

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 846 Session of 2011

INTRODUCED BY BARBIN, DeLUCA, FABRIZIO, PASHINSKI, KOTIK,
MATZIE, BOBACK, V. BROWN, CARROLL, DALEY, DEASY, DeWEESE,
GOODMAN, HORNAMAN, JOSEPHS, KORTZ, KULA, MURPHY, MURT,
READSHAW, STERN AND SWANGER, FEBRUARY 28, 2011

REFERRED TO COMMITTEE ON INSURANCE, FEBRUARY 28, 2011

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 40 (Insurance) of
2 the Pennsylvania Consolidated Statutes, further providing for
3 insurance fraud; consolidating Article XI of The Insurance
4 Department Act of 1921, further providing for purpose, for
5 definitions, for Insurance Fraud Prevention Trust Fund, for
6 powers and duties and for duties of insurance licensees and
7 their employees; and making a repeal.

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

10 Section 1. Section 4117(a)(1), (2), (3), (4) and (7), (b)
11 (4), (f) and (k)(1) of Title 18 of the Pennsylvania Consolidated
12 Statutes are amended to read:

13 § 4117. Insurance fraud.

14 (a) Offense defined.--A person commits an offense if the
15 person does any of the following:

16 (1) Knowingly and with the intent to defraud a State or
17 local government agency files, presents or causes to be filed
18 with or presented to the government agency a document that
19 contains false, incomplete or misleading information

1 concerning any fact or thing material to the agency's
2 determination in approving or disapproving [a motor vehicle]
3 an insurance rate filing[, a motor vehicle insurance
4 transaction] or other [motor vehicle insurance] action
5 requiring insurance which is [required or] filed in response
6 to an agency's request.

7 (2) Knowingly and with the intent to defraud any insurer
8 [or], self-insured, insurance licensee, person or the public,
9 presents or causes to be presented [to any insurer or self-
10 insured] any statement forming a part of, or in support of,
11 [a claim] an insurance transaction that contains any false,
12 incomplete or misleading information concerning any fact or
13 thing material to [the claim.] any of the following:

14 (i) Issue by an insurer or self-insured of an
15 insurance policy, rider, endorsement or a certificate of
16 insurance.

17 (ii) Determination of insurance premium.

18 (iii) Payment of any commission, benefit, claim or
19 other funds, under a policy of insurance or a certificate
20 of insurance.

21 (3) Knowingly and with the intent to defraud any insurer
22 [or], self-insured, insurance licensee, person or the public,
23 assists, abets, solicits or conspires with another to prepare
24 or make any statement that is intended to be presented [to
25 any insurer or self-insured] in connection with, or in
26 support of, [a claim] an insurance transaction that contains
27 any false, incomplete or misleading information concerning
28 any fact or thing material to [the claim, including
29 information which documents or supports an amount claimed in
30 excess of the actual loss sustained by the claimant.] any of

1 the following:

2 (i) Issue by an insurer or self-insured of an
3 insurance policy, rider, endorsement or a certificate of
4 insurance.

5 (ii) Determination of insurance premium.

6 (iii) Payment of any commission, benefit, claim or
7 other funds under a policy of insurance or a certificate
8 of insurance.

9 (4) Engages in unlicensed [agent, broker] or
10 unauthorized [insurer] insurance activity as defined by the
11 act of May 17, 1921 (P.L.789, No.285), known as The Insurance
12 Department Act of one thousand nine hundred and twenty-one,
13 knowingly and with the intent to defraud an insurer, a self-
14 insured, an insurance licensee or the public.

15 * * *

16 (7) [Borrows] Makes, solicits, negotiates, sells,
17 distributes, possesses false insurance documents or uses
18 another person's [financial responsibility or other]
19 insurance [identification card or permits his financial
20 responsibility or other insurance identification card to be
21 used by another] documents, knowingly and with intent to
22 [present a fraudulent claim to an] defraud any insurer, self-
23 insured, insurance licensee, person or the public.

24 * * *

25 (b) Additional offenses defined.--

26 * * *

27 [(4) A person may not knowingly and with intent to
28 defraud any insurance company, self-insured or other person
29 file an application for insurance containing any false
30 information or conceal for the purpose of misleading

1 information concerning any fact material thereto.]

