

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1470 Session of
2003

INTRODUCED BY ALLEN, BELFANTI, PHILLIPS, ADOLPH, ARMSTRONG,
BAKER, CAPPELLI, CORNELL, COSTA, CRAHALLA, CREIGHTON, DALLY,
DeLUCA, DeWEESE, FICHTER, FLEAGLE, FORCIER, GEIST, GERGELY,
HARHART, HERSHEY, HESS, JAMES, KELLER, KENNEY, KIRKLAND, LEH,
LEWIS, MARSICO, McCALL, McILHATTAN, MELIO, PERZEL, READSHAW,
REICHLEY, SCHRODER, SHANER, B. SMITH, SOLOBAY, STERN, THOMAS,
WILT, GANNON, BARRAR, MAJOR, McNAUGHTON, ARGALL, O'NEILL,
WATSON, KOTIK, SATHER, HABAY, WEBER, GEORGE, COHEN, CIVERA,
LEDERER, PICKETT, WRIGHT, HALUSKA, PALLONE, GOODMAN, BLAUM
AND BIANCUCCI, MAY 22, 2003

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, JUNE 29, 2004

AN ACT

1 Amending the act of July 22, 1974 (P.L.589, No.205), entitled
2 "An act relating to unfair insurance practices; prohibiting
3 unfair methods of competition and unfair or deceptive acts
4 and practices; and prescribing remedies and penalties,"
5 further providing FOR DEFINITIONS, for unfair acts AND FOR <—
6 EXCLUSIONS.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 ~~Section 1. Section 5(a) of the act of July 22, 1974~~ <—
10 ~~(P.L.589, No.205), known as the Unfair Insurance Practices Act,~~
11 ~~is amended by adding a paragraph to read:~~

12 SECTION 1. SECTION 3 OF THE ACT OF JULY 22, 1974 (P.L.589, <—
13 NO.205), KNOWN AS THE UNFAIR INSURANCE PRACTICES ACT, AMENDED
14 APRIL 4 1996 (P.L.100, NO.24), IS AMENDED TO READ:

15 SECTION 3. DEFINITIONS.--AS USED IN THIS ACT:

1 "ABUSE" HAS THE MEANING GIVEN IN 23 PA.C.S. § 6102(A)
2 (RELATING TO DEFINITIONS), NOTWITHSTANDING THE LIMITED
3 APPLICABILITY PROVISION IN PARAGRAPH (5) OF THE DEFINITION OF
4 "ABUSE" IN 23 PA.C.S. § 6102(A).

5 "COMMISSIONER" MEANS THE INSURANCE COMMISSIONER OF THE
6 COMMONWEALTH OF PENNSYLVANIA.

7 "FAMILY OR HOUSEHOLD MEMBERS" HAS THE MEANING GIVEN IN 23
8 PA.C.S. § 6102(A) (RELATING TO DEFINITIONS).

9 "INSURANCE POLICY" OR "INSURANCE CONTRACT" MEANS ANY CONTRACT
10 OF INSURANCE, INDEMNITY, HEALTH CARE, SURETYSHIP, TITLE
11 INSURANCE, OR ANNUITY ISSUED, PROPOSED FOR ISSUANCE OR INTENDED
12 FOR ISSUANCE BY ANY PERSON.

13 "PERSON" MEANS:

14 (1) ANY INDIVIDUAL, CORPORATION, ASSOCIATION, PARTNERSHIP,
15 RECIPROCAL EXCHANGE, INTER-INSURER, LLOYDS INSURER, FRATERNAL
16 BENEFIT SOCIETY, BENEFICIAL ASSOCIATION AND ANY OTHER LEGAL
17 ENTITY ENGAGED IN THE BUSINESS OF INSURANCE, INCLUDING [AGENTS,
18 BROKERS AND ADJUSTERS AND ALSO MEANS] ANY AGENT BROKER AND
19 ADJUSTER;

20 (2) A HEALTH CARE [PLANS] PLAN AS DEFINED IN 40 PA.S. CH.61
21 RELATING TO HOSPITAL PLAN CORPORATIONS, 40 PA.S. CH.63 RELATING
22 TO PROFESSIONAL HEALTH SERVICES PLAN CORPORATIONS, 40 PA.S.
23 CH.65 RELATING TO FRATERNAL AND BENEFICIAL SOCIETIES, 40 PA.S.
24 CH.67 RELATING TO BENEFICIAL SOCIETIES AND THE ACT OF DECEMBER
25 29, 1972 (P.L.1701, NO.364), KNOWN AS THE "VOLUNTARY NONPROFIT
26 HEALTH SERVICE ACT OF 1972[.]" ;

27 (3) A SELF-INSURED OR MULTIPLE EMPLOYER WELFARE ARRANGEMENT
28 NOT EXEMPT FROM STATE REGULATION BY THE EMPLOYEE RETIREMENT
29 INCOME SECURITY ACT OF 1974 (PUBLIC LAW 93-406, 88 STAT. 829);
30 AND

1 (4) AN EMPLOYER-ORGANIZED INSURANCE ASSOCIATION.

