued by the Census Bureau.⁶

Many other adults are single because they delay marriage until they complete their education or until their careers are in place. Although the trend toward deferring marriage actually began in the 1970s, it has become far more pronounced in recent years. For example, in 1990 nearly 38 percent of women 20 to 24 years old were married for the first time, down from 63 percent in 1975.⁷

Many adults are unmarried because they have divorced. The median length of marriages in this country is only 7 years.⁸ Current projections indicate that 54% of the first marriages of women ages 25 to 29 will end in divorce.⁹ A 1985 survey found that nearly one-third of women ages 35 to 39 had ended a first-marriage in divorce, and researchers have projected that as many as 56% of this group will eventually divorce.¹⁰

The number of people living alone has increased dramatically over the years, although it has started to level off in California. About 25% of the state's households consist of one person living

alone.¹¹ The occupants of one-person households have very diverse characteristics. More than 60% are women. Similarly, more than 60% are over 45 years-old and are divorced or widowed.¹² Fewer than 10% are less than 25 years of age.¹³ The diversity of unmarried adults is apparent from their organizations, activities, and support groups.¹⁴

However, not all single adults live alone. According to the 1990 Census, 10% of California's households consist of a single parent raising a minor child.¹⁵ More than 6% of the state's households are comprised of related adults living together but without a married couple present in the home.¹⁶

Millions of unrelated adults in the United States live together out of wedlock. Nearly 8% of California households fall into this category and in urban areas such as San Francisco, Berkeley and San Diego the percentage rises to double digits.¹⁷ Although many unmarried adults live together merely as roommates, a large number are domestic partners, that is, people living together on a long-term basis who consider themselves to be a family unit and who have strong emotional and economic ties to each other.

One recent study described a number of reasons why couples decide to live together as domestic partners.¹⁸ According to the report of the Los Angeles City Task Force on Family Diversity (hereinafter referred to as Family Diversity Task Force), gay and lesbian couples have no choice but to remain "single" because same-sex marriage is not available in California or in any state for that matter.

The Family Diversity Task Force described some reasons why straight couples live together out of wedlock.

"For young opposite-sex couples, 'trial marriages' may be prompted by fear of making a wrong decision, a fear perhaps justified by high divorce rates. Long periods, sometimes years, of cohabitation may provide an answer for divorcees trying to avoid renewing old mistakes. For elderly widows or widowers, unmarried cohabitation may be a matter of economic survival, since remarriage can trigger the loss of marital survivor benefits. Economic disincentives or so-called 'marriage penalties' prevent many disabled couples from marrying."

Although unmarried adults are a very diverse group of men and women from all races, national origins, religions, socio-economic levels, educational backgrounds, and occupations, many insurance companies often lump them all together for underwriting and rating purposes. All too often, unmarried adults are unfairly stereotyped as "irresponsible swinging singles."

Despite his or her individual merits or accomplishments, an unmarried insurance consumer may be required to pay a surcharge by an insurance company because unmarried consumers are considered a higher risk. Many insurance consumers resent this stereotyping, no less than they would object to paying higher rates on account of their race, national origin, or religion.

This resentment is particularly strong in the gay and lesbian community because its members are locked out of the marital status that receives preferential treatment. To these consumers, a surcharge based on marital status is a form of sexual orientation discrimination.

DISCRIMINATION AGAINST UNMARRIED INSURANCE CONSUMERS IS PERVASIVE

Previous Studies

The widespread extent of discrimination against unmarried insurance consumers has been documented by recent studies.

In 1988 the Los Angeles City Task Force on Family Diversity reported widespread complaints of discrimination against unmarried insurance consumers. These complaints were confirmed by consumer advocates, civil rights activists, insurance agents, and the Department of Insurance.¹⁹

The final report of the Family Diversity Task Force identified specific complaints and patterns of marital status discrimination:

- * A complaint was filed against Connecticut Mutual when it refused to issue a joint homeowners policy in the name of two same-sex householders, as their interests may appear on the deed, although a joint policy would have been routinely issued to a married couple.

- * Most companies would not offer a family discount to an unmarried couple who jointly owned their cars, even though such discounts are offered to blood relatives and spouses.

- * SAFECO wrote to an insurance agency in West Hollywood to complain that the agency was writing too many policies for unmarried persons.

- * Some life insurance companies refused to issue a policy if the applicant tried to name a beneficiary who was not related

to the applicant by blood or marriage.

- * Blue Shield charged two unmarried 35 year-olds a total of \$213 per month for basic health coverage, while an married couple could purchase the same coverage for \$197 per month.

- * Many companies would not provide a joint policy for renters insurance to an unmarried couple; two policies, with two premiums were required. A married couple, however, could save money by purchasing a joint policy.

The Family Diversity Task Force found that, as of 1988, when consumers complained of marital status discrimination to the Department of Insurance, they were informed that nothing could be done about it.

As a follow up to the Family Diversity Task Force, the Los Angeles City Attorney convened a Consumer Task Force on Marital Status Discrimination. This group made recommendations on how to end marital status discrimination in the marketplace. Insurance practices were included in this study.

The Consumer Task Force issued a report in 1990 that documented other instances and trends involving marital status discrimination.²⁰

- * Truck Insurance Exchange was sued when it refused to issue a joint umbrella liability policy to two gay men who jointly owned their house.

- * Great Republic was sued for screening out single males who applied for health insurance.

* An agent for SAFECO refused to issue either renters insurance or automobile insurance to any person under the age of 29 who was not married.

* Another agent for SAFECO would not issue a joint policy for automobile or renters insurance unless both applicants were related by blood or marriage. An unmarried couple would have to purchase two separate policies -- at twice the cost.

* Although Blue Cross and Blue Shield advertised a "family" plan for "couples" with children, further research revealed that if the couple was not married, each parent had to purchase a separate policy, thereby increasing the premium considerably.

The report of the Consumer Task Force noted that the reaction of the Insurance Commissioner to marital status discrimination had begun to change with the passage of Proposition 103. For example, then-Commissioner Roxanie Gilespe issued temporary regulations prohibiting the use of marital status, and other factors not related to individual responsibility, as criteria in setting rate for auto insurance. However, implementation of the regulation was blocked when State Farm, Allstate and Farmers filed lawsuits to overturn the new regulations.

The lawsuits were consolidated for a hearing before Los Angeles Superior Court Judge Miriam Vogel.²¹ On May 18, 1990, Judge Vogel issued a preliminary injunction temporarily blocking implementation of regulations that prohibited insurance companies from considering rating factors, such as age, gender, and marital status, that she said "may have a substantial relationship to the risk of loss."

The Commissioner responded to Judge Vogel's order in two ways. She

issued a new set of temporary regulations that complied with the order. She also filed an appeal. The appeal was never decided on the merits because the Court of Appeal dismissed it as being moot because the new regulations complied with the preliminary injunction.

After he was elected to office, Commissioner Garamendi has periodically reissued these temporary regulations pending his completion of a final set of Prop. 103 rules. The Insurance Task Force recommends that when permanent regulations are finally adopted, that automobile insurance companies should be prohibited by the Insurance Commissioner from using "marital status" as a rating factor.²²

Survey of Insurance Companies

To verify whether or not marital status discrimination remains a current problem, the Insurance Task Force conducted a survey of the practices of insurance companies with respect to automobile, homeowners, renters, umbrella liability, and life insurance. More than a dozen companies responded.²³

Only the Interinsurance Exchange, often referred to as the Automobile Club of Southern California, reported that it did not discriminate on the basis of marital status. Each of the other companies that responded admitted to some form of discrimination against unmarried insurance consumers.

Auto Insurance. With respect to automobile insurance, Allstate and Crusader reported that they charged higher rates to unmarried drivers of all ages. Several of the companies, including Cal-American, California Casualty, Continental, Crusader, National Automobile, and

Western United, said they would charge a higher rate to an unmarried driver under 25 years-old than they would to a married driver of the same age.

A representative of Allstate admitted that agents are instructed not to write more than a certain percentage of their business to unmarried drivers.

Farmers and 20th Century said they would not issue a joint auto policy to an unmarried couple who lived together and jointly owned their cars, although a joint policy would be issued to a married couple.

Homeowners Insurance. According to the survey, unmarried couples who jointly owned their home did not pay a higher rate for homeowners insurance. All respondents said they would issue a joint policy to an unmarried couple and would charge them the same rate as a married couple.

Renters Insurance. With respect to renters insurance, all respondents said they would issue a joint policy to an unmarried couple. However, Allstate reported that it would charge an unmarried couple a higher premium than it would to a married couple.

Umbrella Insurance. Allstate, Continental, Crusader, Farmers, Fireman's Fund, and Western Mutual reported they would not issue a joint umbrella liability policy to an unmarried couple who jointly owned their home. The Auto Club and 20th Century broke with the pack, stating that it would issue such a policy and that it would charge an unmarried couple the same rate as a married couple.

Life Insurance. Allstate reported it would not allow a life insurance applicant to name a beneficiary who was not related

to the applicant unless the applicant could prove that the beneficiary had an insurable interest in the applicant's life. This practice is contrary to the express terms of Insurance Code Section 10110.1(b) which states that a life insurance applicant may purchase a policy on his or her own life and "have the policy made payable to whomever he or she pleases."

Information from Agents Association

Insurance agents and brokers have a different perspective on the problem of discrimination since they are often caught in the middle of disputes between insurance companies and consumers. To obtain their views, the Insurance Task Force submitted a list of problem areas to the Professional Insurance Agents Association asking for an official comment. The Task Force has considered a formal response of the association submitted through its designated representative.²⁴

Auto Insurance. The association had several comments about discrimination in automobile insurance coverage.

Problem: Refusal to provide coverage to unmarried persons under a certain age.

Response: Many companies are still reluctant to take drivers between the ages of 19 and 21 without supporting business from their parents. A nonstandard market, however, will still take these drivers and also given them a good drivers discount.

Problem. Charging higher rates to unmarried persons than to married persons with a similar driving record.

Response. Statistics show that unmarried persons under the age of 30 utilize their vehicles more frequently for recreational purposes which may or may not involve the consumption of alco-

hol. Whereas married persons in the same age group tend to stay home due to family constraints, thereby lessening exposure. Due to this perception by the insurance company, amiss as it may be, there are two distinct groups within this age category and a rating discount is offered to the latter group, i.e. married people.

Problem. Instructions to agents not to write coverage to more than a certain % of unmarried clients.

Response. Certain companies desire a properly balanced book of business. This minimizes their exposure to any one specific group.

Problem. Refusal to issue a joint policy with a multiple car discount to an unmarried couple who jointly own their cars.

Response. Most companies offer a multi-car discount if all autos in the household are registered to both parties.

Problem. Adding a marital status surcharge for motor homes if owned and operated by an unmarried person.

Response. No experience with this type of discrimination.

Homeowners and Renters Insurance.

The association responded to problems with respect to discrimination in homeowners and renters insurance.

Problem: Refusal to issue a joint policy to unmarried couples who live together and who jointly own a house or rent an apartment.

Response. There is no difficulty as a general rule with issuing a joint homeowners policy as long as the deed contains the names of both parties. However, until "insurable interest" can be better defined, renters policies are still issued on an individual basis by several companies. Handling the

claim at the time of loss is impacted by the difficulty of accurately determining the values of each person's loss.

Joint Umbrella Policy. The association responded to problems many unmarried consumers have experienced with respect to discrimination in umbrella liability insurance.

Problem: Refusal of companies to issue a joint umbrella liability policy to an unmarried couple who live together and jointly own property, e.g., cars, house, etc.

Response. There is usually no problem in issuing a joint umbrella policy for unmarried couples. The restrictive factor in the policy is that all covered properties must be held in both names, otherwise it may not be eligible for coverage.

The responses of the agents association helped the Insurance Task Force formulate strategies to combat marital status discrimination, particularly in the areas of automobile insurance, renters insurance, and joint umbrella policies.

Health Insurance Discrimination.

Complaints were received from employers, workers, and unions, regarding the refusal of health insurance companies and health maintenance organizations (HMO's) to cover domestic partners.

The problem is so pervasive that a special forum was held at the annual conference of the California League of Cities to discuss the issue.²⁵ According to the City of West Hollywood, a pioneer in extending benefits to employees with domestic partners, insurance companies are a major obstacle to employers who want to health care coverage. The city summed up the problem this way:²⁶

"We know of at least 15 other cities and counties across the country which also have some kind of domestic partner recognition, and another fifteen are considering such recognition. Although these policies are welcome and certainly long overdue, we recognize that there are still many obstacles which must be overcome before domestic partners will be offered the same benefits now offered to spouses.

"Among these obstacles, the most common is insurer refusal to provide group health plan enrollment to domestic partners."

West Hollywood's Human Resources Officer was even more specific in explaining the city's own inability to find a company to provide domestic partner coverage.²⁷ Its request for such coverage was rejected by about 20 insurance providers.

The city reported specific problems with Kaiser Permanente's Southern California Region (hereinafter referred to as Kaiser of Southern California). Although Kaiser's Northern California Region provides domestic partner coverage to the cities of Berkeley and San Francisco, Kaiser of Southern California steadfastly refuses to offer such coverage despite requests from several employers.

In July 1991, a Coalition for Domestic Partner Benefits met with representatives of Kaiser of Southern California. The County Coalition represented nearly 50,000 county employees. Following the meeting, the Coalition sent Kaiser a letter that responded to each of Kaiser's concerns.²⁸ A month later, Kaiser indicated that it would not provide coverage for domestic partners. Kaiser of Southern California responded as follows:²⁹

"Last year, Kaiser Permanente in

Southern California formed a Domestic Partners Task Force to study the possibility of revising our definition of eligible dependents to include domestic partners. After careful consideration, the Task Force reached the conclusion that our region should not expand or customize the definition of eligible dependents at this time."

When the County Coalition made the same request of CIGNA Health Plan, the following reply was received:³⁰

"[W]hile CIGNA understands your interest in expanding the contractual definition of Dependent to include a domestic partner, we regret to inform you that we are unable to accommodate this particular request. In general, we would not expand the definition of dependent unless required by law. As this is not required for the jurisdiction in question, we are unable to accommodate this request."

Not all companies had such a negative reaction, however. For example, Safeguard Health Plans informed the County Coalition that it would provide dental coverage to domestic partners of county employees if the unions and the county included "domestic partner" in the contractual definition of dependent.³¹

The refusal of insurance companies and HMOs to provide domestic partner coverage is a form of marital status discrimination. The Insurance Task Force recommends that the Insurance Commissioner and the state Corporations Commissioner take appropriate legal action to bring this discrimination to a halt.

EXISTING LAWS CAN PROTECT UNMARRIED CONSUMERS FROM INSURANCE DISCRIMINATION

California consumers are protected from insurance discrimination through existing constitutional provisions, statutes, and administrative regulations. Although some of these laws have not been tested in court in the context of marital status discrimination, there appears to be a strong theoretical basis under current law for prohibiting many, if not all, forms of insurance discrimination against unmarried insurance consumers. Some of these protections are summarized below.

All Lines of Insurance

Insurance Regulations. The Insurance Commissioner has issued regulations prohibiting any person or entity engaged in the business of insurance in California from refusing to issue any contract of insurance, or cancelling or declining to renew such contract, because of the sex, marital status, or sexual orientation of the insured or prospective insured.³² This regulation was issued in 1975 pursuant to the authority vested in the Insurance Commissioner under Insurance Code Section 790.10. It is designed to implement the Unfair Business Practices Act.³³ Recently, the Legislature specifically affirmed the Commissioner's authority to issue regulations prohibiting discrimination on the basis of sex, marital status, or sexual orientation.³⁴

Business and Professions Code. The Unfair Business Practices Act prohibits "unfair" practices against consumers.³⁵ An "unfair" business practice occurs "when it offends an established public policy or when the practice is immoral, unethical, oppressive, unscrupulous, or substantially injurious to consumers."³⁶ Proposition 103 declared that the business of insur-

ance is subject to the laws of California applicable to any business, including the Unfair Business Practices Act.³⁷

Civil Code. The Unruh Civil Rights Act prohibits discrimination by businesses against consumers on the basis of sex, race, color, religion, ancestry, national origin, blindness or other physical disability.³⁸ Persons and entities engaged in the business of insurance are subject to the provisions of the Unruh Act.³⁹ The Act has been interpreted by the courts to prohibit other forms of arbitrary discrimination on the basis of personal characteristics such as sexual orientation.⁴⁰ However, one appellate court has refused to extend the provisions of the Unruh Act to prohibit "marital status" discrimination by insurance companies.⁴¹

California Constitution. The state Constitution confers on every person a right of privacy.⁴² Sexual orientation discrimination violates the right of privacy.⁴³ Personal choices involving marriage, family, and sexuality, are also protected by the constitutional right of privacy.⁴⁴ Freedom of choice to marry or not resides with the individual and is encompassed within this constitutional protection.⁴⁵ Thus, discrimination against unmarried couples may constitute an illegal privacy invasion.⁴⁶ Under the California Constitution, private businesses and government entities alike are prohibited from infringing on the right of privacy.⁴⁷

Property and Casualty Coverage

Insurance Code Section 679.71. This section states that "No admitted insurer, licensed to issue any policy of insurance covered by this chapter, shall fail or refuse

to accept an application for, or to issue a policy to an applicant for, such insurance (unless such insurance is to be issued to the applicant by another insurer under the same management and control), or cancel such insurance, under conditions less favorable to the insured than in other comparable cases, except for reasons applicable alike to persons of every marital status, sex, race, color, religion, national origin, or ancestry; nor shall sex, race, color, religion, national origin, or ancestry of itself constitute a condition or risk for which a higher rate, premium, or charge may be required of the insured for such insurance." (Emphasis added)

Insurance Code Section 679.70. This section applies the nondiscrimination provisions of Section 679.71 to all insurance covering any of the following risks, except automobile or worker's compensation insurance: "(a) Loss of or damage to real property which is used primarily for residential purposes; (b) Loss of or damage to personal property in which natural persons resident in specifically described real property of the kind described in subdivision (a) have an insurable interest; [and] (c) Legal liability of a natural person or persons for loss of, damage to, or injury to persons or property."