2 * * *

3 (f) [Immunity.--An insurer, and any agent, servant or
4 employee thereof acting in the course and scope of his
5 employment, shall be immune from civil or criminal liability
6 arising from the supply or release of written or oral
7 information to any entity duly authorized to receive such
8 information by Federal or State law, or by Insurance Department
9 regulations] (Reserved).

10 * * *

11 (k) Insurance forms and verification of services.--

12 (1) All applications for insurance and all claim forms
13 shall contain or have attached thereto a notice substantially
14 similar to the following notice:

15 Any person who knowingly and with intent to defraud
16 any [insurance company or other] insurer, self-
17 insured, insurance licensee, person or the public
18 files an application for insurance or statement of
19 claim containing any materially false information or
20 conceals for the purpose of misleading, information
21 concerning any fact material thereto commits a
22 fraudulent insurance act, which is a crime and
23 subjects such person to criminal and civil penalties.

24 * * *

25 Section 2. Part II heading of Title 40 is amended to read:

26 PART II

27 REGULATION OF INSURERS AND RELATED

28 PERSONS GENERALLY

29 [(Reserved)]

30 Section 3. Title 40 is amended by adding an article to read:

1 ARTICLE A

2 INSURANCE FRAUD

3 Chapter

4 11. Insurance Fraud Prevention Authority

5 CHAPTER 11

6 INSURANCE FRAUD PREVENTION AUTHORITY

7 Subchapter

8 A. Preliminary Provisions

9 B. Insurance Fraud Prevention Authority

10 C. Section of Insurance Fraud

11 D. Antifraud Plans and Reporting

12 E. (Reserved)

13 F. Miscellaneous Provisions

14 SUBCHAPTER A

15 PRELIMINARY PROVISIONS

16 Sec.

17 1101. Scope of chapter.

18 1102. Purpose.

19 1103. Definitions.

20 § 1101. Scope of chapter.

21 This chapter deals with insurance fraud prevention.

22 § 1102. Purpose.

23 The purpose of this chapter is to do all of the following:

24 (1) Establish, coordinate and fund activities in this
25 Commonwealth to prevent, combat and reduce insurance fraud.

26 (2) To require insurers to implement antifraud plans
27 increasing the prevention, detection, investigation and
28 reporting of insurance fraud.

29 (3) To require insurers to annually certify antifraud
30 plans and report activity under those plans to the

1 commissioner.

2 (4) To improve and support insurance fraud law
3 enforcement and administration.

4 (5) To improve and support insurance fraud prosecution.

5 § 1103. Definitions.

6 The following words and phrases when used in this chapter
7 shall have the meanings given to them in this section unless the
8 context clearly indicates otherwise:

9 "Antifraud plan" or "plan." The written procedures of an
10 insurer for preventing, detecting, investigating and reporting
11 insurance fraud.

12 "Authority." The Insurance Fraud Prevention Authority.

13 "Board." The board of directors of the Insurance Fraud
14 Prevention Authority.

15 "Commissioner." The Insurance Commissioner of the
16 Commonwealth.

17 "Fund." The Insurance Fraud Prevention Trust Fund.

18 "Identified fraud cost." The dollar amount of loss caused by
19 insurance fraud as admitted by a fraud suspect, alleged by an
20 insurer in civil or criminal legal proceedings or found by a
21 court of law, including insurer losses associated with insurance
22 premium, commission, policy benefits, claim payments or
23 policyholder or insurer funds.

24 "Insurance fraud." An activity defined as an offense under
25 18 Pa.C.S. § 4117 (relating to insurance fraud).

26 "Insurance licensee." A person holding a license to engage
27 in the business of insurance.

28 "Insurance producer." A person that sells, solicits or
29 negotiates contracts of insurance.

30 "Insurer." An insurance company, association, exchange,

interinsurance exchange, health maintenance organization,
preferred provider organization, a hospital plan corporation
subject to Chapter 61 (relating to hospital plan corporations),
professional health services plan corporation subject to Chapter
63 (relating to professional health services plan corporations),
fraternal benefits society, beneficial association, Lloyd's
insurer or health plan corporation.

"Section of Insurance Fraud." The Section of Insurance Fraud
in the Office of Attorney General.

SUBCHAPTER B

INSURANCE FRAUD PREVENTION AUTHORITY

Sec.

