



July 26, 2019

The Honorable Gavin Newsom
Governor of the State of California
Governor's Office
State Capitol
Sacramento, CA 95814

RE: **Veto Request:** Call to Veto **AB 1535**/ Pet Insurance Scheme Growing Out Of "Insurance Commissioner Campaign Cash Scandal"

Dear Governor Newsom,

Consumer Watchdog is **OPPOSED** to AB 1535 and requests your **VETO** of the measure.

We are proud of the ethical standards you recently committed to setting at DOGGR (Division of Oil, Gas, and Geothermal Resources) given years of conflicts and your intention to make sure your entire Administration lives up to the highest standards of conflict-free governance.

For that reason, we bring to your attention an unfortunate circumstance that has shrouded what would seem to be an innocuous measure – AB 1535 – in a cloud of controversy that raises questions about its true intent and its impact on consumers in the pet insurance market.

We call upon you to veto the legislation based on both the potential for mischief it creates for consumers in the pet insurance market, which already gives little leverage to policyholders, and due to the appearance of impropriety that surrounds the measure.

Let me play "Pet Detective" and try to unravel this scheme.

First, the conflicts.

As you may be aware, Insurance Commissioner Ricardo Lara is embroiled in what the Sacramento Bee editorial page has described as a "The Insurance Commissioner's Campaign Cash Scandal." ("Insurance Commissioner's Campaign Cash Scandal Raises Troubling Questions," July 10, 2019 <https://www.sacbee.com/opinion/editorials/article232509952.html>)

As The Bee editorial states:

“Lara has secretly accepted tens of thousands of dollars from people with links to the insurance industry. He did this despite making a public pledge to reject financial contributions from the companies he’s charged with regulating. Here’s where it gets a bit too slick: Instead of taking the money directly from insurance industry executives, Lara in some cases received large checks from their relatives. The apparent structuring of these contributions to hide the true origins of the money raises serious ethical questions.”

Reporting published in the San Diego Union Tribune, for example, has revealed that California Insurance Commissioner Ricardo Lara intervened on the side of a workers’ compensation insurer on at least four separate occasions after receiving contributions from insurance executives and their wives with connections to the company. Lara also recently admitted meeting with the CEO of the company and discussing the cases, likely in violation of ex-parte rules.

(See “State Insurance Office Again Overturns A Judge’s Ruling To A Political Donor’s Benefit,” July 26, 2019 <https://www.sandiegouniontribune.com/news/watchdog/story/2019-07-25/state-insurance-regulators-again-overturn-a-judges-ruling-to-donors-benefit-donor> and

“State Insurance Commissioner Accepted Contributions And Intervened In Cases Affecting Donor, Records Show,” July 20, 2019

<https://www.sandiegouniontribune.com/news/watchdog/story/2019-07-19/state-insurance-commissioner-accepted-donations-and-intervened-in-cases-to-benefit-donors-records-show>)

AB 1535 and pet insurance regulation fills in another piece of the fundraising puzzle, shining a light on an April 24th contribution to Lara from Texas homemaker Darlene Graber, who wrote a \$7,800 check.

Why would a Texas homemaker make a \$7,800 contribution to a California Insurance Commissioner? Her husband is a pet insurance kingpin who stands to benefit from the passage of AB 1535, sponsored by Lara’s Department of Insurance.

Darlene Graber lives at the same address in Leander, Texas with Larry Graber, a senior executive at Independence Holding Co. Among IHC’s affiliates is Independence American Insurance Company (IAIC), of which Larry R. Graber is a director. IAIC sells pet insurance, which is currently a \$1 billion industry nationally.

On the day that AB 1535 had its first hearing, April 24th, in the Assembly Insurance Committee, Darlene Graber made her \$7,800 contribution to Commissioner Lara. The Senate Insurance Committee Analysis calls Lara’s Department of Insurance the “source” of the bill.

AB 1535 allows pet insurance companies to tell consumers they have to try to resolve their claims with the company before going to the Department of Insurance for help. This gives unethical companies the right to use misleading disclosure language that can be used as

leverage to force policyholders to settle their claims on the cheap, a problem that is pervasive in the pet insurance industry (more below).