Life and Disability Plans

Insurance Code Section 10140(a). This section states that "No admitted insurer, licensed to issue life or disability insurance, shall fail or refuse to accept an application for that insurance, to issue that insurance to an applicant therefor, or issue or cancel that insurance, under conditions less favorable to the insured than in other comparable cases, except for reasons applicable alike to persons of every race, color, religion, national origin, ancestry, or sexual orientation. Race, color, religion, national origin, ancestry, or

sexual orientation shall not, of itself, constitute a condition or risk for which a higher rate, premium, or charge may be required of the insured for that insurance."

Health Care Service Plans

Health and Safety Code Section 1365.5. Subdivision (a) of this statute states that "No health care service plan or specialized health care service plan shall refuse to enter into any contract or shall cancel or decline to renew or reinstate any contract because of the race, color, national origin, ancestry, religion, sex, marital status, sexual orientation or age of any contracting party, prospective contracting party, or person reasonably expected to benefit from that contract as a subscriber, enrollee, member, or otherwise." (Emphasis added)

Subdivision (b) declares that "The terms of any contract shall not be modified, and the benefits and coverage of any contract shall not be subject to any limitations, exceptions, exclusions, reductions, copayments, coinsurance, deductibles, reservations, or premium, price, or charge differentials or other modifications because of race, color, national origin, ancestry, religion, sex, marital status, sexual orientation or age of any contracting party, potential contracting party, or person reasonably expected to benefit from that contract as a subscriber, enrollee, member, or otherwise; except that premium, price, or charge differentials because of the sex or age of any individual when based on objective, valid, and up-to-date statistical and actuarial data are not prohibited. Nothing in this section shall be construed to permit a health care service plan to charge different premium rates to individual enrollees within the same group solely on the basis of the enrollee's sex." (Emphasis added)

Subdivision (d) declares that "This section shall not be construed to limit the authority of the commissioner to adopt or enforce regulations prohibiting discrimination because of sex, marital status, or sexual orientation." (Emphasis added)

Nonprofit Hospital Service Plans

Insurance Code Section 11512.193.

Subdivision (a) states that "No nonprofit hospital service plan issuing, providing, or administering an individual or group nonprofit hospital service plan contract shall refuse to cover, or refuse to continue to cover, or limit the amount, extent, or kind of coverage available to an individual, or charge a different rate because of race, color, religion, national origin, ancestry or sexual orientation."

Subdivision (d) declares that "This section does not limit the authority of the commissioner to adopt regulations prohibiting discrimination because of sex, marital status, or sexual orientation, or to enforce those regulations, whether adopted before, on, or after January 1, 1991." (Emphasis added)

THE INSURANCE COMMISSIONER CAN IMPROVE ENFORCEMENT OF CURRENT LEGAL PROTECTIONS

Despite a sound theoretical basis for existing protections against discrimination on the basis of marital status and sexual orientation, more needs to be done to make consumer protection against such discrimination a reality.

Additional Resources

No current resources of the Department of Insurance are specifically focused on the problem of marital status discrimination despite the fact that such discrimination is unfair and pervasive. In order for the Department of Insurance to tackle the problem of discrimination against unmarried individuals and couples, the Insurance Commissioner should assign staff and direct resources to combat the problem. Also, mechanisms should be developed to collect and retrieve information about marital status discrimination in a more effective manner.

Information Retrieval

The Department of Insurance does not tabulate the number of complaints it receives each year about marital status or sexual orientation discrimination or categorize the types of insurance discrimination about which unmarried consumers are complaining. The Insurance Commissioner should direct his staff to study the data collection and retrieval systems of the Department of Fair Employment and Housing (DFEH) which has years of experience investigating complaints of discrimination. DFEH classifies each complaint according to context (housing, employment, public accommodations), the type of discriminatory action (refusal to rent, eviction, firing, verbal insult) and the basis of the claim

(sex, race, marital status, age, disability). The Department of Insurance should do the same.

Auditing

In addition to responding to complaints, the Commissioner should take a more aggressive stance toward solving the problem of marital status discrimination. The Department of Insurance should periodically audit the practices of a representative sample of insurance companies and agents to see if they are engaging in marital status discrimination.

Auditing could be made cost-efficient by having a staff member supervise several student interns who would pose as prospective customers. Law students, for example, could work for the department for academic credit rather than pay. They could learn investigative skills in the process of helping the department conduct marital status audits of the insurance industry. The results could be forwarded to the Commissioner who could authorize appropriate remedial action.

Education

Consumers, brokers, and agents are often unaware that marital status discrimination may violate constitutional protections, statutes and existing regulations. Education is often the key to reform. The Insurance Commissioner should initiate a campaign to educate consumers, agents, and insurance company executives about current legal protections against marital status and sexual orientation discrimination. The Department of Insurance should prepare a brochure advising consumers of laws and regula-

tions against such discrimination and complaint procedures. The brochure should be distributed to civil rights groups, singles organizations, and outlets in the lesbian and gay community.

Cease and Desist Orders

Many types of marital status and sexual orientation discrimination by insurance companies are either illegal or highly suspect under existing law. While some vague excuses have surfaced during this study to justify discrimination against unmarried consumers, no hard data has been presented to the Insurance Task Force.⁴⁸

The freedom of choice to marry or not to marry is a fundamental right protected by the right of privacy in the California Constitution. Unlike the federal Constitution which only regulates government action, the California Constitution prohibits invasions of privacy by business enterprises as well.

The Insurance Commissioner should acknowledge the fundamental right of adult consumers to be married or single. To protect that right from unwarranted interference, the Commissioner should begin to issue cease and desist orders against companies that discriminate against unmarried individuals or couples. Such action would also be consistent with the Commissioner's authority to enforce the Unfair Business Practices Act, relevant sections of the Insurance Code, and departmental regulations.

At any hearings conducted after an order to show cause issues from the Commissioner, companies that claim to have data to support marital status surcharges on consumers should be required to provide that data to the Department of Insurance for its analysis. The Commission-

er should reject data that is not current, detailed, accurate, statistically representative, and scientifically valid.

The failure of the insurance industry to provide current and reliable data on marital status rating would obviate a need for the Insurance Commissioner to probe into deeper public policy issues. However, even if companies were to provide statistical justifications to support marital status surcharges or other discriminatory actions, it is questionable as to whether marital status discrimination should be allowed as a matter of fundamental public policy.

For example, insurance discrimination on the basis of race, religion, or national origin is prohibited even though insurance companies probably could provide statistics to justify the imposition of higher rates to members of some races, religions, or national origins. Such discrimination is not legally tolerated because it would unfairly stigmatize individuals based on group stereotypes and improperly infringe on fundamental constitutional rights. The same rationale should apply to marital status discrimination regardless of statistical justifications that may be provided. The decision to marry or not is a fundamental right protected by the Constitution. Persons who exercise their right to be single or divorced or who decide to live with an unmarried partner should not be punished with economic surcharges simply on the basis of their unmarried status.

Also, there is another dimension of marital status discrimination which should not be ignored. Gays and lesbians cannot avoid being victims of discrimination because they are perpetually locked into an unmarried status. Since same-sex marriage is not allowed, even the most responsible member of the gay and lesbian community has no of escaping a financial

penalty because of his or her unmarried status. This is fundamentally unfair.

In addition to those who are legally locked out of marriage, such as gays and lesbians, other consumers have valid personal reasons for being unmarried. The California Constitution declares that the "pursuit of happiness" is an inalienable right. Many adults exercise that right by delaying marriage or getting divorced or by deciding to remain single. Still others have an unmarried status forced on them when their spouse dies, often after years of marriage. The Insurance Commissioner should take aggressive action to protect the constitutional rights of privacy and pursuit of happiness of consumers.

Litigation

Some existing statutes and regulations are vague and need judicial clarification. Others have loopholes that must be filled. The Insurance Commissioner can provide the necessary leadership to further strengthen protections against marital status and sexual orientation discrimination by participating in test cases when they come to the Commissioner's attention.

Sometimes victims of discrimination bypass potential administrative remedies by filing a direct lawsuit against an offending insurance company. For example, a gay couple recently sued Truck Insurance Company for refusing to issue a joint umbrella liability policy to the couple even though they jointly owned their homes and cars and had been domestic partners for more than 10 years.

A panel of the Court of Appeal in Sacramento rejected the couple's lawsuit, holding that the Unruh Civil Rights Act did not prohibit marital status discrimination.⁴⁹ The case was decided without any

input from the Insurance Commissioner or from public agencies with jurisdiction to enforce the Unruh Act. The Department of Insurance and these agencies petitioned the Supreme Court to review the case but to no avail. Even though the Supreme Court declined to hear the case, the Insurance Commissioner should be commended for intervening in the case on behalf of the rights of unmarried consumers.⁵⁰

To prevent future insurance discrimination cases from being decided by appellate courts without participation from the Department of Insurance, the Commissioner should request the California Supreme Court and all divisions of the Court of Appeal to notify the Commissioner when cases involving discrimination are pending before those courts. Even though appellate judges would not be required to honor such a request, it is appropriate that they know the Insurance Commissioner wants to be heard before precedents are created that may adversely affect insurance consumers.

NEW PROTECTIONS AGAINST MARITAL STATUS DISCRIMINATION SHOULD BE ENACTED

Vigorous enforcement of existing legal protections may not be sufficient to stop discrimination against unmarried consumers. Some insurance companies are so attached to the use of marital status surcharges that they look to vagueness and apparent inconsistencies in current laws to avoid making necessary reforms. Therefore, the Insurance Commissioner may need to promulgate new regulations or seek new legislation to clarify and strengthen current law.

Omnibus Regulation

In 1975, the Insurance Commissioner issued regulations prohibiting companies from refusing to issue any contract of insurance, or cancelling or declining to renew such a contract because of the sex, marital status, or sexual orientation of the insured or prospective insured. Two years ago, the Legislature ratified this regulation and authorized the Commissioner to issue additional regulations of this type.⁵¹

Existing regulations have not stopped discrimination against unmarried individuals and couples. Based on the right of privacy, Insurance Code Section 10140(d), and the Unfair Business Practices Act, the Insurance Commissioner should issue a new regulation specifically declaring rate discrimination on the basis of marital status to be an unfair business practice and prohibiting companies from refusing to issue joint policies to unmarried couples. The regulation should apply to all lines of insurance.

Automobile Insurance Regulation

Although some automobile insurance carriers do not discriminate against

unmarried drivers, others cite the Commissioner's interim Prop. 103 regulations to support their use of marital status as a rating factor.⁵² However, those regulations do not reflect the factual findings and legal conclusions of the current Insurance Commissioner. They were adopted by a former Commissioner under compulsion of a court order. Inherited by the current Commissioner, they have been reissued periodically pending formulation of permanent regulations.

When the Insurance Commissioner issues permanent regulations on Private Passenger Automobile Rating Factors, the use of marital status should be prohibited. This would make auto insurance regulations consistent with other basic legal protections, such as the constitutional right of privacy and the Unfair Business Practices Act. It would also bring auto insurance rating practices into conformity with the intent of Proposition 103, which was to base rating individual responsibility and not class stereotypes.

New Legislation

The State Bar of California sponsored a bill in 1992 to prohibit insurance discrimination on the basis of race, religion, color, national origin, sexual orientation and marital status.⁵³ Even though the Commissioner supported the bill, it was defeated due to opposition from State Farm, Personal Insurance Federation, and the Association of California Life Insurance Companies. In the next legislative session, the Insurance Commissioner should sponsor a bill prohibiting discrimination on the basis of race, religion, color, national origin, sexual orientation and marital status in all lines of insurance.

GENERIC REFORMS ARE NEEDED TO DEAL WITH AUTOMOBILE AND HEALTH INSURANCE

This proposals in this report are specifically designed to stop discrimination against unmarried individuals and couples. However, in health and automobile insurance, some generic reforms would help everyone while eliminating marital status discrimination at the same time.

"Save at the Pump" Insurance Plan

Consumers have been frustrated for years about California's unfair, inefficient, and wasteful auto insurance system. Although auto insurance is supposedly mandatory, the law is not enforced. Millions of people drive without insurance, often because the cost of auto insurance is so prohibitive. Those who buy insurance are frustrated with the high cost and angry that they are subsidizing uninsured drivers. Consumers also want to see an end to the continuing cycle of fraudulent claims.

So far, the Legislature has not solved the problem. With gridlock in Sacramento, voters have tried to find a solution through the initiative process. The passage of Proposition 103 was a good try but obviously was not good enough. It seems that another initiative is necessary to bring balance and fairness to the state's auto insurance system.

The Insurance Commissioner has expressed his support for a "Pay at the Pump" auto insurance plan. Some call it "Save at the Pump" because it could save California consumers billions of dollars.

Save-at-the Pump is a new, more efficient auto insurance system in which every driver is automatically covered with a basic insurance policy that is paid for through surcharges on gasoline purchases,

auto registrations, drivers licenses, and tickets for moving violations.⁵⁴ Under the plan, everyone who drives must pay. Bad drivers pay more because they are surcharged when they renew their license and when they pay a traffic tickets. The plan also includes a "no fault" system which reduces lawyer's fees, agent's commissions, and unnecessary red tape.

Senator Art Torres has introduced a Save-at-the-Pump bill in the Legislature. It is expected to fail due to strong opposition from trial lawyers and insurance agents. Therefore, an initiative drive is being launched. The Insurance Commissioner should support a ballot measure to codify a Save-at-the-Pump Auto Insurance Plan into law.

Universal Health Care Coverage

Some type of universal health care coverage is likely to become a reality in the next few years. Our current system excludes too many people and is too costly to those who are covered. Many people are also excluded due to discrimination.

The Insurance Commissioner has developed a proposal for universal health care coverage for California.⁵⁵ Some states, such as Hawaii and Oregon are already implementing health care reform plans. President Clinton is about to unveil a proposal for a national health care plan.

It is time for society to recognize health care as a right for all rather than a privilege for those who can afford it. A plan for universal health care coverage should be enacted without further delay.

RESPONSES TO SOME ISSUES RAISED BY INSURANCE INDUSTRY REPRESENTATIVES

Insurable Interest of Unmarried Couples

Some companies have justified discrimination against unmarried consumers by invoking the doctrine of "insurable interest." Under Insurance Code Section 280, no person can recover on an insurance policy unless he or she has an insurable interest in the property insured. An insurable interest exists when the insured has a direct pecuniary interest in the preservation of the property and will suffer a pecuniary loss as an immediate and proximate result of its destruction.⁵⁶

As to life insurance, the doctrine of "insurable interest" does not apply because Insurance Code Section 10110.1(b) specifies that a person may name anyone of his or her choice as beneficiary.

Regarding homeowners and automobile insurance, companies should issue a joint policy so long as both names appear on title to the property to be insured. In that event, each consumer has an insurable interest in the home or in the vehicle.

Renters insurance poses a slightly different problem because the names of both renters will not always be on the lease and because there usually are no ownership papers for items of personal property. In this case, a joint policy could be issued in the names of both renters, "as their interests may appear."⁵⁷

The Insurance Commissioner should issue guidelines to clarify how companies may sell joint renters insurance to unmarried couples without violating laws requiring consumers to have an insurable interest in the insured property.

Claims Under Joint Renters Policies

Many companies issue joint renters policies to unmarried couples without

discrimination on the basis of their marital status.⁵⁸ Other companies, however, stated that they would not issue joint policies because they would not know which partner to pay if there were a loss. There is a simple solution to this problem. A claim should be signed by both renters and a check paying the claim should be made payable to both partners jointly and sent certified mail to both partners. Under this procedure, the insurance company will not be legally involved in any dispute the partners may have between themselves as to the proper division of the check.