1121. Establishment of authority.

1122. Powers and duties.

1123. Insurance Fraud Prevention Trust Fund.

1124. Immunity.

§ 1121. Establishment of authority.

(a) Establishment.--There is established a body corporate
and politic to be known as the Insurance Fraud Prevention
Authority. The purposes, powers and duties of the authority
shall be vested in and exercised by a board of directors.

(b) Composition.--The board of the authority shall consist
of the following members composed and appointed in accordance
with the following:

(1) The Attorney General or his designee.

(2) A representative of the Philadelphia Federal
Insurance Fraud Task Force.

(3) Four representatives of insurers, one of whom shall
be appointed by the President pro tempore of the Senate, one
of whom shall be appointed by the Minority Leader of the

1 Senate, one of whom shall be appointed by the Speaker of the
2 House of Representatives and one of whom shall be appointed
3 by the Minority Leader of the House of Representatives. Each
4 of the four members shall be, respectively, a representative
5 of an insurer writing workers compensation, accident and
6 health, automobile or general commercial liability insurance
7 in this Commonwealth.

8 (4) One representative of purchasers of insurance in
9 this Commonwealth who is not employed by or connected with
10 the business of insurance and is appointed by the Governor.

11 (c) Terms.--With the exception of the Attorney General and
12 the representative of the Philadelphia Federal Insurance Fraud
13 Task Force, members of the board shall serve for terms of four
14 years. No appointed member shall be eligible to serve more than
15 two full consecutive terms.

16 (d) Compensation.--Members of the board shall serve without
17 compensation but shall receive reimbursement for all reasonable
18 and necessary expenses incurred in connection with their duties
19 in accordance with the rules of the executive board.

20 (e) Quorum.--A majority of the members of the board shall
21 constitute a quorum for the transaction of business at a meeting
22 or the exercise of a power or function of the authority.
23 Notwithstanding any other provision of law, action may be taken
24 by the board at a meeting upon a vote of the majority of its
25 members present in person or through the use of amplified
26 telephonic equipment if authorized by the bylaws of the board.
27 The board shall meet at the call of the chairperson or as may be
28 provided in the bylaws of the board. The board shall meet at
29 least quarterly. Meetings of the board may be held anywhere
30 within this Commonwealth. The board shall elect its own

1 chairperson.

2 § 1122. Powers and duties.

3 The authority shall have the powers necessary and convenient
4 to carry out and effectuate the purposes and provisions of this
5 chapter and the purposes of the authority and the powers
6 delegated by other laws, including:

7 (1) Employ administrative, professional, clerical and
8 other personnel as may be required and organize the staff as
9 may be appropriate to effectuate the purposes of this
10 chapter.

11 (2) Have a seal and alter the same at pleasure, have
12 perpetual succession, make, execute and deliver contracts,
13 conveyances and other instruments necessary or convenient to
14 the exercise of its powers and make and amend bylaws.

15 (3) Procure insurance against any loss in connection
16 with its property, assets or activities.

17 (4) Apply for, solicit, receive, establish priorities
18 for, allocate, disburse, contract for, administer and spend
19 funds in the fund and other funds that are made available to
20 the authority from any source consistent with the purposes of
21 this chapter.

22 (5) Make grants to and provide financial support for the
23 Section of Insurance Fraud, the Unit for Insurance Fraud in
24 the Philadelphia District Attorney's Office, other county
25 district attorneys' offices, other government agencies,
26 community, consumer and business organizations consistent
27 with the purposes of this chapter and consider the extent of
28 the insurance fraud problem in each county of this
29 Commonwealth.

30 (6) Advise the State Treasurer in relation to the

1 investment of any money held in the fund and any funds held
2 in reserve or sinking funds and any money not required for
3 immediate use or disbursement and to advise the State
4 Treasurer in relation to the use of depositories for money of
5 the fund.

6 (7) Assess the scope of the problem of insurance fraud,
7 including areas of this Commonwealth where the problem is
8 greatest, and review State and local criminal justice
9 policies, programs and plans dealing with insurance fraud.

10 (8) Develop and sponsor the implementation of Statewide
11 plans, programs and strategies to combat insurance fraud,
12 improve the administration of the insurance fraud laws and
13 provide a forum for identification of critical problems for
14 those persons dealing with insurance fraud.