As more evidence that Graber was contributing to influence state policy affecting her husband's pet insurance business, one week after her contribution, on May 2nd, IAIC converted its pending request for a more than 40% rate increase at the Department of Insurance into a "program" change, apparently to avoid regulatory scrutiny and approval. The company may now argue it would no longer be subject to the mandatory hearing provision for rate hikes over 7% if challenged by an intervenor. The request is still pending.

Subsequently, Lara appears to have adopted pet insurance as a pitch man. He tweeted on July 11th, National Kitten Day, that people should "consider pet insurance to protect your furry friend," along with a link to CDI's website page on pet insurance:

<https://twitter.com/CDInews/status/1149021153651879936>

Commissioner Lara has contended that the contributions he received from spouses of insurance executives with ties to insurance companies he regulates are coincidental and inadvertent.

Regardless of the merit of the Commissioner's position, the Graber contribution was almost certainly intended to disadvantage pet insurance policyholders in California by helping her husband's company raise rates and gain legal leverage over claims payment.

AB 1535 appears to be part of an attempt by one of the nation's largest pet insurance companies to buy more advantageous policies for itself in the state and, as such, it should be vetoed.

On The Merits AB 1535 Gives Pet Insurance Companies A Tool To Leverage Unsuspecting Consumers

Now, let's discuss the substance of AB 1535 in this context.

Pet insurance is still a market for which not enough is known, other than some horror stories of policyholders facing a lot of nickel and diming by companies with endless caveats, clauses and fine print. It's a low dollar market so consumers don't typically have the benefit of a lawyer to help them navigate the claims process as policyholders do in the life insurance, health insurance and auto insurance markets. Premiums are roughly \$900 per year vs. \$5000 of more for health insurance.

As the New York Times has reported ("More Pet Insurance Policies Are Being Sold But Are They Worth The Cost," January 4, 2019, <https://www.nytimes.com/2019/01/04/your-money/pet-insurance-policies.html>), pet insurance doesn't cover "pre-existing conditions" and comes with significant co-pays, deductibles and rules. Much haggling goes into claims payment. AB 1535 allows pet insurance companies to use form language that wrongly suggests policyholders must negotiate with the company before seeking help from the Department of Insurance. There is

not a legal requirement that negotiations must happen, but the form language in the bill will make it appear that such negotiation is mandatory and that can be used to mislead consumers.

While life, health and home insurance companies may display the same form language, the high-dollar value of these policies make it more likely consumers will have attorneys on their side in disputes with the companies. In pet insurance disputes, the cost of an attorney on a contingency fee representing the consumer will eat up most of the claim. Pet insurance disputes are typically small claims actions under \$10,000. Giving insurance companies a tool to scare consumers into low-ball settlement in such cases would be wrong.

Supporters argue that the bill simply conforms rules for pet insurance with existing law, however the form language in existing law for other property casualty insurance similarly misrepresents the fact that nothing under the law requires policyholders to negotiate with insurers before seeking help from the regulator. Pet insurance is prone to abusive claims practices and consumers typically don't have representation. Extending this misconception to the market will leave consumers with the impression that they don't have the recourse of the Department of Insurance unless they play by the insurers' rules. Insurers like Mr. Graber's company can leverage this to nickel and dime claims.

A good example is a San Diego resident, an attorney, who documented the low balling of one pet insurance firm. She initially hired an attorney to represent her but realized the attorney's contingency fee would eat up too much of her claims amount. She instead went to small claims court to vindicate her rights under the policy but left what she believed to be a lot of money on the table because of the limited amounts she could recover. We are happy to share more details about this case and others if you are interested.

It's also noteworthy that pet insurance policyholders often have emotional attachments to their pets that make them particularly vulnerable to pernicious claims practices by pet insurance companies. Many of these pet owners are not necessarily well-off, but simply want to make sure that they have coverage when the animals in their life need their support. Insurance companies armed with deceptive tools like the misleading disclosure in AB 1535 can take advantage of pet owners' vulnerabilities.

For the reasons stated above, and to protect consumers' rights to go to the Department of Insurance if they believe their pet insurance companies are engaging in unfair claims tactics, Consumer Watchdog respectfully urges that you **VETO AB 1535**.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Court". The signature is fluid and cursive, with a large initial "J" and a stylized "Court".

Jamie Court
President