Keeping a Balanced Book of Business

Some companies have instructed agents not to write more than a certain percentage of policies to unmarried consumers. The companies say that unmarried consumers pose a higher risk and that the companies need a balanced book of business to keep profits up. There are several flaws with this argument. First, insurance companies have yet to produce current, accurate, and reliable data to support the claim that unmarried consumers are a higher risk. Also, in many communities unmarried consumers constitute a majority of the adult population. In addition, discrimination on the basis of marital status is no more justifiable than discrimination on the basis of race, religion, or national origin.

Health Coverage for Domestic Partners

Some insurance companies and HMOs refuse to provide health coverage to domestic partners even though other companies have done so without adverse consequences.⁵⁹ Prejudice and unfounded fears lie at the heart of this problem.

NOTES

1. The subcommittees are: Underwriting Practices / Barriers to Coverage (29 members); Minority Business Development (21 members); Insurance Industry Employment Practices (17 members); Public Education/Public Policy (7 members); Redlining Regulations (12 members)
2. See: Final Report of the Los Angeles City Task Force on Family Diversity (1988), Report of the California Legislature's Joint Select Task Force on the Changing Family (1989), and Report of the Los Angeles City Attorney's Consumer Task Force on Marital Status Discrimination (1990). Relevant portions of these studies are found in the Supplement to this Report, at pp. 111-186.
3. Summaries of this new research are found in the Appendices to this report, *infra*, at pages 40-79.
4. Census of Population and Housing, 1990: Summary Tape File 1, State of California, Department of Finance, Census Data Center.
5. See "Results of the 1990 Census: Marital Status and Living Arrangements in California" in Appendix A, *infra*, at pp. 27-32.
6. Matt Marshall, "Report Shows Women Wait Longer to Wed," *Los Angeles Times*, December 9, 1992, p. A21.
7. *Ibid.*
8. "How to Stay Married," *Newsweek*, August 24, 1987.
9. Elizabeth Mehren, "American Family Steadily Eroding, Researchers Find," *Los Angeles Times*, July 20, 1988.
10. Randolph E. Schmidt, "Divorce Rate Leveling Off, Census Says," *West [Sacramento] County Times*, April 8, 1987.
11. "Results of the 1990 Census." *op. cit.*
12. Rummell Bautista, "One-Person Households," Los Angeles City Task Force on Family Diversity (1988), Supplement One to Final Report, p. S-621.
13. *Ibid.*
14. "Singles Scene," *Los Angeles Times*, January 29, 1990. Also see Supplement to the Report of the Los Angeles City Attorney's Consumer Task Force on marital Status Discrimination (1990), p. 141. Among these groups are Parents Without Partners, Support Group for the Separated, Divorced and Widowed Men, Father's Rights of America, Single Working-Women's Support Group, Women in Transition,

Women Meeting Women, Singles Chapter of the ACLU, Young Executives Singles Network, Jewish Association of Singles Professionals, Young Singles with College Degrees, and the Sierra Club 20s and 30s Singles, to name a few.

15. "Results of the 1990 Census," op. cit.

16. Ibid.

17. Ibid.

18. See "Domestic Partnership Families," *Final Report*, Los Angeles City Task Force on Family Diversity (1988).

19. See excerpts from the Final Report of the Family Diversity Task Force in the Supplement to this Report, at pp. 111-125.

20. See excerpts from the Report of the Consumer Task Force in the Supplement to this Report, at pp. 144-186.

21. Farmers' case (LA C739931), Allstate's case (LA C748209) and State Farm's case (SF 914381) were consolidated into one case (Judicial Council Coordination Proceeding No. 2419) entitled "Proposition 103 cases." Before a decision was rendered, other companies joined the lawsuit, including Hartford, Mercury Casualty, Liberty Mutual, and CNA Companies.

22. According to a recent decision of the Court of Appeal, quasi-legislative rate-making, such as these regulations, are always open to rescission, correction, or modification. (*State Farm v. Garamendi* (1992) 12 Cal.App.4th 206.)

23. See "Responses by Insurance Companies to Survey Conducted by the Workgroup on Marital Status and Sexual Orientation Discrimination" in Appendix C, *infra*, at pp. 40-47.

24. See "Response by Professional Insurance Agents Association to Survey Conducted by the Workgroup on Marital Status and Sexual Orientation Discrimination" in Appendix D, *infra*, at pp. 48-52.

25. See letter from the City of West Hollywood in Appendix E, *infra*, at p. 57.

26. Ibid.

27. See Letter of Kevin M. Fridlington in Appendix E, *infra*, at p. 57.

28. See letter from Phil Ansell to Michael Leggett, dated July 11, 1991, in Appendix E, at p. 58.

29. See letter of Darleen Cho in Appendix E, *infra*, at p. 61.

30. See letter of Kenneth Goulet in Appendix E, *infra*, at p. 63.
31. See letter of Ronald Brendzel in Appendix E, *infra*, at p. 65.
32. Title 10, Cal. Code Regs. § 2560.3.
33. Business and Professions Code Section 17200 et seq.
34. See Insurance Code Section 10140(d) enacted by Stats. 1990, Ch. 1402.
35. Business and Professions Code Section 17200 et seq.
36. *People v. Casa Blanca Convalescent Homes* (1984) 159 Cal.App.3d 509, 530.
37. Insurance Code Section 1861.03 (enacted as Proposition 103).
38. Civil Code Section 51.
39. *Kirsch v. State Farm* (1991) 233 Cal.App.3d 84, 89-90.
40. *Curran v. Mt. Diablo Council of Boy Scouts of America* (1983) 147 Cal.App.3d 712.
41. *Beaty v. Truck Insurance Exchange* (1992) 6 Cal.App.4th 1455.
42. Calif. Const., Art. I, Section 1.
43. See Executive Orders B-54-79 and B-74-80 signed by Governor Brown and the Veto Message issued by Governor Wilson when he vetoed AB 101.
44. *Vinson v. Superior Court* (1987) 43 Cal.3d 833, 841; *Committee to Defend Reproductive Rights v. Myers* (1981) 29 Cal.3d 252, 263, 271, 275; *In re Valerie N.* (1985) 40 Cal.3d 143, 161-162.
45. *Perez v. Lippold* (1948) 32 Cal.2d 711; *People v. Belous* (1969) 71 Cal.2d 954, 963; *Loving v. Virginia* (1967) 386 U.S. 374, 384-385; *Jara v. Municipal Court* (1978) 21 Cal.3d 181, 190-191 (right to dissolve marriage). A constitutional right to choose one course of action involves a concomitant right to choose not to follow that course of action. (*In re McGinnis* (1992) 7 Cal.App.4th 473, 480-481.)
46. *Atkisson v. Kern County Housing Authority* (1976) 59 Cal.App.3d 89, 98.
47. *Wilkinson v. Times Mirror* (1989) 215 Cal.App.3d 1034.
48. Some companies have claimed that unmarried persons are a higher risk than married persons and have argued that it is justifiable to charge higher rates to unmarried consumers. However, despite repeated requests for current and reliable actuarial data to support this claim, none has been provided to the Insurance Task

Force. Furthermore, the need to surcharge based on marital status is undercut by the fact that some insurance carriers, such as the Auto Club of Southern California, are able to prosper without using marital status as an underwriting factor.

49. *Beaty v. Truck Insurance Exchange* (1992) 6 Cal.App.4th 1455.

50. See letters from the Department of Insurance and other agencies to the Supreme Court in the Supplement to this Report, at pp. 70-100.

51. Stats. 1990, ch. 1402.

52. Letter from Allstate Insurance to Insurance Task Force, dated January 25, 1993, in Appendix H, at p. 77.

53. See SB 1923 and related documents in the Supplement to this Report at pp. 103-110.

54. See "What's Wrong with Auto Insurance in California and How to Fix it," in Appendix G, at p. 75.

55. See "California Health Care in the 21st Century," in Appendix F, at p. 66.

56. *International Service Ins. Co. v. Gonzales* (1987) 194 Cal.App.3d 110, 118-119.

57. This has been a standard practice by companies that have been issuing joint renters policies to unmarried couples for many years. A separate issue of payment of claims on these policies is addressed in a separate section.

58. See Appendix C, at page 42.

59. For answers to some of these concerns, see the letter to Kaiser Permanente by the Coalition for Domestic Partner Benefits in Appendix E, at p. 58. Information about any other concerns can be obtained from many major employers who currently offer health benefits to the domestic partners of their employees. Such employers include Levi Strauss and the cities of San Francisco, Berkeley, and Seattle, to name a few.

GLOSSARY OF TERMS

As used in this report, the terms listed below have the following meanings:

Insurance Consumer means any natural person or any couple who is insured under a contract of insurance or who has secured medical, dental, or eye care coverage under a health care service plan, or who apply for such insurance or health care coverage, or who are reasonably expected to benefit from such coverage as a subscriber, member, enrollee or otherwise.

Marital Status means an individual's or a couple's state of marriage, non-marriage, divorce or dissolution, separation, widowhood, annulment, or other marital state.

Sexual Orientation means the direction of sexual, emotional and/or physical attraction and preference, which may be primarily toward persons of the opposite biological sex (heterosexuality), the same biological sex (homosexuality), or toward each in some proportion (bisexuality). Sexual orientation discrimination is discrimination based on a person's actual or perceived sexual orientation.

Discrimination means the refusal to provide coverage under an insurance policy or a contract for a health care service plan, the cancellation of such coverage, or providing such coverage on inferior terms, conditions, or privileges.

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**RESULTS OF THE 1990 CENSUS:
MARITAL STATUS AND LIVING ARRANGEMENTS
IN CALIFORNIA**

FAMILY AND HOUSEHOLD DEMOGRAPHICS FOR CALIFORNIA

HOUSEHOLD TYPE:	1980 (%)	1990 (%)	2000 (est %)
ONE-PERSON (one adult living alone)	24.8 %	23.5 %	22.1 %
UNRELATED ADULTS (unmarried couples, same-sex couples, and roommates)	6.6 %	7.9 %	9.3 %
SINGLE-PARENT (with minor child living at home)	8.6 %	10.2 %	11.7 %
EXTENDED FAMILY (two or more blood relatives without a married couple present)	4.9 %	6.2 %	7.6 %
MARRIED COUPLE (several variations)	55.1 %	52.2 %	49.3 %
First-Marriage (no minor children living at home)	20.9 %	19.4 %	18.0 %
First-Marriage (with minor children living at home)	22.6 %	20.2 %	18.0 %
Second/+ Marriages (with & without minors at home)	11.6 %	12.6 %	13.3 %

REASONS FOR TRENDS: (1) delayed marriage; (2) increasing divorce rate; (3) 70% remarriage rate for divorcees; (4) fewer adults can afford to live alone; (5) unmarried cohabitation is becoming the norm before and after marriage; (6) same-sex couples are being counted as unmarried cohabitants; (7) more children are being born to single mothers; (8) increase in percent minority parents who generally have higher fertility rates; and (9) more extended families due to cultural influences and economic necessities.

NOTE: 1980 and 1990 figures have been rounded off and are accurate within .2% of official Census Data. Figures for 2000 are based on an assumption that recent trends will continue at the same rate.

**MULTI-PERSON HOUSEHOLDS WITH ONE OR MORE OCCUPANTS
NOT RELATED BY BLOOD, MARRIAGE, OR ADOPTION**

	1. TOTAL HOUSEHOLDS	2. ONE-PERSON HOUSEHOLDS	3. MULTI-PERSON HOUSEHOLDS (100%)	4. NUMBER OF #3 WITH ONE OR MORE NONRELATIVES	5. PERCENTAGE OF #3 WITH A NONRELATIVE
STATE OF CALIFORNIA	10,381,206	2,429,867	7,951,339	1,444,864	18.2%
SAN FRANCISCO CITY & COUNTY	305,584	120,111	185,473	57,567	31.0%
LOS ANGELES COUNTY	2,989,552	745,936	2,243,616	452,160	20.2%
SACRAMENTO COUNTY	394,530	99,940	294,590	50,278	17.1%
SAN DIEGO COUNTY	887,403	203,311	684,092	134,942	19.7%
ORANGE COUNTY	827,066	171,119	655,947	128,423	19.6%
FRESNO COUNTY	220,933	46,286	174,647	25,766	14.7%

1990 Census: USA, California & Northern California Areas

Table 1: Family & Household Type

Category	United States	California	San Francisco	Santa Clara County	San Jose	Sacramento County	Sacramento City	Alameda County	Berkeley	Oakland	Fresno County	Fresno City
One-Person	24.6%	23.4%	39.3%	21.7%	18.4%	25.3%	30.9%	26.8%	39.8%	33.2%	21.0%	24.1%
Married-Couple:	55.1%	52.7%	32.9%	54.1%	56.0%	49.7%	41.9%	47.1%	29.4%	34.5%	54.4%	47.9%
With Children:	26.7%	26.9%	13.9%	27.2%	31.1%	24.1%	19.9%	23.3%	12.3%	16.9%	29.4%	26.1%
Without Children:	28.4%	25.8%	19.0%	26.9%	24.9%	25.6%	22.0%	23.9%	17.2%	17.7%	25.0%	21.8%
Single-Parent:	9.3%	10.0%	6.6%	8.4%	10.3%	11.5%	12.4%	10.6%	7.7%	15.5%	13.1%	14.9%
Male Parent:	1.7%	2.4%	1.4%	2.2%	2.7%	2.3%	2.3%	2.1%	1.3%	2.4%	2.9%	2.8%
Female Parent:	7.6%	7.6%	5.2%	6.2%	7.6%	9.2%	10.1%	8.5%	6.4%	13.0%	10.2%	12.1%
Extended Family:	5.7%	6.1%	7.0%	6.6%	7.2%	5.5%	6.1%	6.7%	6.1%	8.0%	5.7%	5.9%
Unrelated Adults:	5.3%	7.8%	14.2%	9.1%	8.1%	8.0%	8.7%	8.8%	16.9%	8.8%	5.8%	7.1%

Table 2: Marital Status of Adults

Category	United States	California	San Francisco	Santa Clara County	San Jose	Sacramento County	Sacramento City	Alameda County	Berkeley	Oakland	Fresno County	Fresno City
<i>Adults = persons 18 and over</i>												
Married Adults:	57.7%	54.6%	39.2%	54.3%	54.6%	54.1%	47.8%	50.5%	31.8%	40.4%	57.3%	52.0%
Unmarried Adults:	42.3%	45.4%	60.8%	45.7%	45.4%	45.9%	52.2%	49.5%	68.1%	59.6%	42.7%	48.0%

Table 3: Population: Racial/Ethnic Data

Category	United States	California	San Francisco	Santa Clara County	San Jose	Sacramento County	Sacramento City	Alameda County	Berkeley	Oakland	Fresno County	Fresno City
<i>* = Non Hispanic</i>												
White:*	75.6%	57.2%	46.6%	58.1%	49.6%	69.3%	53.4%	53.2%	58.3%	28.3%	50.7%	49.4%
Black:*	11.8%	7.0%	10.5%	3.5%	4.4%	9.0%	14.8%	17.4%	18.2%	42.8%	4.7%	7.8%
Asian/Pacific:*	2.8%	9.0%	28.4%	16.8%	18.7%	8.8%	14.4%	14.5%	14.4%	14.2%	8.1%	11.9%
Hispanic (all races):	9.0%	25.8%	13.9%	21.0%	26.6%	11.7%	16.2%	14.2%	8.4%	13.9%	35.4%	29.9%
Native American:*	.1%	.6%	.4%	.4%	.5%	1.0%	.9%	.5%	.5%	.5%	.8%	.7%
Other:*	.1%	.2%	.2%	.2%	.2%	.2%	.2%	.2%	.3%	.3%	.3%	.3%

1990 Census: USA, California & Southern California Areas

Table 1: Family & Household Type

Category	United States	California	Orange County	Santa Ana	Los Angeles County	Los Angeles City	San Diego County	San Diego City	Riverside County	Riverside City	Ventura County	Oxnard
One-Person	24.6%	23.4%	20.7%	16.6%	25.0%	28.5%	22.9%	26.3%	20.6%	20.6%	17.5%	15.4%
Married-Couple:	55.1%	52.7%	56.2%	56.3%	48.6%	42.6%	52.8%	46.3%	59.7%	54.3%	61.8%	59.8%
With Children:	27.6%	26.9%	28.1%	37.4%	26.2%	22.4%	25.7%	22.4%	30.2%	30.7%	32.9%	36.0%
Without Children:	28.4%	25.8%	28.1%	18.9%	22.4%	20.2%	27.1%	23.9%	29.5%	23.6%	29.0%	23.8%
Single-Parent:	9.3%	10.0%	8.0%	11.9%	11.2%	11.7%	9.3%	9.3%	9.2%	11.3%	8.6%	12.3%
Male Parent:	1.7%	2.4%	2.2%	4.2%	2.9%	3.1%	2.1%	1.9%	2.5%	2.7%	2.3%	3.3%
Female Parent:	7.6%	7.6%	5.8%	7.7%	8.3%	8.6%	7.2%	7.4%	6.7%	8.6%	6.3%	9.0%
Extended Family:	5.7%	6.1%	6.3%	7.7%	7.6%	8.1%	5.5%	5.9%	4.7%	6.0%	5.4%	6.3%
Unrelated Adults:	5.3%	7.8%	8.8%	7.5%	7.7%	9.1%	9.5%	12.3%	5.7%	7.8%	6.7%	6.2%