15 (9) Coordinate the development, adoption and
16 implementation of plans, programs and strategies relating to
17 interagency and intergovernmental cooperation with respect to
18 insurance fraud law enforcement.

19 (10) Promulgate rules or regulations related to the
20 expenditure of money held in the fund in order to assist and
21 support those agencies, units of government, county district
22 attorneys' offices and other organizations charged with the
23 responsibility of reducing insurance fraud or interested and
24 involved in achieving this goal.

25 (11) Audit at its discretion the plans and programs that
26 it has funded in whole or in part in order to evaluate the
27 effectiveness of the plans and programs and withdraw funding
28 should the authority determine that a plan or program is
29 ineffective or is no longer in need of further financial
30 support from the fund.

1 (12) Report annually on or before the first day of April
2 to the Governor and the General Assembly on the authority's
3 activities in the preceding period of operation.

4 (13) Meet with the Section of Insurance Fraud on at
5 least a quarterly basis in order to advise and assist it in
6 implementing its statutory mandate.

7 (14) Advise the General Assembly on matters relating to
8 insurance fraud and recommend to the General Assembly on an
9 annual basis any changes to the operation of the Section of
10 Insurance Fraud. The report shall be available for public
11 inspection.

12 (15) Establish, either alone or in cooperation with
13 authorized insurance companies and licensed agents and
14 producers, a fund to reward persons not connected with the
15 insurance industry who provide information or furnish
16 evidence leading to the arrest and conviction of persons
17 responsible for insurance fraud.

18 (16) Require as a condition of every application and
19 request for financial support, including every application
20 for ongoing renewal of a multiyear grant under section
21 1123(f) (relating to Insurance Fraud Prevention Trust Fund),
22 that the applicant described both the nature of and the
23 amount of funding for the activities, if any, devoted to the
24 investigation and prosecution of insurance fraud at the time
25 of the application or request.

26 (17) Require as a condition of every application and
27 request for financial support that every recipient of funding
28 report annually within four months of the close of each
29 funding cycle to the authority on the use of the funds
30 obtained from the authority during the previous year,

1 including a description of programs implemented and results
2 obtained. The authority shall include this information on the
3 use of funds by grantees in its annual report under paragraph
4 (12) and send a copy specifically to the chairman and the
5 minority chairman of the standing committees of the Senate
6 and the chairman and the minority chairman of the standing
7 committees of the House of Representatives with jurisdiction
8 over insurance matters.

9 § 1123. Insurance Fraud Prevention Trust Fund.

10 (a) Establishment.--There is established a separate account
11 in the State Treasury to be known as the Insurance Fraud
12 Prevention Trust Fund. This fund shall be administered by the
13 State Treasurer with the advice of the authority. All interest
14 earned from the investment or deposit of money accumulated in
15 the fund shall be deposited in the fund for the same use.

16 (b) Funds.--All money deposited into the fund shall be held
17 in trust and shall not be considered general revenue of the
18 Commonwealth but shall be used only to effectuate the purposes
19 of this chapter as determined by the authority and shall be
20 subject to audit by the Auditor General.

21 (c) Assessment.--

22 (1) Annually on or before the first day of April, each
23 insurer engaged in the writing of the insurance coverages
24 listed below, as a condition of its authorization to transact
25 business in this Commonwealth, shall pay into the fund in
26 trust an amount equal to the product obtained by multiplying
27 \$8,000,000 by a fraction, the numerator of which is the
28 direct premium collected for those coverages listed below by
29 that insurer in this Commonwealth during the preceding
30 calendar year and the denominator of which is the direct

1 premium written on such coverages in this Commonwealth by all
2 insurers in the same period.

3 (2) The following coverages, as listed in the Annual
4 Statistical Report of the Insurance Department, shall be
5 considered in determining assessments: all fire and casualty
6 direct business written and accident and health and credit
7 accident and health written under life, annuity and accident
8 and health direct business written. Assessments made under
9 this section shall not be considered burdens and prohibitions
10 under section 212 of the act of May 17, 1921 (P.L.789,
11 No.285), known as The Insurance Department Act of 1921.

