

CALIFORNIA DOI COMMENTS

The following are California's comments:

- 1) The term "entity" is not defined in Section 2, Definitions. "Entity" is amended throughout the amended *Unfair Trade Practices Act* (Model #880) to state "person"; however, the amendment to subsection E in Section 2, adds "Health Insurance Lead Generator." This definition includes the term "entity." This term needs to be changed to "person", which is defined in Section 2.
- 2) The previous grammatical errors of "an health insurance product" to "a health insurance product" in two places were corrected, but the new amendments in (E)(1) and (2) below show the same grammatical errors.

~~include an insurance company.~~

~~"Health Insurance Lead Generator" means a[n] entity that utilizes a lead-generating device to ~~engages in any~~ of the following activities:~~

E ~~(1) Publicizes the availability of what is, or what purports to be, ~~an~~ health insurance product or service that the entity is not licensed to sell directly to ~~consumer~~ customer.~~

~~(2) Identifies ~~consumer~~ customer who may want to learn more about an health insurance product, or~~

- 3) Finally, section 4(B) was deleted as shown below in the *Unfair Trade Practices Act* (Model #880). With this deletion, lead generators do not have to maintain their records for two years. The record retention requirement for lead generators is supposed give state regulators leverage over what these generators do. The removal of subsection (B) in Section 4 weakens the *Unfair Trade Practices Act* (Model #880).

~~B. Failure to Maintain Marketing and Performance Records. Failure of an health insurance lead generator to maintain its books, records, documents, and other business records in such an order that data regarding complaints and marketing are accessible and retrievable for examination by the insurance commissioner. Data for at least the current calendar year and the two (2) preceding years shall be maintained. Failure to do so shall constitute a violation of (INSERT STATE STATUTE).~~

Please let me know if you have any questions regarding the above comments.

Thank you.

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