2 FOR PURPOSES OF THIS ACT, HEALTH CARE PLANS, FRATERNAL BENEFIT
3 SOCIETIES AND BENEFICIAL SOCIETIES SHALL BE DEEMED TO BE ENGAGED
4 IN THE BUSINESS OF INSURANCE.

5 "RENEWAL" OR "TO RENEW" MEANS THE ISSUANCE AND DELIVERY BY AN
6 INSURER OF A POLICY SUPERSEDING AT THE END OF THE POLICY PERIOD
7 A POLICY PREVIOUSLY ISSUED AND DELIVERED BY THE SAME INSURER,
8 SUCH RENEWAL POLICY TO PROVIDE TYPES AND LIMITS OF COVERAGE AT
9 LEAST EQUAL TO THOSE CONTAINED IN THE POLICY BEING SUPERSEDED,
10 OR THE ISSUANCE AND DELIVERY OF A CERTIFICATE OR NOTICE
11 EXTENDING THE TERM OF A POLICY BEYOND ITS POLICY PERIOD OR TERM
12 WITH TYPES AND LIMITS OF COVERAGE AT LEAST EQUAL TO THOSE
13 CONTAINED IN THE POLICY BEING EXTENDED: PROVIDED, HOWEVER, THAT
14 ANY POLICY WITH A POLICY PERIOD OR TERM OF LESS THAN TWELVE
15 MONTHS OR ANY PERIOD WITH NO FIXED EXPIRATION DATE SHALL FOR THE
16 PURPOSE OF THIS ACT BE CONSIDERED AS IF WRITTEN FOR SUCCESSIVE
17 POLICY PERIODS OR TERMS OF TWELVE MONTHS.

18 "VICTIM" MEANS AN INDIVIDUAL WHO IS OR HAS BEEN SUBJECTED TO
19 ABUSE.

20 "VICTIM OF ABUSE" MEANS AN INDIVIDUAL WHO IS A VICTIM OR AN
21 INDIVIDUAL WHO SEEKS OR HAS SOUGHT MEDICAL OR PSYCHOLOGICAL
22 TREATMENT FOR ABUSE, PROTECTION FROM ABUSE OR SHELTER FROM
23 ABUSE.

24 SECTION 2. SECTION 5(A) OF THE ACT IS AMENDED BY ADDING A
25 PARAGRAPH TO READ:

26 Section 5. Unfair Methods of Competition and Unfair or
27 Deceptive Acts or Practices Defined.--(a) "Unfair methods of
28 competition" and "unfair or deceptive acts or practices" in the
29 business of insurance means:

30 * * *

(15) Knowingly doing any of the following:

(i) Requiring an insured to obtain drugs from a mail-order pharmacy as a condition of obtaining the payment for the prescription drugs.

(ii) Imposing upon an insured who is not utilizing a mail-order pharmacy designated by the insurer a copayment fee or other condition not imposed upon insureds utilizing the designated mail-order pharmacy.

(iii) Denying or impairing the right of the insured to determine from where the drugs are dispensed.

SECTION 3. SECTION 14 OF THE ACT IS AMENDED TO READ:

SECTION 14. EXCLUSIONS.--HEALTH CARE PLANS ADMINISTERED BY JOINT BOARDS OF TRUSTEES PURSUANT TO SECTION 302 OF THE LABOR MANAGEMENT RELATIONS ACT, 29 U.S.C. § 141, ET SEQ., AND EMPLOYER ADMINISTERED HEALTH CARE PLANS PURSUANT TO COLLECTIVE BARGAINING AGREEMENTS WHICH PAY BENEFITS FROM THE ASSETS OF THE TRUST OR THE FUNDS OF THE EMPLOYER AS OPPOSED TO PAYMENTS THROUGH AN INSURANCE COMPANY SHALL NOT BE SUBJECT TO ANY OF THE PROVISIONS OF THIS ACT EXCEPT SECTION 5(A)(15).

~~Section 2. The addition of section 5(a)(15) of the act shall~~

SECTION 4. THE AMENDMENT OR ADDITION OF SECTIONS 5(A)(15) AND 14 OF THE ACT SHALL apply to insurance policies issued or renewed on or after the effective date of this section.

Section 3 5. This act shall take effect in 60 days.