12 (3) Assessments for health plan corporations and
13 professional health services plan corporations when added
14 together shall not be more than 10% of the total assessment
15 authorized by this subsection. If the total assessment for
16 these organizations is more than 10%, the organizations will
17 share the assessment up to the 10% limit among themselves in
18 the same proportion as they would otherwise have shared their
19 calculated assessment absent this limit. Any deficiency in
20 the total assessment caused by the application of this limit
21 will be shared by all other entities being assessed in the
22 same proportions as they are sharing the rest of the
23 assessment.

24 (d) Base amount.--In succeeding years, the authority may
25 vary the base amount of \$8,000,000, except that any increase
26 which on an annual basis exceeds the increase in the Consumer
27 Price Index for this Commonwealth must be approved by three of
28 the four insurance representatives on the board.

29 (e) Expenditures.--Money in the fund may be expended by the
30 authority for the following purposes:

1 (1) Effectuate the powers, duties and responsibilities
2 of the authority as set forth under this chapter.

3 (2) Pay the costs of administration and operation of the
4 Section of Insurance Fraud and the Unit for Insurance Fraud
5 in the Philadelphia District Attorney's Office.

6 (3) Provide financial support to law enforcement,
7 correctional agencies and county district attorneys' offices
8 for programs designed to reduce insurance fraud and to
9 improve the administration of insurance fraud laws.

10 (4) Provide financial support for other governmental
11 agencies, community, consumer and business organizations for
12 programs designed to reduce insurance fraud and to improve
13 the administration of insurance fraud laws.

14 (5) Provide financial support to programs designed to
15 inform insurance consumers about the costs of insurance fraud
16 to individuals and to society and to suggest methods for
17 preventing insurance fraud.

18 (6) Provide financial support for reward programs
19 leading to the arrest and conviction of persons and
20 organizations engaged in insurance fraud.

21 (7) Provide financial support for other plans, programs
22 and strategies consistent with the purposes of this chapter.

23 (f) Multiyear grants.--In funding the Section of Insurance
24 Fraud, the Unit for Insurance Fraud in the Philadelphia District
25 Attorney's Office and in funding grant requests, the authority
26 may consider and approve requests for multiyear grants of not
27 more than four years in length, although extensions of the
28 multiyear commitments may be renewed from year to year. No
29 funding reduction under subsection (d) may be imposed by the
30 authority in any given year which would operate to reduce

funding for any multiyear approved program for which persons
have been hired for full-time positions to a funding level where
the positions must be terminated unless the organization
employing the persons certifies either that other equivalent
positions are available or that the positions with the antifraud
program can be funded from other sources.

(g) Dissolution.--If the trust fund is discontinued or the
authority is dissolved by operation of law, any balance
remaining in the fund, after deducting administrative costs for
liquidation, shall be returned to insurers in proportion to
their financial contributions to the fund in the preceding
calendar year.

§ 1124. Immunity.

In the absence of malice, no board member and no employee of
the authority may be subject to any civil or criminal liability
for receiving or disclosing information related to insurance
fraud or the activities of the authority. In the absence of
malice, persons or organizations shall not be subject to civil
or criminal liability for providing information relating to
insurance fraud to the authority, its employees, agents or
designees. This section shall not abrogate or modify in any way
any common law or statutory privilege or immunity heretofore
enjoyed by any person.

SUBCHAPTER C

SECTION OF INSURANCE FRAUD

Sec.

1141. Establishment.

1142. Powers and duties.

1143. Document confidentiality.

1144. Duties of insurance licensees and their employees.

1 1145. Persons not connected with insurance industry.

2 1146. Refusal to cooperate with investigation.

3 § 1141. Establishment.

4 (a) Establishment.--There is established within the Office
5 of Attorney General a Section of Insurance Fraud to investigate
6 and prosecute insurance fraud in accordance with jurisdictional
7 mandates as specified under the act of October 15, 1980
8 (P.L.950, No.164), known as the Commonwealth Attorneys Act, and
9 18 Pa.C.S. § 4117 (relating to insurance fraud).

10 (b) Funding.--All costs of administration and operation of
11 the Section of Insurance Fraud shall be borne by the fund. Any
12 money or other property awarded to the Section of Insurance
13 Fraud as costs of investigation or as a fine shall be credited
14 to the fund.

15 § 1142. Powers and duties.