Table 2: Marital Status of Adults

Category	United States	California	Orange County	Santa Ana	Los Angeles County	Los Angeles City	San Diego County	San Diego City	Riverside County	Riverside City	Ventura County	Oxnard
Adults = persons over 18												
Married Adults:	54.6%	54.6%	56.3%	52.8%	50.4%	45.9%	54.2%	48.5%	61.9%	54.9%	60.7%	57.7%
Unmarried Adults:	45.4%	45.4%	43.7%	47.2%	49.6%	54.1%	45.8%	51.5%	38.1%	45.1%	39.3%	42.2%

Table 3: Population: Racial/Ethnic Data

Category	United States	California	Orange County	Santa Ana	Los Angeles County	Los Angeles City	San Diego County	San Diego City	Riverside County	Riverside City	Ventura County	Oxnard
* = Non Hispanic												
White:*	75.6%	57.2%	64.5%	23.1%	40.8%	37.3%	65.4%	58.7%	64.4%	61.3%	65.8%	32.3%
Black:*	11.8%	7.0%	1.6%	2.2%	10.6%	13.0%	6.0%	8.9%	5.1%	7.0%	2.2%	4.8%
Asian/Pacific:*	2.8%	9.0%	10.0%	9.1%	10.2%	9.2%	7.4%	11.1%	3.3%	4.9%	4.9%	7.9%
Hispanic (all races):	9.0%	25.8%	23.4%	65.2%	37.8%	39.9%	20.4%	20.7%	26.3%	26.0%	26.4%	54.4%
Native American:*	.1%	.6%	.4%	.2%	.3%	.3%	.6%	.4%	.7%	.6%	.5%	.4%
Other:*	.1%	.2%	.1%	.1%	.2%	.3%	.2%	.2%	.2%	.2%	.1%	.2%

1990 Census: Los Angeles County Comparisons

Table 1: Family & Household Type

Category	Los Angeles County	Los Angeles City	El Monte	Pico Rivera	Monterey Park	Pasadena	Glendale	West Hollywood	Inglewood	Manhattan Beach	Long Beach	Santa Monica
One-Person	25.0%	28.5%	13.7%	13.8%	17.3%	32.0%	27.8%	59.3%	26.9%	27.2%	30.8%	49.6%
Married-Couple:	48.6%	42.6%	56.1%	61.0%	57.8%	42.8%	50.1%	18.8%	39.5%	47.7%	41.2%	29.5%
With Children:	26.2%	22.4%	39.0%	36.7%	27.6%	19.6%	24.8%	5.1%	25.4%	18.9%	20.9%	10.9%
Without Children:	22.4%	20.2%	17.1%	24.3%	30.2%	23.1%	25.3%	13.7%	14.1%	28.8%	20.3%	18.6%
Single-Parent:	11.2%	11.7%	17.3%	13.3%	9.4%	9.2%	7.3%	2.4%	18.9%	3.7%	11.6%	4.8%
Male Parent:	2.9%	3.1%	5.6%	3.5%	2.3%	1.8%	1.8%	.5%	4.1%	.9%	2.5%	1.0%
Female Parent:	8.3%	8.6%	11.7%	9.8%	7.1%	7.4%	5.5%	1.9%	14.9%	2.8%	9.1%	3.8%
Extended Family:	7.6%	8.1%	8.5%	8.3%	10.8%	7.3%	8.0%	4.5%	9.4%	5.5%	6.3%	6.0%
Unrelated Adults:	7.7%	9.1%	4.4%	3.7%	4.8%	8.7%	6.9%	15.0%	5.3%	15.9%	10.1%	10.1%

Table 2: Marital Status of Adults

Category	Los Angeles County	Los Angeles City	El Monte	Pico Rivera	Monterey Park	Pasadena	Glendale	West Hollywood	Inglewood	Manhattan Beach	Long Beach	Santa Monica
Married Adults:	50.4%	45.9%	51.8%	54.4%	55.5%	46.8%	53.7%	27.7%	43.5%	51.5%	45.8%	38.3%
Unmarried Adults:	49.6%	54.1%	48.2%	45.6%	44.5%	53.2%	46.3%	72.3%	56.5%	48.5%	54.2%	61.7%

Table 3: Population: Racial/Ethnic Data

Category	Los Angeles County	Los Angeles City	El Monte	Pico Rivera	Monterey Park	Pasadena	Glendale	West Hollywood	Inglewood	Manhattan Beach	Long Beach	Santa Monica
* = Non Hispanic												
White:*	40.8%	37.3%	15.2%	13.1%	11.7%	46.6%	63.7%	84.7%	8.5%	89.6%	49.5%	75.0%
Black:*	10.6%	13.0%	.8%	.5%	.5%	17.8%	1.1%	3.2%	50.1%	.6%	13.2%	4.3%
Asian/Pacific:*	10.2%	9.2%	11.1%	2.7%	56.0%	7.7%	13.7%	3.0%	2.2%	4.3%	12.9%	6.2%
Hispanic (all races):	37.8%	39.9%	72.5%	83.2%	31.3%	27.3%	21.0%	8.7%	38.6%	5.1%	23.6%	14.1%
Native American:*	.3%	.3%	.2%	.2%	.2%	.3%	.3%	.3%	.2%	.2%	.5%	.3%
Other:*	.2%	.3%	.2%	.3%	.2%	.3%	.2%	.1%	.4%	.1%	--	.1%

**QUESTIONNAIRE SENT TO
INSURANCE COMPANIES AND AGENTS
BY THE WORKGROUP ON MARITAL STATUS AND
SEXUAL ORIENTATION DISCRIMINATION**

ANTI-DISCRIMINATION TASK FORCE

Survey by Workgroup on Marital Status and Sexual Orientation

Company _____ Date _____
Respondent's Name _____
Respondent's Position _____
Address _____ Phone _____
City _____ State _____ Zip _____

Please answer the following questions. You may wish to enclose with your reply any written information or comments you would like us to consider.

AUTO INSURANCE:

- Our company offers AUTO insurance: ___ yes ___ no
If yes, please answer the following:
1. We offer coverage to *unmarried* persons: ___ yes ___ no
 2. We offer coverage to *unmarried males*
under the age of 25 years: ___ yes ___ no
 3. All other criteria being equal, the
premium for an *unmarried male* under 25
would be the same as that for a
married male under age 25: ___ yes ___ no
 4. All other criteria being equal, we
charge a higher premium to an *unmarried*
driver than we do to a *married* driver,
regardless of age: ___ yes ___ no
 5. Our agents are instructed not to write
more than a certain % of their total
sales to *unmarried* clients: ___ yes ___ no
 6. We offer a joint policy with a multiple
car discount to a *married* couple: ___ yes ___ no
 7. We offer a joint policy with a multiple
car discount to an *unmarried* couple who live
together and jointly own two cars when the
cars are garaged at the same residence: ___ yes ___ no
 8. All other criteria being equal, the premium
for the *married* couple in question #6 and
the *unmarried* couple in question #7 would
be the same: ___ yes ___ no

HOMEOWNERS / RENTERS INSURANCE:

Our company offers **HOMEOWNERS** insurance: yes no
If yes, please answer the following:

1. We offer a joint policy to a *married* couple who jointly own their home: yes no
2. We offer a joint policy to an *unmarried* couple who jointly own the home in which they live: yes no
3. All other criteria being equal, we charge the same premium to the *married* couple in question #1 and we do to the *unmarried* couple in question #2: yes no

Our company offers **RENTERS** insurance: yes no
If yes, please answer the following:

1. We offer a joint policy to a *married* couple who live together in a rental unit: yes no
2. We offer a joint policy to an *unmarried* couple who live together in a rental unit if they jointly own their possessions: yes no
3. All other criteria being equal, we charge the same premium to the *married* couple in question #1 and we do to the *unmarried* couple in question #2: yes no

UMBRELLA LIABILITY INSURANCE:

Our company offers **UMBRELLA** insurance: yes no
If yes, please answer the following:

1. We offer a joint umbrella policy to a *married* couple who jointly own their home: yes no
2. We offer a joint umbrella policy to an *unmarried* couple who jointly own the home in which they live: yes no
3. All other criteria being equal, we charge the same premium to the *married* couple in question #1 and we do to the *unmarried* couple in question #2: yes no

HEALTH AND DENTAL INSURANCE:

Our company offers **HEALTH** insurance: ___ yes ___ no

Our company offers **DENTAL** insurance: ___ yes ___ no

If yes to health or dental, please answer the following:

PLANS FOR INDIVIDUALS:

If you offer plans for individuals, please answer the following:

1. In addition to an individual health or dental policy for one person, do you also offer an individual family plan for an adult and his or her eligible family dependents: ___ yes ___ no

a. Persons in the following categories would qualify as an eligible family dependent for purposes of a family health or dental plan:

* spouse ___ yes ___ no

* biological child under 18 years old ___ yes ___ no

* biological child under 25 but not in school ___ yes ___ no

* foster child under 18 years old ___ yes ___ no

* stepchild under 18 years old ___ yes ___ no

* domestic partner¹ ___ yes ___ no

* biological child of one's domestic partner although child is not biologically related to health plan applicant ___ yes ___ no

¹Domestic partners are generally defined as two adults who live together, who are emotionally and financially interdependent, who consider themselves to be each other's immediate family, who are not married to anyone, who have no other domestic partner, and who have registered their domestic partnership with their employer or with a municipal government that has a registration system.

HEALTH AND DENTAL (continued)

PLANS FOR GROUPS:

If you offer plans for groups, such as employers, please answer the following:

1. Do you also offer family group coverage for an adult and his or her eligible family dependents: yes no
- a. Persons in the following categories would qualify as an eligible family dependent for purposes of group health or dental plan that includes family coverage:
- * spouse yes no
 - * biological child under 18 years old yes no
 - * biological child under 25 but not in school yes no
 - * foster child under 18 years old yes no
 - * stepchild under 18 years old yes no
 - * domestic partner² yes no
 - * biological child of one's domestic partner although child is not biologically related to health plan applicant yes no
2. If a public or private sector employer requested you to provide health or dental coverage to domestic partners of employees, would you provide such coverage: yes no
(If answer is "no" please provide an explanation)

²Domestic partners are generally defined as two adults who live together, who are emotionally and financially interdependent, who consider themselves to be each other's immediate family, who are not married to anyone, who have no other domestic partner, and who have registered their domestic partnership with their employer or with a municipal government that has a registration system.

LIFE INSURANCE:

Our company offers LIFE insurance: yes no
If yes, please answer the following:

1. All other criteria being equal, we charge the same premium to an unmarried person as we do to a married person: yes no
2. An applicant who is buying a life policy for himself may name anyone as beneficiary, even if that person is not related to the applicant by blood, marriage, or adoption: yes no
3. An applicant who is buying a life policy for himself may only name someone as a beneficiary who has an insurable interest in the life of the applicant: yes no

OTHER USE OF MARITAL STATUS:

1. Does your company use marital status for any purposes other than those described in the previous questions: yes no
(If "yes," please provide an explanation.)

ZIP CODES:

1. Do you currently write all lines of coverage sold by your company to consumers residing in the following ZIP CODES:

90028	<input type="checkbox"/> yes	<input type="checkbox"/> no
90048	<input type="checkbox"/> yes	<input type="checkbox"/> no
90069	<input type="checkbox"/> yes	<input type="checkbox"/> no
90036	<input type="checkbox"/> yes	<input type="checkbox"/> no
90210	<input type="checkbox"/> yes	<input type="checkbox"/> no

**RESPONSES BY
INSURANCE COMPANIES
TO SURVEY CONDUCTED BY THE
WORKGROUP ON MARITAL STATUS AND
SEXUAL ORIENTATION DISCRIMINATION**

RESPONSES TO SURVEY QUESTIONS ON *AUTO* INSURANCE

COMPANY	<i>Allstate</i>	<i>Auto Club</i>	<i>Cal-American</i>	<i>California Casualty</i>	<i>Continental</i>	<i>Crusader</i>	<i>Farmers</i>	<i>Fireman's Fund</i>	<i>National Auto</i>	<i>20th Century</i>	<i>Western United</i>
QUESTION											
Our company offers AUTO insurance	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes
1. We offer coverage to <i>unmarried</i> persons	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes
2. We offer coverage to <i>unmarried</i> males under 25 years old	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes
3. All other criter being equal, the premium for an <i>unmarried</i> male under 25 would be the same as for a <i>married</i> male under the age of 25	no	yes	no	no	no	no	no	yes	no	yes	no
4. All other criteria being equal, we charge a higher premium to an <i>unmarried</i> driver than we do a <i>married</i> driver, regardless of his or her age	yes	no	no	no	no	yes	no	no	no	no	no
5. Our agents are told not to write more than a certain percentage of their total sales to <i>unmarried</i> clients	yes	no	no	no	no	no	no	no	no	no	no
6. We offer a joint policy with a multiple car discount to a <i>married</i> couple	yes	yes	yes	yes	yes	no	yes	yes	yes	yes	yes
7. We offer a joint policy with a multiple car discount to an <i>unmarried</i> couple who live together and jointly own two cars when the cars are garaged at the same residence	yes	yes	yes	yes	yes	no	no	yes	yes	no	yes
8. All other criteria being equal, the premium for the <i>married</i> couple in question #6 and the <i>unmarried</i> couple in question #7 would be the same	no	yes	yes	yes	yes			yes	yes		yes

RESPONSES TO SURVEY QUESTIONS ON *HOMEOWNERS and RENTERS* INSURANCE

COMPANY	<i>Allstate</i>	<i>Auto Club</i>	<i>California Casualty</i>	<i>Continental</i>	<i>Crusader</i>	<i>Farmers</i>	<i>Fireman's Fund</i>	<i>National Auto</i>	<i>20th Century</i>	<i>Western Mutual</i>	<i>Others Responding to Survey</i>
QUESTION											
Our company offers HOMEOWNERS insurance	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	no
1. We offer a joint policy to a <i>married</i> couple who jointly own their home	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	
2. We offer a joint policy to an <i>unmarried</i> couple who jointly own the home in which they live	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	
3. All other criter being equal, we charge the same premium to the <i>married</i> couple in question #1 as we do to the <i>unmarried</i> couple in question #2	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	
Our company offers RENTERS insurance	yes	yes	yes	yes	no	yes	yes	yes	no	yes	no
1. We offer a joint policy to a <i>married</i> couple who live together in a rental unit	yes	yes	yes	yes		yes	yes	no		yes	
2. We offer a joint policy to an <i>unmarried</i> couple who live together in a rental unit	yes	yes	yes	yes		yes	yes			yes	
3. All other criter being equal, we charge the same premium to the <i>married</i> couple in question #1 as we do to the <i>unmarried</i> couple in question #2	no	yes	yes	yes		yes	yes			yes	

RESPONSES TO SURVEY QUESTIONS ON UMBRELLA LIABILITY INSURANCE

COMPANY	<i>Allstate</i>	<i>Auto Club</i>	<i>Continental</i>	<i>Crusader</i>	<i>Farmers</i>	<i>Fireman's Fund</i>	<i>20th Century</i>	<i>Western Mutual</i>	<i>Others Responding to Survey</i>
QUESTION									
Our company offers UMBRELLA LIABILITY insurance	yes	yes	yes	yes	yes	yes	yes	yes	no
1. We offer a joint umbrella policy to a married couple who jointly own their home	yes	yes	yes	yes	yes	yes	yes	yes	
2. We offer a joint umbrella policy to an unmarried couple who jointly own the home in which they live	no	yes	no	no	no	no	yes	no	
3. All other criter being equal, we charge the same premium to the married couple in question #1 as we do to the unmarried couple in question #2.	no	yes					yes		

RESPONSES TO SURVEY QUESTIONS ON *LIFE* INSURANCE

COMPANY	<i>Allstate</i>	<i>Farmers</i>	<i>Paula</i>	<i>Others Responding to Survey</i>
QUESTION				
Our company offers LIFE insurance	yes	yes	yes	no
1. All other criteria being equal, we charge the same premium to an unmarried person as we do to a married person	no	yes	yes	
2. An applicant who is buying a life policy for himself or herself may name anyone as beneficiary, even if the beneficiary is not related to the applicant by blood, marriage or adoption	no	yes	yes	
3. An applicant who is buying a life insurance policy for himself or herself may only name someone as beneficiary who has an insurable interest in the life of the applicant	yes	yes	yes	



**Fireman's
Fund**

Fireman's Fund
Insurance Company

N. Douglas Martin, Jr.
Vice President & Counsel

October 1, 1992

Thomas F. Coleman
Law Office of Thomas F. Coleman
P.O. Box 65756
Los Angeles, CA 90065

Dear Mr. Coleman:

Enclosed find our response to the Task Force survey. We have responded to the sections concerning Auto Insurance, Homeowners, Umbrella Liability Insurance, Other Use of Marital Status, and Zip Codes. Fireman's Fund does not write Health, Dental or Life coverages and we have not responded to the particulars in the survey within those sections.

