

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 518 Session of
2005

INTRODUCED BY RHOADES, ORIE, RAFFERTY, M. WHITE, MUSTO, PILEGGI,
ERICKSON, COSTA, PUNT, BOSCOLA, O'PAKE, KITCHEN, LEMMOND,
LOGAN, LAVALLE, SCARNATI, PIPPY, STOUT, D. WHITE, MADIGAN,
STACK, WAUGH AND FERLO, MARCH 29, 2005

REFERRED TO BANKING AND INSURANCE, MARCH 29, 2005

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), is amended to read:

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

13 "Abuse" has the meaning given in 23 Pa.C.S. § 6102(a)
14 (relating to definitions), notwithstanding the limited
15 applicability provision in paragraph (5) of the definition of
16 "abuse" in 23 Pa.C.S. § 6102(a).

17 "Commissioner" means the Insurance Commissioner of the
18 Commonwealth of Pennsylvania.

19 "Family or household members" has the meaning given in 23

1 Pa.C.S. § 6102(a) (relating to definitions).

2 "Insurance policy" or "insurance contract" means any contract
3 of insurance, indemnity, health care, suretyship, title
4 insurance, or annuity issued, proposed for issuance or intended
5 for issuance by any person.

6 "Person" means:

7 (1) any individual, corporation, association, partnership,
8 reciprocal exchange, inter-insurer, Lloyds insurer, fraternal
9 benefit society, beneficial association and any other legal
10 entity engaged in the business of insurance, including agents,
11 brokers and adjusters [and also means];

12 (2) a health care [plans] plan as defined in 40 Pa.S. Ch.61
13 relating to hospital plan corporations, 40 Pa.S. Ch.63 relating
14 to professional health services plan corporations, 40 Pa.S.
15 Ch.65 relating to fraternal and beneficial societies, 40 Pa.S.
16 Ch.67 relating to beneficial societies and the act of December
17 29, 1972 (P.L.1701, No.364), known as the "Voluntary Nonprofit
18 Health Service Act of 1972[.]";

19 (3) a self-insured or multiple employer welfare arrangement
20 not exempt from state regulation by the Employee Retirement
21 Income Security Act of 1974 (Public Law 93-406, 88 Stat. 829);
22 and

23 (4) an employer-organized insurance association.

24 For purposes of this act, health care plans, fraternal benefit
25 societies and beneficial societies shall be deemed to be engaged
26 in the business of insurance.

27 "Renewal" or "to renew" means the issuance and delivery by an
28 insurer of a policy superseding at the end of the policy period
29 a policy previously issued and delivered by the same insurer,
30 such renewal policy to provide types and limits of coverage at

1 least equal to those contained in the policy being superseded,
2 or the issuance and delivery of a certificate or notice
3 extending the term of a policy beyond its policy period or term
4 with types and limits of coverage at least equal to those
5 contained in the policy being extended: Provided, however, That
6 any policy with a policy period or term of less than twelve
7 months or any period with no fixed expiration date shall for the
8 purpose of this act be considered as if written for successive
9 policy periods or terms of twelve months.

10 "Victim" means an individual who is or has been subjected to
11 abuse.

12 "Victim of abuse" means an individual who is a victim or an
13 individual who seeks or has sought medical or psychological
14 treatment for abuse, protection from abuse or shelter from
15 abuse.

16 Section 2. Section 5(a) of the act is amended by adding a
17 paragraph to read:

18 Section 5. Unfair Methods of Competition and Unfair or
19 Deceptive Acts or Practices Defined.--(a) "Unfair methods of
20 competition" and "unfair or deceptive acts or practices" in the
21 business of insurance means:

22 * * *

23 (15) Knowingly doing any of the following:

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

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

30 (iii) Denying or impairing the right of the insured to

1 determine from where the drugs are dispensed.

2 * * *

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

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

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

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