16 The Section of Insurance Fraud shall have the powers
17 necessary and convenient to carry out and effectuate the
18 purposes and provisions of this chapter and the powers delegated
19 under other laws, including the power:

20 (1) To employ administrative, professional, clerical and
21 other personnel as may be required and organize the staff as
22 may be appropriate to effectuate the purposes of this
23 chapter.

24 (2) To initiate inquiries and conduct investigations if
25 the Section of Insurance Fraud has reason to believe that
26 insurance fraud may have been or is being committed.

27 (3) To respond to notifications or complaints of
28 suspected insurance fraud generated by State and local
29 police, other law enforcement authorities, governmental
30 units, including the Federal Government, and the general

1 public.

2 (4) To review notices and reports of insurance fraud and
3 to select those incidents of suspected fraud as, in its
4 judgment, require further investigation, undertake the
5 investigation and issue subpoena for records and testimony
6 relating to insurance fraud.

7 (5) To conduct independent examination of insurance
8 fraud, conduct studies to determine the extent of insurance
9 fraud, deceit or intentional misrepresentation of any kind in
10 the insurance process and publish information and reports on
11 the examinations or studies.

12 (6) To prosecute, both on its own and in conjunction
13 with other sections and divisions within the Office of
14 Attorney General, any incidents of insurance fraud involving
15 more than one county of this Commonwealth or involving any
16 county of this Commonwealth and another state disclosed by
17 its investigations and to assemble evidence, prepare charges,
18 bring charges or, upon request of any other prosecutorial
19 authority, otherwise assist that prosecutory authority having
20 jurisdiction over the incidents.

21 (7) To report incidents of insurance fraud disclosed by
22 its investigations to any other appropriate law enforcement,
23 administrative, regulatory or licensing agency.

24 (8) To pay over all civil and criminal fines and
25 penalties collected for violations and acts subject to
26 investigation and prosecution into the fund.

27 (9) To undertake programs to investigate insurance fraud
28 and to meet, at least on a quarterly basis, with the
29 Insurance Fraud Prevention Authority.

30 (10) To employ investigators trained in accordance with

1 53 Pa.C.S. Ch. 21 Subch. D (relating to municipal police
2 education and training). The laws applicable to law
3 enforcement officers of this Commonwealth shall be applicable
4 to the investigators. Investigators of the Section of
5 Insurance Fraud shall have the following additional powers:

6 (i) To make arrests in accordance with existing
7 jurisdictional rules for criminal violations established
8 as a result of their investigations.

9 (ii) To execute arrest and search warrants in
10 accordance with existing jurisdictional rules for the
11 same criminal violations.

12 (11) To designate, if evidence, documentation and
13 related materials sought are located outside of this
14 Commonwealth, representatives, including officials of the
15 state where the matter is located, to secure the matter or
16 inspect the matter on its behalf. The person so requested
17 shall either make the matter available to the Section of
18 Insurance Fraud or shall make the matter available for
19 inspection or examination by a designated representative of
20 the Section of Insurance Fraud.

21 § 1143. Document confidentiality.

22 Papers, records, documents, reports, materials or other
23 evidence relative to the subject of an insurance fraud
24 investigation shall remain confidential and shall not be subject
25 to public inspection.

26 § 1144. Duties of insurance licensees and their employees.

27 Every insurer, every employee of an insurer, every producer
28 and its employees and any other insurance licensee and its
29 employees shall cooperate fully with the Section of Insurance
30 Fraud. If an insurer, producer, any other insurance licensee or

employee of an insurer or insurance licensee who believes that
an insurance fraud has been or is being committed notifies the
Section of Insurance Fraud, the notification shall toll any
applicable time period in the act of July 22, 1974 (P.L.589,
No.205), known as the Unfair Insurance Practices Act, or any
other law or regulation.

§ 1145. Persons not connected with insurance industry.

Any person having knowledge of or who believes that an
insurance fraud is being or has been committed may send to the
Section of Insurance Fraud a report or information pertinent to
the knowledge and belief.

§ 1146. Refusal to cooperate with investigation.

It is unlawful for any person to resist an arrest authorized
under this chapter or in any manner to interfere either by
abetting or assisting the resistance or otherwise interfere with
Section of Insurance Fraud investigators in the duties imposed
upon them under this chapter or under any other applicable law.

SUBCHAPTER D

ANTIFRAUD PLANS AND REPORTING

Sec.