We note the inclusion of a survey question regarding marital status in underwriting for Umbrella coverage. As you can see, Fireman's Fund does consider the marital status of couples who are applying for joint Umbrella coverage. However, Fireman's Fund Umbrella underwriting practice is consistent with California law as articulated in Beaty v. Truck Insurance Exchange, 8 Cal.Rptr.2d 593 (Cal.App. 3 Dist. 1992).

The court states clearly in Beaty that "the Unruh Act makes no mention of discrimination on the basis of "marital status." The Beaty court goes on to state "no court has extended the Unruh Act to claimed discrimination on the basis of marital status and we shall not be the first to do so."

In light of existing case law and, as articulated by the Beaty court, "[its] recognition of a strong public policy favoring marriage. [Citation]" Fireman's Fund feels this survey's questioning of the use of marital status as an underwriting criterion is inappropriate and misplaced.

We are pleased to have responded and value the opportunity to participate in the Department of Insurance Anti-Discrimination Task Force.

Very truly yours,


N. Douglas Martin, Jr.
Vice President and Counsel

Enclosure
NDM/ed

Law Office of Thomas F. Coleman

Post Office Box 65756, Los Angeles, CA 90065
(213) 258-5831 / Fax 258-8099

October 5, 1992

Mr. N. Douglas Martin Jr.
Fireman's Fund
777 San Marin Dr.
Novato, CA 94998

Dear Mr. Martin:

Thank you for responding to the survey conducted by the Workgroup on Marital Status and Sexual Orientation Discrimination.

It was nice of you to enclose a copy of the Court of Appeal decision in *Beaty v. Truck Insurance*. I am well aware of the case inasmuch as I was the attorney who petitioned the Supreme Court for review and/or depublication on behalf of the plaintiffs.

I think you overstate your point when you say that including umbrella coverage in the survey was "inappropriate and misplaced." The *Beaty* case decided one issue only: that marital status discrimination in umbrella coverage did not violate the Unruh Act. The court had no occasion to decide whether such discrimination would be a violation of any provision of the Insurance Code (e.g. 679.71 or 1861.05). Although the plaintiffs in *Beaty* lost on those grounds in the trial court, they did not appeal on those issues. As you know, a trial court decision is not binding on anyone other than the immediate parties. Other consumers are free to challenge such discrimination in future administrative or judicial fora. Furthermore, marital status discrimination in umbrella coverage may constitute an unfair business practice in violation of the Business and Professions Code. Additionally, the Insurance Commissioner may decide to issue regulations dealing with discrimination in umbrella coverage. All of these issues remain to be explored.

The mandate of the Insurance Commissioner's Anti-Discrimination Task Force is not limited to a study of insurance practices that violate existing law. After reviewing our report, the Commissioner may want to propose new legislation. Umbrella coverage may fall into this category.

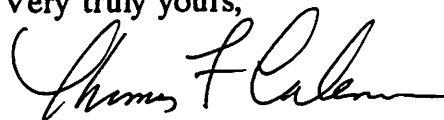
There was a time in history that sex discrimination was not only tolerated but promoted. Race discrimination was codified in law and court cases. I wonder whether in that previous era, Fireman's Fund would have felt that a survey about such discrimination would have been "inappropriate and misplaced." Society is changing. Public policies are also changing. I hope that Fireman's Fund is not locked into any status quo of discrimination simply because it is the status quo.

THOMAS F. COLEMAN

N. Douglas Martin Jr.
October 5, 1992
Page 2

Again, thank you for responding to the survey. I hope that Fireman's Fund is interested in providing fair rates to unmarried adult consumers, a constituency that comprises over 43% of the adult population of California a majority of adults in most metropolitan areas in this state.

Very truly yours,



THOMAS F. COLEMAN

RESPONSE BY
PROFESSIONAL INSURANCE AGENTS ASSOCIATION
TO SURVEY CONDUCTED BY THE
WORKGROUP ON MARITAL STATUS AND
SEXUAL ORIENTATION DISCRIMINATION

Law Office of Thomas F. Coleman

Post Office Box 65756, Los Angeles, CA 90065
(213) 258-5831 / Fax 258-8099

August 11, 1992

Ms. Pamela Weddertz
Professional Insurance Agents
P.O. Box 2557
Santa Rosa, CA 95405

RE: Anti-Discrimination Task Force
 Workgroup on Sexual Orientation
 and Marital Status Discrimination

Dear Ms. Weddertz:

I would like to thank your association for the offer to assist the Insurance Commissioner's Anti-Discrimination Task Force. I hope that some of your association's members can provide information to document sexual orientation and marital status discrimination.

In particular, my workgroup would be interested in examples of discrimination, such as:

* **Auto Insurance Discrimination:** (1) refusal to provide coverage to unmarried persons or unmarried persons under a certain age; (2) charging higher rates to unmarried persons than to married persons with similar driving record; (3) instructions to agents not to write coverage to more than a certain % of unmarried clients; (4) refusal to issue a joint policy to an unmarried couple with multiple-car discount, even though both cars are owned jointly; (5) adding a marital status surcharge for motor homes if owned and operated by an unmarried person; (6) other forms of discrimination like these.

* **Joint Homeowners / Renters Policy:** refusal of a company to issue a joint policy to an unmarried couple who live together and jointly own a house or rent an apartment.

* **Joint Umbrella Liability Policy:** refusal of a company to issue a joint umbrella policy to an unmarried couple who live together and jointly own property, e.g., cars, house, etc.

Ms. Pamela Weddertz

August 11, 1992

Page 2

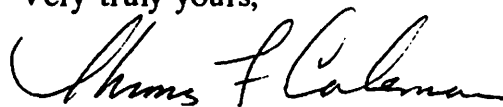
* **Life Insurance Beneficiary Designation:** refusal of a company to allow an applicant-owner of a life policy to designate an "unrelated" adult as a beneficiary, on the theory that the unrelated adult does not have an insurable interest in the life of the owner-applicant of the policy.

* **Health and Dental:** (1) refusal of a company to provide coverage under a "family" plan to an unmarried man and woman and their biological child, all in one policy; (2) refusal of a company to provide coverage for a domestic partner of an employee, even though the employer would like to have domestic partner coverage.

* **Redlining for Singles and Gays:** (1) any methods used by companies for any type of insurance to limit the number of policies they issue to singles or gays; (2) any threats or retaliation against agents who write too many policies to singles or gays.

I would very much appreciate receiving information on these topics before mid-October so that I can write my report on sexual orientation and marital status discrimination before November 1. Thanks for your help.

Very truly yours,



THOMAS F. COLEMAN

December 3, 1992

Mr. Thomas Coleman
P.O. Box 65756
Los Angeles, CA 90065

**ALLIED
GROUP**

Insurance

ALLIED Group

Don W. Beal Agencies
2312 Bethards Drive, Suite #8
M/A P.O. Box 2557
Santa Rosa, CA 95405
Phone: 707-526-6060
Fax: 707-526-4077

**Suggested Responses for the Anti-Discrimination Task Force
Workgroup on Sexual Orientation and Marital Status Discrimination**

Item 1: AUTO INSURANCE DISCRIMINATION

- 1) Under proposition 103, good drivers are defined as anyone who has three years driving experience and not more than 1 moving violation. This could be a 19 year old male or female. In the preferred markets, many companies are still reluctant to take drivers between the ages of 19 to 21 without supporting business from the parents. A non-standard market, however, will take these drivers and also give them a good drivers discount.
- 2) Statistics show that unmarried persons under the age of 30 utilize their vehicles more frequently for recreational purposes which may or may not include the consumption of alcohol. Whereas married persons in the same age group tend to stay home due to family constraints, thereby, lessening the exposure. Due to this perception by the insurance company, amiss that it may be, that there are two distinct groups within this age category and a rating discount is offered to the latter group.
- 3) Certain companies desire a properly balanced book of business. This minimizes their exposure to any one specific group.
- 4) As a general rule, most companies offer multi-discount if all autos in the household are registered to both parties.
- 5) I have not experienced this type of discrimination.

ITEM:2: JOINT HOMEOWNERS / RENTERS POLICIES

- 1) There is no difficulty as general rule with issuing a Joint Homeowners Policy as long as the Deed contains the names of both parties.
- 2) Until Insurable Interest can be better defined, Renters Policies are still issued on an individual basis by several companies. Handling the claim at the time of the loss is impacted by the difficulty of accurately determining the values of each persons loss.

ITEM 3: JOINT UMBRELLA LIABILITY POLICY

- 1) There is usually no problem in issuing a Joint Umbrella Policy for unmarried couples. The restrictive factor in the Umbrella Policy is that ALL covered properties MUST be held in both names, otherwise it may not be eligible for coverage.

ITEMS 4 & 5: LIFE INSURANCE BENEFICIARY DESIGNATION/HEALTH & DENTAL

- 1) We suggest that you contact the California Life Underwriters Association to obtain information on the above mentioned subjects. Since they deal with these types of coverages on a daily basis, they can provide a more detailed account of these types of discrimination.

ITEM 6: REDLINING FOR SINGLES AND GAYS

- 1) In the Property and Casualty side of the Insurance Business, there is no blatant discrimination against a person due to sexual orientation. However, there is a definite problem with the geographic location of a person, but this applies to all potential clients.

I hope the above will assist you in your written summary to the Insurance Commissioner's Office. If you need any further assistance, please do not hesitate to contact me.

Sincerely,



Pam Wedertz

:apw

**REFUSALS BY BY
INSURANCE COMPANIES AND
HEALTH CARE SERVICE PLANS TO
PROVIDE MEDICAL AND DENTAL COVERAGE
TO UNMARRIED PARTNERS OF EMPLOYEES**



July 27, 1992

Thomas F. Coleman
EEO Seminars
P.O. Box 65756
Los Angeles, Ca.
90065

Dear Mr. Coleman

As you know, the City of West Hollywood is vitally interested in the area of domestic partnership. Our Ordinance banning discrimination based on sexual orientation or marital status has been in effect since 1985. In addition, the City has offered general registration to domestic partnerships since 1985, and health benefits to the domestic partners of City employees since 1989.

We know of at least fifteen other cities and counties across the country which also have some kind of domestic partner recognition, and another fifteen which are considering such recognition. Although these policies are welcome and certainly long overdue, we recognize that there are still many obstacles which must be overcome before domestic partners will be offered all of the same benefits now offered to spouses.

Among these obstacles, the most common is insurer refusal to provide group health plan enrollment to domestic partners. In addition, many people cling to the false notion that domestic partnership relationships exist primarily among homosexuals. Included with this belief is the common but unfounded fear that extension of health benefits to domestic partners will lead to costly AIDS claims.

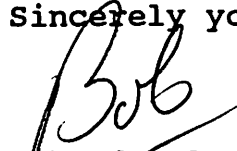
The League of California Cities is having its annual conference at the Bonaventure Hotel in Los Angeles on Oct. 10-13 of this year. We have set aside two time slots on Sunday (Oct. 11) and Monday (Oct. 12), at which participants of the League Conference can focus on Domestic Partnerships and especially discuss insurance needs and opportunities for them.

The purpose of the meeting is to form a coalition of agencies and individuals, and devise a strategy to solve the problem. Ultimately we hope to turn the tide in the insurance industry, including the State Public Employees Retirement System (PERS), so that health benefits can be widely available not just to spouses, but to domestic partners, at rates affordable to employees and to employers.

The meetings will be Sunday from 5-6:30 pm, and Monday from 4:45-6:30 pm. Your participation is important and encouraged. If you are interested, please give us the name of a contact person in your organization who may suggest any issues, concerns, or strategies you would like to address. I have attached a list of the local governments which have received this letter. Please let me know of any other cities you think might be interested in this subject, and I will be sure to invite them to join us at the League Conference.

If you have any questions or comments, please do not hesitate to call me at (310) 854-7400. Thank you for your attention to this matter.

Sincerely yours,



Bob Edgerly
Assistant City Manager

The following is a list of cities and organizations which have been invited to attend the Domestic Partnership meeting at the League Conference in October:

City of San Francisco

City of San Jose

City of Pasadena

City of Long Beach

City of Palm Springs

Cathedral City

City of Fremont

Fremont Unified School District

Fremont Unified School District Teachers Association

City of San Diego

City of Los Angeles

City of Escondido

City of Oakland

City of Palo Alto

City of Berkeley

City of Santa Cruz

City of Laguna Beach

City of Sacramento

City of Santa Monica

Principal William M. Mercer

Thomas F. Coleman, Attorney at Law

Office of the Insurance Commissioner

City of
West Hollywood



Administrative Services
Human Resources Division

November 12, 1992

Thomas F. Coleman
Spectrum Institute
P. O. Box 65756
Los Angeles, CA 90065

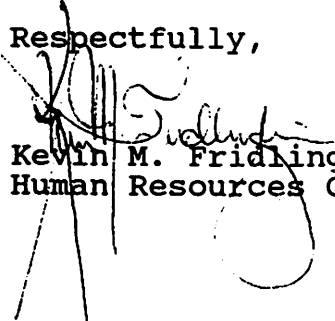
Dear Mr. Coleman:

The City of West Hollywood has approached, through its brokers, between 16 and 20 indemnity insurance providers with a request for a group quotation including domestic partner coverage. In each case, the request for a quotation was denied. The City continues its interest in obtaining a fully insured indemnity plan to add to its domestic partner benefits program and will pursue the option as the market responds to this issue.

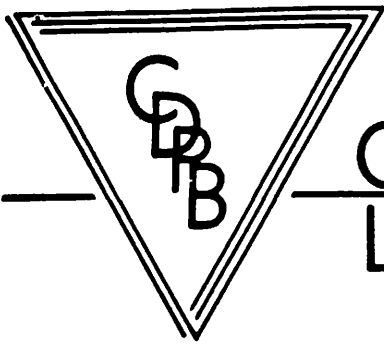
In addition, we have had ongoing discussions with our former HMO provider, Kaiser South, in which we requested provision of domestic partner benefits to our group subscription. This benefit has been provided to other Kaiser subscribers in northern California, including the City of Berkeley and the City of San Francisco. This request was also denied.

Please let me know if we can be of further assistance in your efforts. I look forward to cooperating with you on this issue of mutual concern.

Respectfully,


Kevin M. Fridlington
Human Resources Officer

KMF:bj
HI/lh



COALITION FOR DOMESTIC PARTNERSHIP BENEFITS —
LOS ANGELES COUNTY

July 11, 1991

- Service Employees International Union, Local 535
- Service Employees International Union, Local 660
- American Federation of State, County and Municipal Employees, Council 36
- Lambda Legal Defense and Education Fund

Mr. Michael Leggett, Division Manager
Kaiser Permanente
Walnut Center
393 East Walnut
Pasadena, CA 91188

Dear Mr. Leggett:

We were glad to have an opportunity to meet with you on June 11, 1991 regarding our interest in the establishment of domestic partner benefits for Los Angeles County employees. As we discussed in our meeting, the Unions which are part of the Coalition for Domestic Partnership Benefits represent nearly 50,000 County employees.

Insofar as we foresee ongoing discussion regarding this issue, we thought it would be helpful to memorialize the main substance of our meeting for future reference. Our meeting focused primarily on those concerns which Kaiser has regarding domestic partnership benefits and the response, if any, which we were able to provide.

Your primary concerns were as follows:

1. Risk -You explained that Kaiser is concerned that there is no valid experience at this time regarding domestic partners since only a small number of domestic partners have been covered through any kind of group health insurance program. You indicated that Kaiser would consider experience data for 1,000 domestic partners and their dependent children over a three-year period to be valid.

We suggested that Kaiser consider a pilot project with Los Angeles County and perhaps some other large employers to create a sufficiently large pool to generate statistically valid utilization information.

2. Relationship to Other Providers -You expressed concern over Kaiser taking the lead in providing domestic partner benefits prior to other health care providers. You questioned whether Kaiser should take the initiative of offering these benefits, absent a substantial groundswell of interest on the part of employers who contract with Kaiser. Your concern regarding Kaiser's

Michael Leggett
July 9, 1991
Page 2

relationship to the other health care providers was related to a concern that, if Kaiser were to take the lead, Kaiser would attract a disproportionate share of the domestic partners in the community.

We pointed out that domestic partners may in fact be a better risk than other dependents and that, therefore, it might be financially beneficially for Kaiser to be ahead of the other providers. Domestic partners tend to deliver less children and to be younger than other dependents, and may be a better risk as a result. Regarding the degree of initiative which Kaiser should take, we proposed that Kaiser provide domestic partner benefits for those groups who desire it, without necessarily taking the proactive step of offering it to all groups.

3. Definition -You questioned the appropriate definition of a domestic partner. We advised you that there were various definitions which were in use elsewhere and that there would be no difficulty adopting an appropriate definition.

