

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 814 Session of 2005

INTRODUCED BY ALLEN, HESS, GANNON, ADOLPH, ARGALL, BAKER, BALDWIN, BASTIAN, BELARDI, BELFANTI, BENNINGHOFF, BLAUM, BOYD, BUNT, CALTAGIRONE, CAPPELLI, CIVERA, CLYMER, COHEN, CRAHALLA, CREIGHTON, DALLY, DeLUCA, DeWEESE, FLEAGLE, FORCIER, GEIST, GEORGE, GINGRICH, GODSHALL, GOODMAN, HALUSKA, HARHART, HENNESSEY, HERMAN, HERSHEY, HUTCHINSON, JAMES, KENNEY, KIRKLAND, LaGROTTA, LEDERER, LEH, MAJOR, McCALL, McILHATTAN, McILHINNEY, MUNDY, O'NEILL, PALLONE, PETRONE, PHILLIPS, PICKETT, PYLE, REED, REICHLEY, ROBERTS, ROHRER, RUBLEY, SATHER, SAYLOR, SCAVELLO, SHANER, SHAPIRO, B. SMITH, SOLOBAY, STABACK, STERN, R. STEVENSON, SURRA, E. Z. TAYLOR, THOMAS, WATSON, WILT, WRIGHT AND YEWCIC, MARCH 14, 2005

REFERRED TO COMMITTEE ON INSURANCE, MARCH 14, 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

1 "abuse" in 23 Pa.C.S. § 6102(a).

2 "Commissioner" means the Insurance Commissioner of the
3 Commonwealth of Pennsylvania.

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

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

10 "Person" means:

11 (1) any individual, corporation, association, partnership,
12 reciprocal exchange, inter-insurer, Lloyds insurer, fraternal
13 benefit society, beneficial association, agent, broker, adjuster
14 and any other legal entity engaged in the business of
15 insurance[, including agents, brokers and adjusters and also
16 means health care plans as defined in 40 Pa.S. Ch.61 relating to
17 hospital plan corporations, 40 Pa.S. Ch.63 relating to
18 professional health services plan corporations, 40 Pa.S. Ch.65
19 relating to fraternal and beneficial societies, 40 Pa.S. Ch.67
20 relating to beneficial societies and the act of December 29,
21 1972 (P.L.1701, No.364), known as the "Voluntary Nonprofit
22 Health Service Act of 1972."];

23 (2) a health care plan as defined in 40 Pa.C.S. Ch. 61
24 (relating to hospital plan corporations), 40 Pa.C.S. Ch. 63
25 (relating to professional health services plan corporations), 40
26 Pa.C.S. Ch. 67 (relating to beneficial societies), Article XXIV
27 of the act of act of May 17, 1921 (P.L.682, No.284), known as
28 "The Insurance Company Law of 1921" and the act of December 29,
29 1972 (P.L.1701, No.364), known as the "Health Maintenance
30 Organization Act";

1 (3) a self-insured or multiple employer welfare arrangement
2 not exempt from State regulation by the Employee Retirement
3 Income Security Act of 1974 (Public Law 93-406, 29 U.S.C. § 1001
4 et seq.); and

5 (4) an employer-organized insurance association.

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

9 "Renewal" or "to renew" means the issuance and delivery by an
10 insurer of a policy superseding at the end of the policy period
11 a policy previously issued and delivered by the same insurer,
12 such renewal policy to provide types and limits of coverage at
13 least equal to those contained in the policy being superseded,
14 or the issuance and delivery of a certificate or notice
15 extending the term of a policy beyond its policy period or term
16 with types and limits of coverage at least equal to those
17 contained in the policy being extended: Provided, however, That
18 any policy with a policy period or term of less than twelve
19 months or any period with no fixed expiration date shall for the
20 purpose of this act be considered as if written for successive
21 policy periods or terms of twelve months.

22 "Victim" means an individual who is or has been subjected to
23 abuse.

24 "Victim of abuse" means an individual who is a victim or an
25 individual who seeks or has sought medical or psychological
26 treatment for abuse, protection from abuse or shelter from
27 abuse.

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

30 Section 5. Unfair Methods of Competition and Unfair or

1 Deceptive Acts or Practices Defined.--(a) "Unfair methods of
2 competition" and "unfair or deceptive acts or practices" in the
3 business of insurance means:

4 * * *

5 (15) Knowingly doing any of the following:

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

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

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

14 * * *

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

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

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

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