



CALIFORNIA ADVOCATES FOR NURSING HOME REFORM

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Via Advocacy Portal
Senate Insurance Committee
1021 O Street, Room 3310
Sacramento, CA 95815

Re: SB 1320 (Jones) – Oppose

Dear Members of the Senate Insurance Committee:

On behalf of *California Advocates for Nursing Home Reform* (“CANHR”), I am writing to express our strong opposition to SB 1320 and to urge the members of the Senate Insurance Committee to vote “no” on SB 1320. SB 1320 eliminates the protections created by AB 1747 (Feuer) in 2012 (passed unanimously by the 2012 Senate Insurance Committee) and effective January 1, 2013. AB 1747 created *Insurance Code Sections* 10113.71 and 10113.72 (hereinafter “the Statutes”) which generally provide needed protections for consumers from having their life insurance policies lapse due such events as hospitalization or incapacitation.

Insurance Code Sec. 10113.71 provides that all group and individual life insurance policies must contain a grace period of not less than 60 days to allow additional time for a policyholder to pay their policy premium before an insurer may terminate the policy for nonpayment of premium.

Insurance Code Sec. 10113.72 requires insurers to give applicants and owners of individual life insurance policies the right to designate at least one person, in addition to the applicant or policy owner, to receive notice of lapse or termination of the policy for nonpayment of premium.

SB 1320 is also a blatant effort to overturn the 2021 California Supreme Court decision of *McHugh v. Protective Life Insurance Company* (2021) 12 Cal. 5th 213. Following the passage of *Ins. Code Sec.* 10113.71, 72, insurance companies attempted to circumvent the law by erroneously interpreting the new law as only applying to policies issued after 2013. Insurance companies were challenged on their baseless interpretation in *McHugh*. In *McHugh*, the California Supreme Court ruled against the insurance companies' interpretation; holding that the above law “apply to all life insurance policies in force when these two sections went into effect, regardless of when the policies were originally issued.” The Court provided that this interpretation “fits the provisions’ language, legislative history, and uniform notice scheme, and it protects policy owners – including elderly, hospitalized, or incapacitated ones who may be particularly vulnerable to missing a premium payment – from losing coverage, consistent with the provisions’ purpose.”

The Statutes established by AB 1747 sought to address the historical problem of life insurance policies of elders and the disabled lapsing due to cognitive impairment, infirmity, or death. As a matter of public policy, it is essential to require insurance companies to make a genuine effort to afford their clients an opportunity to avoid forfeiting their rights to receive the benefit of policies

for which they have been paying for many years. SB 1320 would wipe out these protections for everyone who purchased life insurance prior to January 1, 2013, and would disproportionately impact seniors and the disabled for whom the laws were designed to protect.

Clearly the provisions that SB 1320 propose would harm seniors and the disabled, and undoubtedly result in extraordinary financial windfalls for the insurers. Forfeiture of policies purchased prior to January 1, 2013, would mean the insurer is freed from all obligations to their clients and can simply “pocket” all of their client’s past premiums. This appears to be the intent of AB 1320, as most seniors likely purchased their policies prior to January 1, 2013.

SB 1320 would essentially create two classes of policies: 1) those that are afforded no notice of lapse, a limited grace period and no right at any time to designate someone to receive those notices; and 2) those that are provided these important protections against unnecessary lapse. SB 1320 would also allow insurers to unfairly impose new reinstatement requirements and effects often without policyholders or beneficiaries having any understanding of what has occurred.

CANHR, a California non-profit corporation, has been advocating for the rights of long-term care residents, elders, and the disabled in California since 1983. CANHR’s work includes efforts to protect California’s seniors from elder financial abuse. CANHR strongly supported the protections of AB 1747 in the legislature and with an amicus brief when an insurer sought to eliminate the statutes’ viability in the California Supreme Court in *McHugh* to deny statutory coverage to policies purchased before January 1, 2013. After losing the *McHugh* case, insurers now attempt to use SB 1320 to overturn the Supreme Court.

I urge you to reject SB 1320 and vote no on this regressive bill. CANHR staunchly opposes SB 1320 as it is a gross attempt by the insurance industry to insert its will of profits over the legislative and judicial will of the People, and the interests of the elderly, hospitalized, and incapacitated.

Sincerely,


John Hafner
Staff Attorney