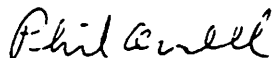
4. Scope of Expanded Definition -You raised the issue as to why it would be appropriate to expand the current traditional definition of dependent to include domestic partners and their dependent children without extending it even further to include a subscriber's parents, for example. We explained that the nuclear family is the basis for the current definition of dependent as including a subscriber's legal spouse and dependent children. The nature of the nuclear family in the United States has changed dramatically in the last two decades, creating many households comprised of domestic partners and the children of one or both partners. An expansion of the definition of dependent to include domestic partners would therefore be consistent with the traditional focus on employer-supported health insurance for an employee and his/her nuclear family. Though we would not necessarily oppose a further expansion, such an expansion is not before Kaiser at this time and is irrelevant to the question of domestic partner benefits.

Michael Leggett
July 9, 1991
Page 3

5. Employer Contribution -You clarified that, if Kaiser were otherwise willing to insure domestic partners and their dependent children, Kaiser would require that an employer make the same contribution toward the cost of their coverage as for all other dependents.

We're pleased that Kaiser has taken the initiative to form the Domestic Partner Task Force. As we indicated in our meeting, we expect Kaiser to take the lead in this area because of its progressive history regarding health policy. We look forward to consulting with you further as your Task Force pursues its work. Please keep us posted of your progress.

Sincerely,



Phil Ansell
Senior Field Representative
SEIU Local 535

cc: Marilyn Lundstrom, SEIU 660
John Wyrrough, AFSCME Council 36
Mary Newcombe, LAMBDA Legal Defense and Education
Fund

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(29/cmm)

910709



AUG 14 1992

ALADS

August 10, 1992

Mr. Bud Treece
Vice Chair
Coalition of County Unions
828 West Washington Boulevard
Los Angeles, CA 90015

Re: Domestic Partner Dependent Coverage

Dear Bud:

Back in April, you indicated that the Coalition had a renewed interest in including domestic partners in the definition of eligible family dependents. Last week, your office asked me to provide our current thinking on this matter.

Last year, Kaiser Permanente in Southern California formed a Domestic Partners Task Force to study the possibility of revising our definition of eligible dependents to include domestic partners. After careful consideration, the Task Force reached the conclusion that our region should not expand or customize the definition of eligible dependents at this time.

There are a variety of dependent relationships that do not fall into our current definition of an eligible dependent. Examples include parents and other relatives, some children and significant others.

The current definition of dependents provides a predictable risk selection for rate setting, a common understanding of eligibility for administration and matches the criteria for almost all of our employer groups.

Our Individual Plan is available as an alternative for people who are not eligible for coverage on a Kaiser member's family account. I am sure that we could design a process that would assist your members in obtaining information about the Individual Plan and in submitting the necessary applications. If you would like to pursue this option for those members of the Coalition who may be interested, I would be happy to assist you.

If I can provide any additional information, please feel free to contact me at (818) 405-5526.

Sincerely,

Darleen Cho
Manager, Special Accounts

File: Cigna
Dist: CCH M3

CIGNA Employee Benefits Companies

15260 Ventura Boulevard, Suite 2100
Sherman Oaks, CA 91403
(818) 907-3571
Fax (818) 990-8544

Kenneth R. Goulet
Senior Marketing Representative

CIGNA

August 7, 1992

Mr. Bud Treece
Vice Chair
COALITION OF COUNTY UNIONS
828 West Washington Boulevard
Los Angeles, California 90015

Dear Bud:

Re: **COUNTY OF LOS ANGELES
DEPENDENT COVERAGE**

DELIVERY VIA FAX (213) 747-2705

I am writing to confirm our prior conversations during which we discussed the Dependent criteria of our County of Los Angeles Group Medical Plan.

Under the provisions of the Group Medical Expense Benefits Plans through the County of Los Angeles, reimbursement is provided for medical services and supplies which are essential for the necessary care and treatment of an illness or injury. The County of Los Angeles group insurance contract defines that group insurance benefits are extended to all covered employees and their eligible dependents while their group insurance is in effect. The eligibility requirements for dependent insurance is delineated under the contract's Group Insurance Plan section, subtitled "Dependents". Subparagraph one (1) and two (2) of this provision define a dependent as

- o your lawful spouse; and
- o any unmarried child of yours who is
 - o less than 19 years old;
 - o 19 years but less than 25 years old, enrolled in school as a full time student and primarily supported by you;
 - o 19 or more years old and primarily supported by you and incapable of self-sustaining employment by reason of mental or physical handicap.

Under the terms of these provisions, coverage cannot contractually be extended to domestic partners.



Bud, while CIGNA understands your interest in expanding the contractual definition of Dependent to include a domestic partner, we regret to inform you that we are unable to accommodate this particular request. In general, we would not expand the definition of dependent unless required by law. As this is not required for the jurisdiction in question, we are unable to accommodate this request.

We are sorry that our decision could not have been more favorable. Should you have any questions concerning this matter, please do not hesitate to give me a call.

Sincerely,

Kenneth R. Goulet
Senior Marketing Representative

KRG:rj



Safeguard Health Plans

505 North Euclid Street
Suite 200
PO Box 3210
Anaheim California 92803-3210
(714) 778-1005

RECEIVED
MAY 04 1992
ALADS

April 30, 1992

Department of Public Employee Unions
Coalition of County Unions
828 West Washington Boulevard
Los Angeles, California 90015

Attention: Bud Treece
Vice Chair

Re: Domestic Partner - Dependent Coverage

Dear Bud:

Thank you for your letter of April 27, 1992, concerning Safeguard's position regarding adding to the definition of a dependent, a Domestic Partner, for the dental programs sponsored by the County of Los Angeles. As you may recall when this issue was last discussed, Safeguard agreed that it would abide by any definition of a dependent, including that of a Domestic Partner, as may be established by the Coalition of County Unions and the County of Los Angeles.

Safeguard is pleased to repeat its position and agrees to cover as a dependent, a Domestic Partner if so indicated by its unions and the County.

If you have any questions, please contact me.

Yours truly,


RONALD I. BRENDZEL
Senior Vice President

RIB:acm

cc: Edward Barrios
Director, RIMA

City of Santa Cruz

CITY HALL - 337 LOCUST STREET
SANTA CRUZ, CALIFORNIA 95060
PERSONNEL DEPARTMENT
TELEPHONE (408) 429-3616
FAX (408) 429-3133



November 4, 1992


Mr. Thomas Coleman
Spectrum Institute
P.O. Box 65756
Los Angeles, CA 90065

Dear Mr. Coleman:

I am responding to your letter of October 28, 1992 regarding the implementation of domestic partner benefits. The City of Santa Cruz has provided health insurance coverage for domestic partners since January 1987. The City is self-insured for medical, dental and vision coverage. I have attached a copy of an information sheet and a domestic partner affidavit.

If you require additional information, please do not hesitate to contact me directly.

Very truly yours,



Erwin H. Young
Director of Personnel

EHY:tg

Attachment

**A PROPOSAL FOR UNIVERSAL HEALTH
CARE COVERAGE IN CALIFORNIA**

CALIFORNIA HEALTH CARE IN THE 21ST CENTURY

*JOHN GARAMENDI, INSURANCE COMMISSIONER
STATE OF CALIFORNIA*

1. The health care components of all insurance policies -- workers compensation, auto, and health -- would be consolidated into a single, unified health care system.
2. All Californians would be guaranteed comprehensive health care benefits.
3. All employers and employees would pay premiums into a single fund on an equitable basis. Small employers and low income workers would pay lower premiums.
4. Private/public Health Insurance Purchasing Corporations -- governed by employers and consumers and operating regionally throughout the state -- would collect all premiums and purchase private health insurance for all Californians. The purchasing corporation would certify health plans capable of delivering the guaranteed benefits and high quality care.
5. All consumers would have the right to enroll in any of the certified plans. There would be no pre-existing condition exclusions or waiting periods.
6. The purchasing corporation would pay each certified health care plan the same amount for each individual enrolled (with adjustments for such risk factors as age, sex, and family status).
7. At least two health plans in each region would charge consumers nothing for the state-guaranteed benefits. Other plans would also offer the guaranteed benefits, but could charge consumers a small additional amount for more amenities or flexibility (e.g. wider choice of providers). There would be a ceiling on the amount a health plan could charge consumers.

CALIFORNIA HEALTH CARE IN THE 21ST CENTURY

A SINGLE, UNIFIED SYSTEM FOR ALL CALIFORNIANS

- ▶ All Californians would obtain coverage from one health care system -- managed by a public/private partnership -- rather than through multiple employer systems that deliver coverage inefficiently and distribute it inequitably.
- ▶ A Health Insurance Purchasing Corporation (HIPC) would certify private health plans to offer coverage. The plans would compete for enrollees on the basis of quality of service and price.
- ▶ The health care components of all private insurance policies -- workers compensation, auto, and health -- would be consolidated into a single, unified health care system. Individuals would receive the same protection and the same care regardless of when, where, or why an injury or illness occurred.
- ▶ The system would blend the best of regulatory and competitive features of health care reform approaches. It does not make a final determination of the appropriate blend, instead allowing the mix to vary over time and across regions.
- ▶ The proposal would keep California's strongest economic players in one health care system, providing the impetus for them to make it work for everyone.

BUILT-IN MECHANISMS FOR CONTROLLING COSTS

- ▶ An overall health care budget would provide restraint. Public costs would increase faster than wages only if the state increased employer/employee premium rates, always a difficult political act.
- ▶ Placing greater choice in the hands of consumers would encourage them to spend dollars more wisely.
- ▶ Inefficient insurers that now compete on the basis of their ability to avoid high risk individuals would be forced to compete on the basis of the value they offer to consumers.
- ▶ Much of the administrative waste in the current system would be eliminated:
 - Employers would no longer need to buy insurance, a particularly important consideration for small businesses.
 - Managed care plans -- which generally have lower administrative costs than traditional insurers -- would be promoted. Inefficient insurers would be unable to compete.

- With a Health Insurance Purchasing Corporation providing consumers with better information and direct access to health plans, the overhead cost of insurance broker commissions would be unnecessary.
- It is expected that competition would drive health plans to become more integrated (i.e. that they would form networks of physicians, hospitals, and other providers). Through such integrated arrangements, the administrative costs associated with hospital and physician billing would be reduced dramatically.

24-HOUR CARE: THE CONSOLIDATION OF HEALTH COVERAGE

- ▶ The consolidation of the health care components of workers compensation and auto insurance would reduce the cost of such coverage for employers and consumers, as well as reduce the administrative costs involved in fighting over who pays when someone gets sick or injured.
- ▶ Preliminary estimates indicate that consolidation would save an estimated \$2.8 billion in workers compensation costs (about 25% of total premiums), and add only an estimated \$1.8 billion to health care costs.
- ▶ Under the proposal, employees would be accepting some limits on health coverage for work-related injuries (e.g. using only providers affiliated with their health plan). It is therefore proposed that a portion of the savings from consolidation be used to increase disability benefits under workers compensation -- California's temporary disability benefits are now ranked 35th in the nation -- and that the remainder of the savings accrue to employers.

ACCESS TO QUALITY HEALTH CARE FOR ALL CALIFORNIANS

- ▶ All Californians would be guaranteed access to comprehensive health care benefits.
- ▶ The benefits would be comparable to those now provided by HMOs, providing comprehensive medically necessary care (inpatient care, primary care, prescription drugs, inpatient and outpatient mental health care, home health care, etc.). Modest copayments would be required for some services, though they would be waived for low-income individuals. There would be no deductibles.
- ▶ Cost-effective preventive care would be encouraged, and would be provided with no copayments.

EXPANDED CONSUMER CHOICE

- ▶ The system would be managed by regional public/private sponsors -- Health Insurance Purchasing Corporations (HIPCs). The purchasing corporations -- which would be governed by employers and consumers -- would ensure that all

health plans delivered quality care, and would assist individuals in choosing among plans by providing consumer information (e.g. complaints against plans, waiting times, etc.).

- ▶ Consumers would be able to choose from among all of the health plans certified by the purchasing corporation to provide coverage in their region. Health plans would include many of those providing coverage today (e.g. HMOs and insurance companies).
- ▶ All health plans would be required to accept any individual regardless of health status. There would be no pre-existing condition exclusions, no waiting periods, and no extra charges due to health status or age and sex.
- ▶ Health Plans would not be allowed to compete by avoiding high risk individuals.
- ▶ The purchasing corporation would pay each certified health plan the same amount for each person enrolled (with adjustments for such risk factors as age, sex, and family status).
- ▶ At least two certified health plans in each region would offer the state-guaranteed benefits at no additional charge.
- ▶ Other plans would also offer the guaranteed benefits, but could charge consumers a small additional amount for more amenities or flexibility (e.g. wider choice of providers). There would be a ceiling on the maximum amount a health plan could charge consumers.
- ▶ Consumer choice and continuity of care would be enhanced by removing the link between health coverage and a job. Changing jobs -- or becoming unemployed -- would not mean a loss of coverage, or even having to switch to a different health plan or doctor.

EQUITABLE AND AFFORDABLE FINANCING

All employers and employees would pay health care premiums based on ability to pay:

EMPLOYERS: Each employer would pay a premium based on payroll. The overall average premium would be 6.75% of payroll, which would include the current cost of health care under workers compensation. Small employers would pay less.

- A sizable majority of employers who now provide coverage would pay less. These firms now pay about 8% of payroll on average for health coverage.
- Employers who do not now provide coverage would begin paying their fair share, but the payment would be more affordable for small

businesses than having to purchase coverage directly:

- **Firms with fewer than 10 employees would on average pay 5.8% of payroll, and firms with fewer than 5 employees would pay 5.2% of payroll on average. This does not reflect savings of approximately 20% on average in workers compensation premiums from the consolidation of the health care component of such coverage.**
- **The existing health insurance tax credit for small businesses would apply, further reducing their premiums by about 25%.**
- **Employers would be freed of the responsibility for purchasing health coverage, a particularly important consideration for small businesses.**

EMPLOYEES: Each employee would pay a premium based on wages and salaries. The overall average premium would be 1.0% of wages and salaries, with low-income workers paying less.

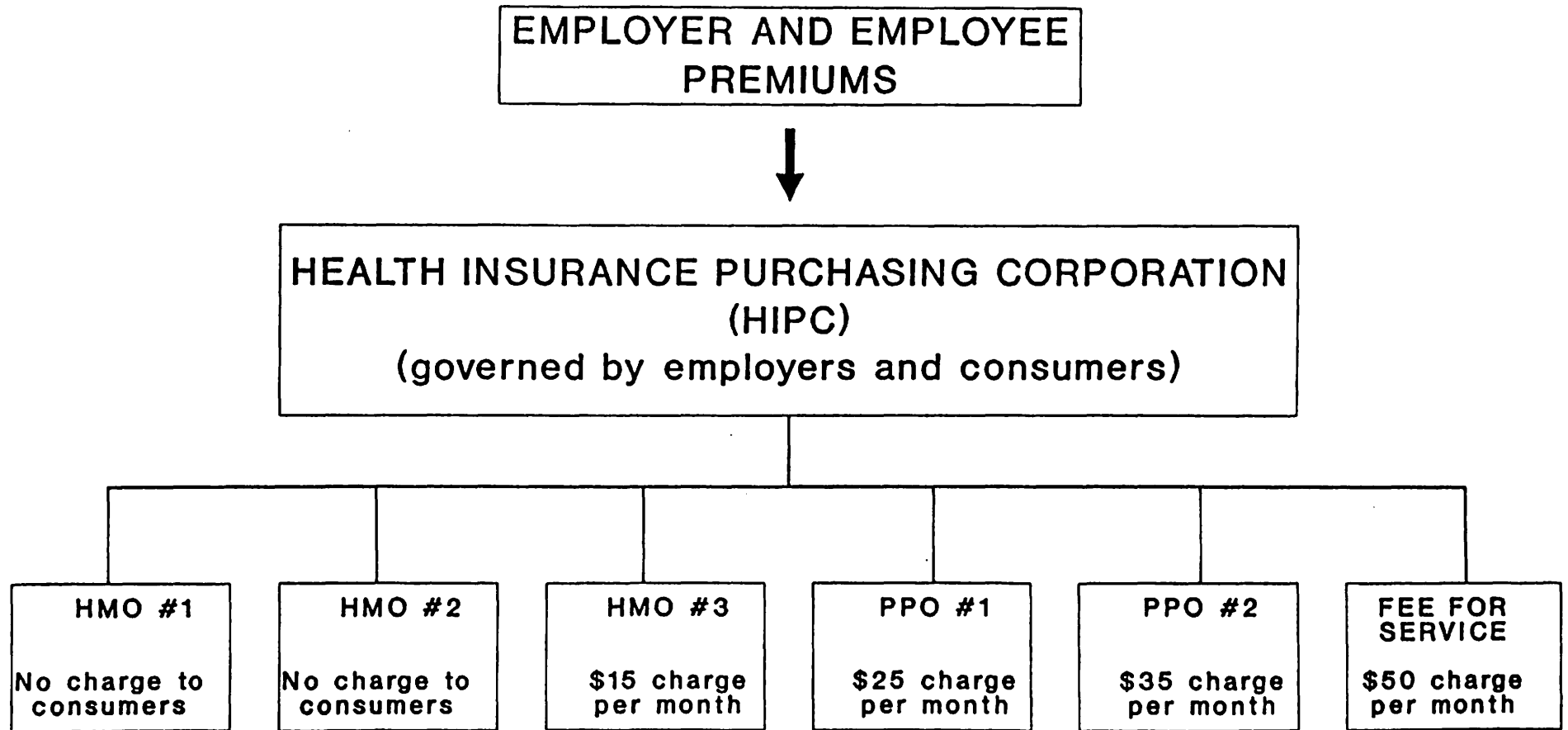
- **Consumers would pay on average \$30 per family per month for the guaranteed benefits. This amount is less than what is now deducted from their paychecks for health insurance (about \$45 per family per month on average).**
- **Paying in while employed would guarantee the same coverage while unemployed, in much the same way that unemployment insurance works today.**
- **There would be no additional charge for non-working dependents.**

SELF-EMPLOYED: The self-employed would pay a premium based on earnings and reflecting the combined employer/employee premium.

