

THE GENERAL ASSEMBLY OF PENNSYLVANIA

**SENATE BILL**

**No. 260**      Session of  
2007

INTRODUCED BY RHOADES, SCARNATI, ORIE, RAFFERTY, PUNT, BOSCOLA,  
KASUNIC, ERICKSON, MUSTO, O'PAKE, MADIGAN, GREENLEAF, STACK,  
KITCHEN, WAUGH, BAKER, LOGAN, TOMLINSON, COSTA, LAVALLE,  
WASHINGTON, FERLO, McILHINNEY, D. WHITE, PIPPY, MELLOW AND  
PILEGGI, MARCH 8, 2007

REFERRED TO BANKING AND INSURANCE, MARCH 8, 2007

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 3 of the act of July 22, 1974 (P.L.589,  
10 No.205), known as the Unfair Insurance Practices Act, amended  
11 April 4, 1996 (P.L.100, No.24) and July 7, 2006 (P.L.363,  
12 No.78), is amended to read:

13 Section 3. Definitions.--As used in this act:

14 "Abuse" has the meaning given in 23 Pa.C.S. § 6102(a)  
15 (relating to definitions), notwithstanding the limited  
16 applicability provision in paragraph (5) of the definition of  
17 "abuse" in 23 Pa.C.S. § 6102(a). The term also means attempting  
18 to cause or intentionally, knowingly or recklessly causing

1 damage to property so as to intimidate or attempt to control the  
2 behavior of another person covered under 23 Pa.C.S. Ch. 61  
3 (relating to protection from abuse).

4 "Commissioner" means the Insurance Commissioner of the  
5 Commonwealth of Pennsylvania.

6 "Family or household members" has the meaning given in 23  
7 Pa.C.S. § 6102(a) (relating to definitions).

8 "Insurance policy" or "insurance contract" means any contract  
9 of insurance, indemnity, health care, suretyship, title  
10 insurance, or annuity issued, proposed for issuance or intended  
11 for issuance by any person.

12 "Person" means:

13 (1) any individual, corporation, association, partnership,  
14 reciprocal exchange, inter-insurer, Lloyds insurer, fraternal  
15 benefit society, beneficial association and any other legal  
16 entity engaged in the business of insurance, including agents,  
17 brokers and adjusters [and also means];

18 (2) a health care [plans] plan as defined in 40 Pa.S. Ch.61  
19 relating to hospital plan corporations, 40 Pa.S. Ch.63 relating  
20 to professional health services plan corporations, [40 Pa.S.  
21 Ch.65 relating to fraternal and beneficial societies,] 40 Pa.S.  
22 Ch.67 relating to beneficial societies, the act of May 17, 1921  
23 (P.L.682, No.284), known as "The Insurance Company Law of 1921,"  
24 and the act of December 29, 1972 (P.L.1701, No.364), known as  
25 the ["Voluntary Nonprofit Health Service Act of 1972."]"Health  
26 Maintenance Organization Act";

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       \* \* \*

1       (15) Knowingly doing any of the following:

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

5       (ii) Imposing upon an insured who is not utilizing a mail-  
6 order pharmacy a copayment fee or other condition not imposed  
7 upon insureds utilizing a mail-order pharmacy.

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

10       \* \* \*

11       Section 3. Section 14 of the act is amended to read:

12       Section 14. Exclusions.--Health care plans administered by  
13 joint boards of trustees pursuant to section 302 of the Labor  
14 Management Relations Act, 29 U.S.C. § 141, et seq., and employer  
15 administered health care plans pursuant to collective bargaining  
16 agreements which pay benefits from the assets of the trust or  
17 the funds of the employer as opposed to payments through an  
18 insurance company shall not be subject to any of the provisions  
19 of this act except section 5(a)(15).

20       Section 4. The amendment or addition of sections 5(a)(15)  
21 and 14 of the act shall apply to insurance policies issued or  
22 renewed on or after the effective date of this section.

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