1151. Scope.

1151.1. Definition.

1152. Filing of plans.

1153. Content of plans.

1154. Review by department.

1155. Report on antifraud activities.

1156. Penalties.

1157. Confidentiality of plans and reports.

1158. Reporting of insurance fraud.

1159. Civil immunity.

1 § 1151. Scope.

2 This subchapter provides for implementation of antifraud
3 plans by insurers not presently required to develop antifraud
4 plans.

5 § 1151.1. Definition.

6 The following words and phrases when used in this subchapter
7 shall have the meanings given to them in this section unless the
8 context clearly indicates otherwise:

9 "Insurer." A company or health insurance entity licensed in
10 this Commonwealth to issue an individual or group health,
11 sickness or accident policy or subscriber contract or
12 certificate or plan that provides medical or health care
13 coverage by a health care facility or licensed health care
14 provider that is offered or governed under the act of May 17,
15 1921 (P.L.682, No.284), known as The Insurance Company Law of
16 1921, or any of the following:

17 (1) The act of December 29, 1972 (P.L.1701, No.364),
18 known as the Health Maintenance Organization Act.

19 (2) The act of May 18, 1976 (P.L.123, No.54), known as
20 the Individual Accident and Sickness Insurance Minimum
21 Standards Act.

22 (3) Chapter 61 (relating to hospital plan corporations)
23 or 63 (relating to professional health services plan
24 corporations).

25 (4) Article XXIV of The Insurance Company Law of 1921.

26 § 1152. Filing of plans.

27 Each insurer shall institute and maintain an insurance
28 antifraud plan. The antifraud plan of insurers licensed on the
29 effective date of this subchapter shall be filed with the
30 department on or before December 31, 2011. Insurers licensed

1 after the effective date of this subchapter shall file within
2 six months of licensure. Changes to the antifraud plan shall be
3 filed with the department within 30 days after it has been
4 modified.

5 § 1153. Content of plans.

6 The antifraud plans of each insurer shall establish specific
7 procedures:

8 (1) To prevent insurance fraud, including internal fraud
9 involving employees or company representatives, fraud
10 resulting from misrepresentation on applications for
11 insurance coverage and claims fraud.

12 (2) To review claims in order to detect evidence of
13 possible insurance fraud and to investigate claims where
14 fraud is suspected.

15 (3) To report fraud to appropriate law enforcement
16 agencies and to cooperate with the agencies in their
17 prosecution of fraud cases.

18 (4) To undertake civil actions against persons who have
19 engaged in fraudulent activities.

20 (5) To report fraud-related data to comprehensive
21 databased systems approved by the department.

22 (6) To ensure that costs incurred as a result of
23 detected insurance fraud are not included in a rate base
24 affecting the premiums of policyholders, subscribers and
25 certificate holders.

26 § 1154. Review by department.

27 Antifraud plans shall be filed with the department. If, after
28 review, the department finds that the antifraud plan does not
29 comply with section 1153 (relating to content of plans), the
30 antifraud plan may be disapproved. Notice of disapproval shall

1 include a statement of the specific reasons for the disapproval.
2 A plan disapproved by the department must be refiled within 60
3 days of the date of the notice of disapproval. The department
4 may audit insurers to ensure compliance with antifraud plans as
5 a part of the examinations performed under former sections 213,
6 214 and 216 of the act of May 17, 1921 (P.L.789, No.285), known
7 as The Insurance Department Act of 1921.

8 § 1155. Report on antifraud activities.

9 Insurers shall annually provide to the department a summary
10 report on actions taken under the plan to prevent and combat
11 insurance fraud, including, but not limited to, measures taken
12 to protect and ensure the integrity of electronic data-
13 processing-generated data and manually compiled data,
14 statistical data on the amount of resources committed to
15 combating fraud and the amount of fraud identified and recovered
16 during the reporting period.

17 § 1156. Penalties.

18 Insurers that fail to file timely antifraud plans as required
19 by sections 1152 (relating to filing of plans) and 1154
20 (relating to review by department) are subject to the penalty
21 provisions of section 320 of the act of May 17, 1921 (P.L.682,
22 No.284), known as The Insurance Company Law of 1921. Insurers
23 that do not make a good faith attempt to file an antifraud plan
24 which complies with section 1153 (relating to content of plans)
25 shall also be subject to the penalty provisions of section 320
26 of The Insurance Company Law of 1921, provided that no penalty
27 may be imposed for the first filing made by an insurer under
28 this subchapter. Insurers that fail to follow the antifraud plan
29 shall be subject to a civil penalty for each violation, not to
30 exceed \$10,000, at the discretion of the commissioner after

consideration of relevant factors, including the willfulness of
a violation.