The estimated \$34 billion cost (based on state employment figures and the actual cost of coverage in HMOs today, as shown in the attached financial analysis) is less than what employers and employees are now spending on health insurance premiums. This amount would guarantee access for all Californians to comprehensive benefits. Total expenditures would ultimately depend on how much consumers chose to spend in addition to this (i.e. on their decisions about which plans to enroll in).

sum5.wp February 12, 1992

ILLUSTRATION OF A POSSIBLE REGIONAL HEALTH CARE SYSTEM



✓ The guaranteed benefits and copays would be identical across plans.

72 ✓ Consumers would choose any plan.

✓ Figures are for illustration only.

**A CALIFORNIA HEALTH CARE SYSTEM FOR THE TWENTY-FIRST CENTURY
FINANCIAL ANALYSIS**

COSTS

Estimated California Population (1992)	31,200,000
Less Medi-Cal Enrollees (non-elderly)	3,400,000
Less Medicare Enrollees	3,600,000
Number of Individuals Covered	<u>24,200,000</u>
 Estimated Cost of Guaranteed Benefits Package (per person per month, which is about 20% less than a normal single adult rate because the cost for children is averaged with the cost for adults)	 \$105.00
 Total Annual Cost of the Guaranteed Benefits	 \$30,492,000,000
 % of Individuals with Income Under 200% of Poverty (not including Medi-Cal enrollees)	 20.0%
 Additional Cost for Low-Income Individuals (per person per month)	 \$30.00
 Total Annual Additional Cost for Low-Income Individuals	 \$1,742,400,000
 Cost of Merging the Health Component of Workers Compensation	 \$1,800,000,000
 Administrative Costs for Health Insurance Purchasing Corporations	 \$304,920,000
 TOTAL SYSTEM COSTS =	 \$34,339,320,000

REVENUES

<u>Wages and Salaries</u>	
Projected 1992 Wages/Salaries	\$386,427,000,000
Projected 1992 Self-Employed Earnings	\$64,763,000,000
 <u>Employer Contribution</u>	
Total Wages/Salaries Exempted (\$10,000 per firm; \$150,000 cap on wages per employee)	\$46,012,480,000
Net Wages/Salaries Subject to the Contribution	\$340,414,520,000
 Total Employer Premiums	 \$26,041,710,780
Average Employer Premium = 6.75%	
 <u>Employee Contribution</u>	
Total Wages/Salaries Exempted (\$5,000 per employee; \$150,000 cap on wages)	\$108,247,700,000
Net Wages/Salaries Subject to the Contribution	\$278,179,300,000
 Total Employee Premiums	 \$3,894,510,200
Average Employee Premium = 1.00%	
 <u>Self-Employed Contribution</u>	
Self-Employed Earnings Exempted (\$5,000 per person; \$150,000 cap on earnings)	\$15,808,626,395
Net Earnings Subject to the Contribution	\$48,954,373,605
 Total Self-Employed Premiums	 \$4,430,370,811
Average Self-Employed Premium = 6.85%	
 TOTAL SYSTEM REVENUES =	 \$34,366,591,791

**SAVE AT THE PUMP: A PROPOSAL FOR
AUTOMOBILE INSURANCE REFORM**

What's Wrong With Auto Insurance in California and How to Fix It

I. The Problem

California's auto insurance system is appallingly wasteful and inefficient. Of every dollar consumers pay in premiums, only 44 cents is used to compensate accident victims for lost wages, medical expenses and auto repair bills. The lion's share of our insurance dollar—56 cents—goes to pay insurance sales and underwriting costs, legal fees, pain and suffering awards, and other administrative and transaction costs.

As a consequence of this tremendous waste and inefficiency, policyholders pay too much for too little insurance; seriously injured auto accident victims are grossly under-compensated for their medical expenses and lost wages; and millions of people drive without insurance, placing themselves at risk and saddling motorists who pay for insurance with \$1.2 billion a year in additional insurance premiums.

• Bloated Premiums

With so much unnecessary expense built into our premiums, it is little wonder that they are so high. According to a recent survey by the Department of Insurance, the statewide average premium for minimum liability and uninsured motorist coverage (no collision or comprehensive) for a 30-year old motorist with a clean driving record is \$556. In Los Angeles, such a motorist pays \$968 for this coverage (\$15,000 bodily injury liability, \$5,000 property damage liability, \$15,000 uninsured motorist bodily injury and \$3,500 uninsured motorist property damage).

• Uninsured Motorists

Inflated insurance costs lead millions of Californians to drive uninsured. Statewide, about 25% of all drivers have no coverage; and in urban areas like Los Angeles, more than half go without insurance. So in addition to paying an insurance premium bloated by legal, sales, advertising, underwriting and other expenses, policyholders also have to pay a hefty bill for insurance to cover losses caused by uninsured drivers.

• Under-Compensation of Accident Victims

While most of us buy insurance despite the outrageous cost, few of us can afford high-limits coverage. As a result, seriously injured accident victims are rarely compensated in full for their losses by auto insurance policies. According to a study by the Rand Corporation, accident victims incurring more than \$100,000 in medical bills and lost wages are compensated on average for less than 10% of their losses. Those with medical and wage losses of between \$25,000 and \$100,000 receive compensation equal to only 78% of their losses.

On the other hand, those with relatively minor injuries often receive quite lavish compensation. Because the damages claimed by someone with a neck or back sprain are more likely to fall within the limits of the other driver's policy, these accident victims stand a good chance of collecting a generous payment for pain and suffering, in addition to compensation for medical bills, wage loss, and auto repair expenses. On average, claimants whose medical expenses and wage losses are under \$2,000 receive about 2.75 times their actual losses. Not surprising, the prospect of receiving such windfall pain and suffering awards has given rise to an epidemic of fraud that is estimated to cost policyholders over a billion dollars a year.

• In Sum...

Our automobile insurance system is simply not designed to serve the true needs of policyholders. It fails to provide motorists with coverage for real losses, like medical and auto repair bills, at the lowest possible cost. Until the system is redesigned to put the interests of policyholders first, it will continue to function more as a welfare system for lawyers and insurance interests than a cost-effective benefit system for accident victims.

II. The Solution

The road to reform is clear: Eliminate those expenses in the system that do not

benefit policyholders. Save-at-the-pump, no-fault auto insurance is the most promising framework for accomplishing this goal.

• Save-at-the-Pump

Instead of selling legally-mandated auto insurance one policy at a time, why not automatically issue every driver a basic auto insurance policy, and collect the premiums in a simple, hassle-free manner, such as by adding an insurance surcharge to the price of gasoline? Under "save-at-the-pump," the uninsured motorist problem would be solved instantly. Everyone would be automatically covered and there would be no way to escape paying. Best of all, the sales, underwriting, and other administrative costs that account for so much of our insurance premium would be eliminated.

• No-Fault

The basic save-at-the-pump policy would include extensive coverage of medical expenses and lost wages. If you were injured in an accident, you would receive compensation for these losses regardless of whether or not you were at fault—in the same way that you collect benefits under a health insurance policy. There would be no need to hire a lawyer and file a lawsuit to get your medical bills paid or your lost wages replaced.

That leaves the question of what to do about compensation for pain and suffering. Should people be allowed to sue for pain and suffering awards in all cases? Don't be misled by the arguments about our "right" to compensation for pain and suffering. This "right" is nothing more than an insurance benefit for which we pay dearly. Payments for pain and suffering, associated legal costs and the resulting fraud account for 25% to 30% of the present cost of auto insurance.

Also keep in mind that pain and suffering awards are rarely paid out to seriously injured victims, who generally don't even get fully compensated for their medical expenses and wage loss. In practice, the "right" to compensation for pain and suffering means that if you suffer a relatively minor injury,

say a back sprain, then you get a shot at collecting a several thousand dollar windfall pain and suffering award. Considering how much this "right" costs you, is it really worth it?

Under a save-at-the-pump auto insurance system, lawsuits for pain and suffering could be eliminated altogether, or merely restricted to those cases involving serious injury.

Either option would result in significant cost savings, although eliminating these lawsuits would obviously save the most.

Answers to commonly asked questions about save-at-the-pump

Q: What is save-at-the-pump, no-fault insurance?

A: It is a new, more efficient auto insurance system in which every driver is automatically covered with a basic insurance policy that is paid for through surcharges on gasoline purchases, auto registrations, drivers licenses, and tickets for moving violations. Save-at-the-pump, no-fault is better than the present system because it eliminates the problem of uninsured motorists and slashes insurance and legal transaction costs, resulting in lower premiums for motorists.

Q: How much would the surcharge be on every gallon of gas?

A: The exact amount of the surcharge on gasoline purchases—and on drivers licenses and auto registrations—depends on what is covered by the basic policy that is provided to every driver. To give you some idea of what the surcharges might be, we have calculated the costs for a hypothetical basic policy that includes coverage for unlimited medical expenses, wage losses up to \$25,000 and property damage liability up to \$5,000. For these coverages, the surcharge on gasoline would be 25 cents, the average surcharge on auto registrations would be \$135, and the surcharge on licenses would be \$10, with those who have points on their licenses paying an additional \$50 for the first point and \$100 for each additional point. Under this plan, someone who has no violations and drives 12,000 miles a year in a car that gets 18 miles per gallon would pay \$311 a year.

Q: What would the basic save-at-the-pump policy cover?

A: At this point, there is no formal legislative proposal that spells this out. Commissioner Garamendi is advocating save-at-the-pump, no-fault as the framework of a new auto insurance system for California. Within this framework, there are a range of choices that can be made regarding what the basic policy should cover. On the one hand, there is clearly a

need for motorists to have more extensive coverage for medical expenses and wage loss. But this need for improved coverage has to be balanced against the equally compelling need for premiums to be reduced significantly.

Q: If the choices regarding coverage have not been made yet, how do we know save-at-the-pump, no-fault would save us money?

A: Save-at-the-pump, no-fault would save you money because it would eliminate many of the unnecessary expenses in the present auto insurance system, which are the reason you pay such high premiums now. By collecting premiums automatically at the pump and through the registration process, all kinds of insurance sales and administrative costs would be eliminated; and by making compensation directly available to claimants (like under health insurance policies) instead of forcing people to sue one another for benefits, legal costs would be slashed.

Q: Under this new system in which everyone is covered automatically, would some of the money I pay at the pump be used to subsidize insurance for those who don't have it now?

A: Absolutely not. Under save-at-the-pump, everybody who drives a car would pay his or her fair share, because it would be impossible to gas up without paying. For current policyholders, this would mean big savings because they would no longer have to buy insurance to protect themselves against uninsured motorists.

Q: Under save-at-the-pump, would insurance be provided by the government instead of private insurance companies?

A: No. Insurance services, such as paying claims, would be handled by private insurance companies. There are two ways the system could operate. One way is to divide the state's motorists into separate groups of several thousand policyholders and require the private

companies to bid against each other for the right to service each of these groups. Premiums collected by the state would then be transferred to the private companies based on the number of groups that each had won the right to service. An alternative way to determine which companies would provide services to policyholders would be to allow each motorist to select the company of his or her choice, and then transfer to that company a specified amount of money out of the insurance fund for each policyholder the company had signed up.

Q: Wouldn't good drivers end up paying as much as bad drivers under pay-at-the-pump?

A: No. Drivers would be required to pay an insurance surcharge on tickets issued for speeding and other moving violations. So just as they now pay higher premiums depending on the number of points on their licenses, they would pay more depending on how many driving violations they commit. Also, higher risk cars would pay higher registration surcharges.

Q: What about motorists in rural areas who drive long distances? Wouldn't they be unfairly burdened with higher costs under save-at-the-pump?

A: No. Only a portion of your auto insurance bill would be collected at the pump. The rest would be collected through surcharges on auto registrations, drivers licenses and tickets for moving violations. These surcharges could easily be varied to compensate for factors such as long rural commutes.

For more information, write the
Department of Insurance
300 South Spring St.
Los Angeles, CA 90012



**WRITTEN OBJECTIONS TO THIS REPORT
SUBMITTED BY MEMBERS OF THE TASK FORCE**

Allstate

725 W. Town and Country Rd.
Suite 400
Orange, CA 92668-0010

Chuck Martin
Regional Vice President
714 667-0955

January 25, 1993

Thomas F. Coleman
Post Office Box 65756
Los Angeles, CA 90065

Dear Tom:

Thank you for providing me the opportunity to give you some input on the issue of marital status discrimination. I have reviewed the report and would like to provide you with my initial impressions.

The report ignores a critical distinction. It speaks generally in terms of "discrimination," as opposed to "unfair discrimination." Insurance rating plans, by their very nature, "discriminate" between classes of risk based upon actuarial evidence which demonstrates that they present different levels of exposure to loss. It is this form of discrimination which is not only lawful, but prevents unfair and illegal subsidies. Unfair discrimination, on the other hand, results when similarly situated risks are treated differently, or underwriting or rating decisions are based upon factors which are not actuarially justified.

Thus, for example, Allstate's rating plan fairly and lawfully provides for different rates to be charged drivers based upon their marital status. Allstate's loss experience and data demonstrate that married drivers present significantly less risk to the company than do unmarried drivers. Indeed, in its Private Passenger Automobile Rating Factors regulations, the Department of Insurance acknowledged that marital status is an appropriate rating factor by including it among the optional factors which an insurer may utilize in its rating plan. Title 10, Chapter 5, Subchapter 4.7, § 2632.6(c)(22).

Thomas F. Coleman
January 25, 1993
Page 2

Accordingly, while we oppose unfair discrimination on any basis, Allstate strongly disagrees with the conclusions of the report that the Commissioner should issue cease and desist orders against companies that discriminate against unmarried individuals of couples, and that the Commissioner should issue regulations declaring rate discrimination on the basis of marital status to be an unfair business practice. Such measures would not address the problems of unfair discrimination which may exist, and would instead impose unfair cross-subsidies, resulting in higher rates for better risks.

I look forward to further discussion of these issues.

Regards,



Chuck Martin
Regional Vice President

jm

PROCESS USED IN ADOPTING THIS REPORT

(1) The Anti-Discrimination Task Force met for the first time in June 1992. The group divided into Sub-Committees. Over 30 members joined the Underwriting Sub-Committee.

(2) The Underwriting Sub-Committee met twice in the fall of 1992. It subdivided into workgroups. Any member of the Sub-Committee was able to join one or more workgroups of his or her choice. There is a workgroup on women's issues and a workgroup on disability issues in addition to the workgroup on marital status and sexual orientation discrimination (referred to as the marital status workgroup). The Underwriting Sub-Committee members who joined the marital status workgroup are: Thomas F. Coleman, Laurie McBride, Christopher McCauley, and Mary Newcombe (replaced by Jay Fong).

(3) Each workgroup decided its own plan of action. The marital status workgroup conducted a survey of many companies in the insurance industry. The workgroup assigned the writing of its report to Thomas F. Coleman.

(4) Each workgroup made progress reports to the entire Underwriting Sub-Committee at its meetings in the fall of 1992. The marital status workgroup shared its preliminary research and its plans to do a survey and asked for input from any member who had information for the workgroup to consider.

(5) The marital status workgroup gathered materials from previous studies and analyzed the results of its survey. Thomas F. Coleman wrote the first draft of the workgroup report in December 1992. It was reviewed by each of the four members of the marital status workgroup. Each workgroup member made suggestions for revision. The report was revised and it was then adopted unanimously by the marital status workgroup.

(6) The marital status workgroup shared the draft of its report with all 32 members of the Underwriting Committee. The draft was mailed out to each member in early January 1993. A special meeting of the Sub-Committee was called to consider the draft.

(7) The Underwriting Sub-Committee met on January 24, 1993 to discuss the draft report on marital status discrimination. Members who met in Los Angeles were linked by telephone to another group of members in San Francisco. They discussed the draft of the report for more than two hours. The author of the report agreed to incorporate many of the general suggestions made by members of the Sub-Committee. It was agreed that if members had specific recommendations or criticisms, they should be put in writing and mailed to the author within two weeks. The author agreed that if the report was then not modified to accommodate such written criticisms or recommendations, that, at the very least, the written comments of Sub-Committee members would be included in the appendix of the report.

