



**RICARDO LARA**  
CALIFORNIA INSURANCE COMMISSIONER

## **NOTICE**

**TO: All Life Insurers and All Disability Insurers Transacting Life Insurance or Disability Income Insurance in the State of California, and Other Interested Parties**

**FROM: Insurance Commissioner Ricardo Lara**

**DATE: June 20, 2022**

**RE: The “Equal Insurance HIV Act”: Changes in Existing Law Governing Life Insurance and Disability Income Insurance for Individuals Living with HIV**

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The purpose of this Notice is to encourage insurers transacting life insurance or disability income insurance in California to underwrite and provide coverage to individuals living with HIV, in accord with recent changes to Insurance Code sections 799 through 799.10.

In the 2020 California Legislative Session, I proudly co-sponsored [Senate Bill 1255](#) (Senate Committee on Insurance and Gonzalez, Chapter 184, Statutes of 2020) – known as the “Equal Insurance HIV Act” – which was signed by Governor Gavin Newsom on September 26, 2020, and subsequently filed with the Secretary of State. I pursued this new law to stop insurance companies from denying life and disability income insurance coverage based solely on HIV status, and to enact strong anti-discrimination protections in life and disability income insurance products for those living with HIV. This legislation bans unfair HIV discrimination to ensure that individuals living with HIV have equal access to the coverage they deserve.

These changes, effective January 1, 2023, update the HIV statutes to reflect advancements in HIV testing and medical treatments and the overall increase of average life expectancies for individuals who have tested positive for HIV. Subsequent amendments to these HIV statutes were signed by Governor Newsom in 2021 with chaptered [Senate Bill 283](#) (Gonzalez, Chapter 134, Statutes of 2021).

Insurance Code section 799.02 currently allows an insurer to decline a life or disability income insurance application or enrollment request on the basis of a positive HIV test result generated by an HIV test, as specified in law, as long as the test is performed by or at the direction of the insurer. Current law does not prohibit an insurer from providing coverage to individuals living with HIV.

**PROTECT • PREVENT • PRESERVE**  
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## **The “Equal Insurance HIV Act”: Changes in Existing Law Governing Life Insurance and Disability Income Insurance for Individuals Living with HIV**

**June 20, 2022**

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Effective January 1, 2023, section 799.02, as added by chaptered SB 1255, prohibits an insurer from declining an application or enrollment request for life insurance or disability income insurance based solely on the results of a positive HIV test. This applies regardless of when, or at whose direction, the test was performed. Disability income and life insurers are, however, not required to charge the same rates, offer the same coverage, or offer coverage to an applicant who is HIV-positive, if certain requirements are met.<sup>1</sup> In addition, nothing in section 799.02 prohibits an insurer from transferring an applicant from a simplified, expedited, accelerated, or algorithmic underwriting process to a traditional medical underwriting process based solely on the results of a positive HIV test.

I strongly encourage insurers transacting life insurance and disability income insurance to become familiar with all of the changes to Insurance Code sections 799 through 799.10 that will take effect on January 1, 2023, as provided in Insurance Code section 799.11. In addition to the changes in section 799.02 regarding underwriting people living with HIV, the HIV statutes include an updated definition of “HIV test,” revised counseling and informed consent requirements, a revised list of factors that may not be considered in deciding which applicants should be tested for HIV, and revised penalties for unlawful disclosure of HIV test results. In addition, chaptered SB 283 repeals Insurance Code section 799.08 concerning limits on benefits.

Although the changes to sections 799 through 799.10 do not become effective until January 1, 2023, I encourage insurers to underwrite and provide life insurance and disability income insurance coverage to individuals living with HIV before that date, in accordance with the changes to the statutes. I also encourage insurers to start making any necessary policy form filings with my Department to speed implementation of the revised statutes.

If you have questions regarding this Notice, please contact:

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Policy Approval Bureau  
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<sup>1</sup> Section 799.02(b) provides: “Notwithstanding any other law, this article does not prevent or otherwise restrict a life or disability income insurer from refusing to insure an applicant that is HIV positive, limiting the amount, extent, or kind of coverage for an applicant that is HIV positive, or charging a different rate to an applicant that is HIV positive, if the refusal, limitation, or charge is based on sound actuarial principles and actual or reasonably anticipated experience.” (As added by SB 1255)