§ 1157. Confidentiality of plans and reports.

The antifraud plans and reports which insurers file with the
department and reports or materials related to the reports are
not public records and shall not be subject to public
inspection.

§ 1158. Reporting of insurance fraud.

Insurers, employees of insurers and providers who have a
reasonable basis to believe insurance fraud has occurred shall
be required to report the incidence of suspected insurance fraud
to Federal, State or local criminal law enforcement authorities.
Licensed insurance providers may elect to report suspected fraud
through the affected insurer with which they have a contractual
relationship. Reports of insurance fraud to law enforcement
authorities shall be made in writing.

§ 1159. Civil immunity.

No person shall be subject to civil liability for libel,
violation of privacy or otherwise by virtue of the filing of
reports or furnishing of other information, in good faith and
without malice, required by this subchapter.

SUBCHAPTER E

(RESERVED)

SUBCHAPTER F

MISCELLANEOUS PROVISIONS

Sec.

1181. Other law enforcement authority.

§ 1181. Other law enforcement authority.

This chapter shall not:

(1) Preempt the authority of or relieve the duty of any

1 other law enforcement agencies to investigate and prosecute
2 suspected violations of law.

3 (2) Prevent or prohibit a person from voluntarily
4 disclosing any information concerning insurance fraud to any
5 law enforcement agency other than the Section of Insurance
6 Fraud.

7 (3) Limit any of the powers granted to the commissioner
8 to investigate possible violations of law and to take
9 appropriate action against wrongdoers.

10 Section 4. Repeals are as follows:

11 (1) The General Assembly declares that the repeal under
12 paragraph (2) is necessary to effectuate the addition of 40
13 Pa.C.S. Ch. 11 Subchs. A, B, C and F.

14 (2) Article XI of the act of May 17, 1921 (P.L.789,
15 No.285), known as The Insurance Department Act of 1921, is
16 repealed.

17 Section 5. 40 Pa.C.S. Ch. 11 Subchs. A, B, C and F is a
18 continuation of Article XI of the act of May 17, 1921 (P.L.789,
19 No.285), known as The Insurance Department Act of 1921. The
20 following apply:

21 (1) Except as otherwise provided under 40 Pa.C.S. Ch. 11
22 Subchs. A, B, C and F, all activities initiated under Article
23 XI of The Insurance Department Act of 1921, shall continue
24 and remain in full force and effect and may be completed
25 under 40 Pa.C.S. Ch. 11 Subchs. A, B, C and F. Orders,
26 regulations, rules and decisions which were made under
27 Article XI of The Insurance Department Act of 1921 and which
28 are in effect on the effective date of this section shall
29 remain in full force and effect until revoked, vacated or
30 modified under 40 Pa.C.S. Ch. 11 Subchs. A, B, C and F.

1 Contracts, obligations and collective bargaining agreements
2 entered into under Article XI of The Insurance Department Act
3 of 1921 are not affected nor impaired by the repeal of
4 Article XI of The Insurance Department Act of 1921.

5 (2) Except as set forth in paragraph (3), any difference
6 in language between 40 Pa.C.S. Ch. 11 Subchs. A, B, C and F
7 and the Article XI of The Insurance Department Act of 1921 is
8 intended only to conform to the style of the Pennsylvania
9 Consolidated Statutes and is not intended to change or affect
10 the legislative intent, judicial construction or
11 administration and implementation of Article XI of The
12 Insurance Department Act of 1921.

13 (3) Paragraph (2) does not apply to the addition of the
14 following:

15 (i) 40 Pa.C.S. § 1102.

16 (ii) 40 Pa.C.S. § 1103, except for the definition of
17 "authority."

18 (iii) 40 Pa.C.S. § 1123(c) and (d).

19 (iv) 40 Pa.C.S. § 1142(4).

20 (v) 40 Pa.C.S. § 1144.

21 Section 6. This act shall take effect in 60 days.