(8) Charles W. Martin (Allstate) was the only member of the Underwriting Sub-Committee who followed the procedure for submission of written criticisms and recommendations. A copy of his letter is included in the final draft of the report. (See pages 78-79)

(9) The next draft of the report was written in April 1993. It incorporated many of the general suggestions made by members of the Underwriting Sub-Committee at its meeting in January.

(10) The final draft of the report was mailed to all 62 members of the Anti-Discrimination Task Force on April 23, 1993. Each member received a ballot along with instructions. Members who approved of the report and its recommendations were informed that they need not return a ballot because their inaction would signal approval. Members who disapproved of the report or of any particular recommendation were asked to return their ballot with an indication of the source of their disapproval. Dissenting ballots were to be placed in the mail by May 7, 1993.

(11) Dissenting ballots were cast by Charles Martin (Allstate), Richard Suit (Mercury), Tom Conneely (Association of California Insurance Companies) and Pam Weddertz (Professional Insurance Agents Association). The specific focus of their dissent is summarized in the following pages. (See pages 82-87)

SUMMARY OF BALLOTS CAST BY DISSENTING MEMBERS

MEMBERS FILING DISSENTS:

Alice Bisnow (Automobile Club of Southern California)
Tom Conneely (Association of California Insurance Companies)
Charles W. Martin (Allstate Insurance)
Christopher V. McDowell (Allstate Insurance)
Richard Suit (Mercury Insurance)
Pam Weddertz (Professional Insurance Agents Association)
Brad Wenger (Association of California Life Insurance Companies)
Robb Greenspan (The Greenspan Company)

MEMBERS ABSTAINING FROM VOTING:

N. Douglas Martin (Fireman's Fund)

DISSENTING MEMBERS' VOTES ON SPECIFIC RECOMMENDATIONS:

1. Additional Resources. No current resources of the Department of Insurance are specifically focused on the problem of marital status discrimination even though such discrimination is unfair and pervasive. In order for the Department of Insurance to tackle the problem of discrimination against unmarried individuals and couples, the Insurance Commissioner should assign staff and direct resources to combat the problem. (See page 15)

approve: Pam Weddertz
Christopher McDowell

disapprove: Richard Suit
Tom Conneely
Charles Martin
Robb Greenspan

abstain: Brad Wenger

comment: Alice Bisnow
(She says the same level of resources should be allocated to all types of discrimination.)

2. Information Retrieval. The Department of Insurance does not tabulate the number of complaints it receives each year about marital status or sexual orientation discrimination or categorize the types of insurance discrimination about which unmarried consumers are complaining. The Insurance Commissioner should direct his staff to study the data collection and retrieval systems of the Department of Fair Employment and Housing (DFEH) which has years of experience investigating complaints of discrimination. DFEH classifies each complaint according to context (housing, employment, public accommodations), the type of discriminatory action (refusal to rent, eviction, firing, verbal insult) and the basis of the claim (sex, race, marital status, age, disability). The Department of Insurance should do the same. (See page 15)

approve: Christopher McDowell
Alice Bisnow
Robb Greenspan

disapprove: Richard Suit

abstain: Brad Wenger
Pam Weddertz
Charles Martin
(Martin would object, however, to the gathering of information on lawful discrimination.)

3. Auditing. In addition to responding to complaints, the Commissioner should take a more aggressive stance toward solving the problem of marital status discrimination. The Department of Insurance should periodically audit the practices of a representative sample of insurance companies and agents to see if they are engaging in marital status discrimination. (See page 15)

4. Education. Consumers, brokers, and agents are often unaware that marital status discrimination may violate constitutional protections, statutes and existing regulations. Education is often the key to reform. The Insurance Commissioner should initiate a campaign to educate consumers, agents, and insurance company executives about current legal protections against marital status and sexual orientation discrimination. The Department of Insurance should prepare a brochure advising consumers of laws and regulations against such discrimination and complaint procedures. The brochure should be distributed to civil rights groups, singles organizations, and outlets in the lesbian and gay community. (See page 15)

5. Cease and Desist Orders. The freedom of choice to marry or not to marry is a fundamental right protected by the right of privacy in the California Constitution. The Insurance Commissioner should acknowledge the fundamental right of adult consumers to be married or single. To protect that right from unwarranted interference, the Commissioner should begin to issue cease and desist orders against companies that discriminate against unmarried individuals or couples. Such action would also be consistent with the Commissioner's authority to enforce the Unfair Business Practices Act, relevant sections of the Insurance Code, and departmental regulations. (See page 16)

approve: Christopher McDowell
Robb Greenspan

disapprove: Pam Weddertz
Richard Suit

abstain: Brad Wenger

comments: Charles Martin
Alice Bisnow

(Martin and Bisnow say audits should focus solely on unlawful discrimination.)

approve: Pam Weddertz
Richard Suit
Tom Conneely
Christopher McDowell
Alice Bisnow
Robb Greenspan

abstain: Brad Wenger
Charles Martin

(Martin says that any brochures should reflect actual law and not the biased and inaccurate view of the law as reflected in this report.)

approve: Robb Greenspan

disapprove: Pam Weddertz
Richard Suit
Charles Martin
Christopher McDowell
Alice Bisnow

(Bisnow says the Commissioner lacks clear authority to issue cease and desist orders of this type until a new law is passed or until a judicial decision gives him such authority.)

abstain: Tom Conneely
Brad Wenger

6. Litigation. Some existing statutes and regulations are vague and need judicial clarification. Others have loopholes that must be filled. The Insurance Commissioner can provide the necessary leadership to further strengthen protections against marital status and sexual orientation discrimination by participating in test cases when they come to the Commissioner's attention. To prevent future insurance discrimination cases from being decided by appellate courts without participation from the Department of Insurance, the Commissioner should request the Supreme Court and the Court of Appeal to notify him when cases involving discrimination are pending before those courts. Even though appellate judges are not required to honor such a request, they should know the Commissioner wants to be heard before precedents are created that may adversely affect insurance consumers. (See page 17)

7. Omnibus Regulation. Existing regulations have not stopped discrimination against unmarried individuals and couples. Based on the right of privacy, Insurance Code Section 10140(d), and the Unfair Business Practices Act, the Insurance Commissioner should issue a new regulation specifically declaring rate discrimination on the basis of marital status to be an unfair business practice and prohibiting companies from refusing to issue joint policies to unmarried couples. The regulation should apply to all lines of insurance. (See page 18)

8. Auto Insurance Regulation. When the Commissioner issues permanent regulations on Private Passenger Automobile Rating Factors, the use of marital status should be prohibited. This would make auto insurance regulations consistent with other basic legal protections, such as the constitutional right of privacy and the Unfair Business Practices Act. It would also bring rating practices into conformity with the intent of Proposition 103 which was to base rating on factors related to individual responsibility and not class stereotypes. (See page 18)

approve: Christopher McDowell
Alice Bisnow
Robb Greenspan

limited approval: Tom Conneely
(He would support if the Commissioner did not request notice from appellate judges.)

disapprove: Pam Weddertz
Richard Suit
Brad Wenger

abstain: Chuck Martin
(Martin says that the Commissioner should limit his participation to cases in which unlawful discrimination is alleged.)

approve: Robb Greenspan

limited approval: Pam Weddertz
(She would approve if "domestic partners" were included in the regulation.)

disapprove: Richard Suit
Charles Martin
Christopher McDowell
Brad Wenger
Alice Bisnow
Tom Conneely
(Conneely would support an amended version if it were consistent with Prop 103.)

approve: Christopher McDowell

limited approval: Pam Weddertz
(She would approve if "domestic partners" were included in the regulation.)

disapprove: Richard Suit
Tom Conneely
Charles Martin
Alice Bisnow
(Bisnow says the Commissioner lacks authority to issue cease and desist orders like this without a new statute or court decision.)

abstain: Brad Wenger
Robb Greenspan

9. Domestic Partner Coverage. The refusal of health insurance companies and Health maintenance Organizations to provide health coverage for the domestic partners of employees is a form of marital status discrimination. The Insurance Commissioner and the state Corporations Commissioner should take appropriate legal action to bring this discrimination to a halt. (See page 11)

10. New Legislation. In the next legislative session, the Insurance Commissioner should sponsor a bill prohibiting discrimination on the basis of race, religion, color, national origin, sexual orientation and marital status in all lines of insurance. (See page 18)

11. Joint Renters Insurance. The Insurance Commissioner should issue guidelines to assist companies that issue renters insurance to issue joint policies to unmarried couples without violating statutes requiring consumers to have an insurable interest in the property to be insured. (See page 20)

12. Actuarial Data. Some insurance companies have insisted that unmarried consumers constitute a higher risk than married consumers. However, they have not supplied statistics to the Insurance Task Force to support this claim. Any actuarial data that is eventually provided by companies to the Insurance Commissioner on this subject should be rejected unless the data is current, detailed, accurate, statistically representative and scientifically valid. (See page 16)

approve: Pam Weddertz
disapprove: Richard Suit
Brad Wenger
Christopher McDowell
Robb Greenspan
abstain: Tom Conneely
Charles Martin
Alice Bisnow

approve: Christopher McDowell
Robb Greenspan
disapprove: Richard Suit
Charles Martin
Brad Wenger

abstain: Pam Weddertz
Alice Bisnow
Tom Conneely
(Conneely abstained because he believes this duplicates existing law.)

approve: Pam Weddertz
Christopher McDowell
Alice Bisnow

disapprove: Richard Suit
Charles Martin
Tom Conneely
(Conneely would approve for domestic partners but not for casual co-tenants.)

abstain: Brad Wenger
Robb Greenspan

approve: Richard Suit
Charles Martin
Christopher McDowell
Robb Greenspan
Tom Conneely

(Conneely says the Dept. of Insurance has extensive data in its possession but is unwilling or unable to acknowledge it.)

disapprove: Pam Weddertz

abstain: Brad Wenger
Alice Bisnow

(Bisnow would approve if same standard is used to justify data on all subjects.)

13. "Save at the Pump." Save-at-the Pump is a new, more efficient auto insurance system in which every driver is automatically covered with a basic insurance policy that is paid for through surcharges on gasoline purchases, auto registrations, drivers licenses, and tickets for moving violations. Under the plan, everyone who drives must pay. Bad drivers pay more because they are surcharged when they renew their license and when they pay a traffic tickets. The plan also includes a "no fault" system which reduces lawyer's fees, agent's commissions, and unnecessary red tape. Senator Art Torres has introduced a Save-at-the-Pump bill in the Legislature. It is expected to fail due to strong opposition from trial lawyers and insurance agents. Therefore, an initiative drive is being launched. The Insurance Commissioner should support a ballot measure to codify a Save-at-the-Pump Auto Insurance Plan into law. (See page 19)

14. Universal Health Care Coverage. Our current health care system excludes too many people and is too costly to those who are covered. Many people are also excluded due to discrimination. Insurance Commissioner Garamendi has developed a proposal for universal health care coverage for California. Some states, such as Hawaii and Oregon are already implementing health care form plans. President Clinton is about to unveil a proposal for a national health care plan. It is time for society to recognize health care as a right for all rather than a privilege for those who can afford it. A plan for universal health care coverage should be enacted without further delay. (See page 19)

disapprove: Richard Suit
Tom Conneely
Charles Martin
Christopher McDowell
Pam Weddertz
Robb Greenspan

(Weddertz and Greenspan say this proposal is outside the scope of this Task Force and has nothing to do with the issues at hand.)

abstain: Brad Wenger

comment: Alice Bisnow
(Bisnow says that her company supports the "no fault" component of the save-at-the-pump plan and they do not oppose the concept of save-at-the-pump. However, they would need to see more details before they could decide whether or not to actively support such a plan.)

approve: Christopher McDowell
Alice Bisnow

disapprove: Pam Weddertz
Robb Greenspan

(Weddertz and Greenspan say this proposal is outside the scope of this Task Force and has nothing to do with the issues at hand.)

abstain: Richard Suit
Tom Conneely
Charles Martin
Brad Wenger

Summary of Other Criticisms by Dissenting Members

Tom Conneely
*Association of California
Insurance Companies*

Mr. Conneely wants the public to know that this is not a "consensus document." He does not like the "silence is approval" approach to the adoption of the report and recommendations by the full Task Force.

Charles Martin
Allstate Insurance

Mr. Martin says that Allstate strenuously opposes the adoption of this report because it does not reflect a consensus of the members of the Underwriting Sub-Committee. He says that the report reflects the "obviously biased views of its author." He also feels that the report does not accurately reflect the state of current law. He also believes that the report inappropriately reaches conclusions about the validity of individual company practices. He says the report fails to make a critical distinction between "discrimination" and "unfair discrimination." He says that Allstate's current use of marital status in its auto underwriting practices is lawful. He says that Allstate opposes the issuance of cease and desist orders against companies that discriminate against unmarried individuals or couples or the issuance of new regulations to prohibit such discrimination because such measures would "impose unfair cross-subsidies, resulting in higher rates for better risks." He claims that he is unaware of any requests for actuarial data, and that, in any event, it would have been illegal or inappropriate for Allstate to have provided such data.

Brad Wenger
*Association of California
Life Insurance Companies*

Mr. Wenger believes that existing law adequately protects consumers against discrimination in life and health insurance.

N. Douglas Martin, Jr.
Fireman's Fund

Mr. Martin says that his company is disappointed with the report and objects to its contents. He finds it hard to believe that the industry's input was seriously considered. He states that the industry's position was not presented in the report except in the most unflattering light. He is abstaining from voting because he does not approve of the report or any of its recommendations.

AUTHOR'S COMMENTS

All members of the Task Force were invited to join the Underwriting Sub-Committee. All members of that Sub-Committee were invited to join the Workgroup on Marital Status Discrimination. The Task Force members who dissented to this report chose not to join the Marital Status Workgroup.

The author of this report considered all verbal suggestions made by members of the Underwriting Sub-Committee. Many of these ideas are included in this report.

Written suggestions and criticisms were solicited from members of the Underwriting Sub-Committee after the first draft of this report was discussed for two hours at a special meeting. Only Charles Martin (Allstate) followed up with written comments (see pp. 78-79).

The dissenters did not submit any alternative written proposals for consideration of the Task Force. No insurance company has supplied the Task Force with any actuarial data to justify marital status discrimination.

**For Further Information or to Obtain
Copies of This Report, Contact:**

**Thomas F. Coleman
Spectrum Institute
P.O. Box 65756
Los Angeles CA 90065
(213) 258-8955**

or

**Jerita Wallace
Department of Insurance
300 S. Spring St., 14th Floor
Los Angeles, CA 90013
(213) 346-6460**

(continued from front cover)

Doug Martin *
Vice President Govt. Affairs
Fireman's Fund
Novato

Laurie McBride **
Life AIDS Lobby
Sacramento

Christopher McCauley **
Los Angeles City
Human Relations
Commissioner
Los Angeles

Cynthia McLain-Hill
Attorney at Law
Davis & Hill
Los Angeles

Christopher V. McDowell *
Allstate Insurance Company
Culver City

Regene Mitchell *
Westminster

Mary Newcombe **
and Jay Fong
Lambda Legal Defense Fund
Los Angeles

David Oppenheimer
Professor
Golden Gate University
San Francisco

Curtis Owens
African-American Community
Unity Center
Los Angeles

Stephanie Patterson
RFP Insurance Company
Culver City

Paula Petrotta *
Los Angeles City Commission
on the Status of Women
Los Angeles

Michael Pfeffer
Executive Director
California Indian Legal Services
Oakland

Vimu Rajdev
National Federation of
Indian-American Associations
Cupertino

Tony K. Richardson
Kirkland & Ellis
Los Angeles

Lynn Joy Rogers
Procurement Specialist
Los Angeles Minority Business
Development Center
Los Angeles

Michael Saadi *
Writer
Antioch

Herman Sillas
Ochoa & Sillas
Los Angeles

Mark Savage *
Staff Attorney
Public Advocates
San Francisco

Winston Smith
American Association of
Retired People
Los Angeles

Lang Stanley *
Carson

Rich Suit
Compliance Officer
Mercury Insurance
Los Angeles

Raymond Uzeta
Chicano Federation
San Diego

Pam Weddertz *
Professional Insurance
Agents Association
Santa Rosa

Brad Wenger
President
Association of California
Life Insurance Companies
Sacramento

Paul Lawrence White
Vice President
Black/White & Associates
Oakland

Selwyn Whitehead *
President
Economic Empowerment
Foundation
Oakland

Gary Williams
Loyola Law School
Los Angeles

Kevin Williams
Contract Compliance Officer
San Francisco

Lisa Williams *
Attorney at Law
Oakland

Tony Zamora
Riordan & McKinzie
Los Angeles

** members of Committee
on Underwriting Practices
and Barriers to Coverage*

*** members of Workgroup
on Marital Status and Sexual
Orientation Discrimination*