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# Mercury Is Poison



By Marty Kaplan

Now that we're about to entrust health reform to the tender mercies of the insurance industry, it's sobering to see the skullduggery that one of California's largest auto insurers is trying to pull on the state's drivers.

If you want a preview of what health insurers may do to premiums if they're forced to cover people with pre-existing medical conditions, have a look at what Mercury Insurance wants to do to drivers with pre-existing driving conditions.

Mercury wants California insurance companies to be able to jack up the premiums on all drivers who haven't had continuous car insurance. If your coverage was canceled at some point in the past because you missed a payment (did I hear someone say "worst unemployment since 1940"?), Mercury wants the right to penalize you — even if you tried to reinstate your coverage right after you were canceled. If you're a soldier who gave up coverage when you lived on a military base in another state, but now you're a civilian and need a car again; or if you gave up coverage to save money while you were recuperating from major surgery, but now you're able to drive again; or if you sold your car and took public transportation instead, but now you're in a new city where that's not an option: whatever the reason for a lapse in coverage, even if you didn't own a car at the time, Mercury wants to paint a big bull's eye on you.

To do that, California's insurance law — Proposition 103, enacted by voters in 1988, which bans taking coverage history into account — would have to be gutted. But it's not just a matter of what changes Mercury wants to make in the law — the way they're going about it is stinky enough to arouse suspicion.

Mercury's chairman, George Joseph, and other Mercury executives have put up more than \$4.5 million as the sole funders of a phony pro-consumer front: Californians for Fair Auto Insurance Rates. The group has spent \$700,000 of that to hire signature gatherers, at up to a dollar a name, to stand in supermarket parking lots and gull people into signing a petition for an initiative called — in another Orwellian upisdownism — the Continuous Coverage Auto Insurance Discount Act. By mid-December they had collected over 720,000 signatures; if 433,971 signatures are verified this month, the measure will go on

the June ballot, for which Democratic turnout, in the absence of contested primaries, is expected to be especially low.

In August, the office of Attorney General Jerry Brown wrote a summary of the initiative, a document that voters depend on for unbiased analysis. The title of the official state summary: “Allows Insurance Companies to *Increase* or Decrease the Cost of Auto Insurance Based on a Driver’s Coverage History.” Here’s how the summary begins: “Allows insurance companies to *raise* the cost of auto insurance based on the absence of prior automobile insurance coverage” (italics added).

But then in October, Brown’s office issued a revised summary. This time the title was, “Allows Auto Insurance Companies to Base Their Prices in Part on a Driver’s History of Insurance Coverage.” This time it began, “Changes current law to permit insurance companies to offer a discount to drivers who have continuously maintained their auto insurance coverage...”

Like magic, “increase” and “raise” had disappeared. Consumer watchdog Harvey Rosenfeld, who wrote Proposition 103, charged Brown with caving to pressure from Mercury, which contributed \$13,000 to his campaign for attorney general. When *San Francisco Chronicle* reporter Carla Marinucci called Brown’s office to ask the reason for the rewrite, Brown spokesman Scott Gerber told her it was “because sponsors of the measure made substantial changes to it.”

There are two problems with that answer. One: there were no substantial changes. The new version, like the old, contained legalese — “notwithstanding section 1861.02(c)” — that would still supersede Prop 103. As the *Contra Costa Times* put it, the attorney general’s “Oct. 27 writing of the title and summary left out mention of a rate raise or surcharge — even though that would likely be the result. Surcharges for lapsed coverage are against the law, but wouldn’t be if this measure... is approved by voters.”

The other problem was that Brown spokesman Gerber was secretly, and illegally, recording their conversation. After he was caught — when complaining about her article, he stupidly e-mailed her editor a transcript of the phone call — he was forced to quit.

Mercury, of course, denies that it wants to raise anyone’s premiums; they say it’s all about discounts. The last time they tried this, via legislation they sponsored in Sacramento, a Court of Appeal blew the whistle: “The premiums for policyholders who, because of their characteristics do not qualify for a particular discount must be *surcharged* in an amount equal to the total of the discounts given to the policyholders that qualified for the discount” (italics added). That may be one reason why, in a February 2009 legal filing before the State Insurance Commissioner, the California Department of Insurance slammed Mercury for its “lengthy history of serious misconduct, and its attitude — contempt towards and/or abuse of its customers, the Commissioner, its competition, and the Superior Court.”

Nationally, car insurance rates have gone up four percent in the past six months. According to the Campaign for Consumer Rights, if Mercury’s proposition passes, California insurers will be able to increase rates on anyone who’s had a lapse in coverage by as much as 40 percent, even if they weren’t driving when they didn’t have insurance.

Makes you wonder what Wellpoint or CIGNA will do to health insurance premiums once everyone has to pay them. That ban on excluding people for pre-existing conditions may not turn out to be such a bargain.

*This is my column from The Jewish Journal of Greater Los Angeles. You can read more of my columns here, and e-mail me there if you'd like.*

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