

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 815 Session of 2007

INTRODUCED BY McILHATTAN, BELFANTI, DeLUCA, COHEN, ARGALL, BAKER, BASTIAN, BENNINGHOFF, BOYD, CALTAGIRONE, CAPPELLI, CAUSER, CLYMER, COSTA, CREIGHTON, DALEY, DENLINGER, DePASQUALE, EVERETT, FABRIZIO, FAIRCHILD, GEIST, GEORGE, GERGELY, GIBBONS, GOODMAN, HALUSKA, HARHART, HARKINS, HENNESSEY, HERSHEY, HESS, HICKERNELL, HORNAMAN, HUTCHINSON, JAMES, KAUFFMAN, M. KELLER, KENNEY, KORTZ, KOTIK, LONGIETTI, MAJOR, MARKOSEK, MARSICO, MILLARD, MOUL, MUNDY, MYERS, OLIVER, O'NEILL, PALLONE, PEIFER, PETRARCA, PETRONE, PHILLIPS, PICKETT, PRESTON, PYLE, RAMALEY, RAPP, READSHAW, REED, REICHLEY, RUBLEY, SAYLOR, SCAVELLO, SHAPIRO, SIPTROTH, SOLOBAY, SONNEY, STABACK, STERN, R. STEVENSON, SURRA, SWANGER, TRUE, VULAKOVICH, WANSACZ AND WATSON, MARCH 19, 2007

REFERRED TO COMMITTEE ON INSURANCE, MARCH 19, 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)

1 (relating to definitions), notwithstanding the limited
2 applicability provision in paragraph (5) of the definition of
3 "abuse" in 23 Pa.C.S. § 6102(a). The term also means attempting
4 to cause or intentionally, knowingly or recklessly causing
5 damage to property so as to intimidate or attempt to control the
6 behavior of another person covered under 23 Pa.C.S. Ch. 61
7 (relating to protection from abuse).

8 "Commissioner" means the Insurance Commissioner of the
9 Commonwealth of Pennsylvania.

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

12 "Insurance policy" or "insurance contract" means any contract
13 of insurance, indemnity, health care, suretyship, title
14 insurance, or annuity issued, proposed for issuance or intended
15 for issuance by any person.

16 "Person" means:

17 (1) any individual, corporation, association, partnership,
18 reciprocal exchange, inter-insurer, Lloyds insurer, fraternal
19 benefit society, beneficial association, agent, broker, adjuster
20 and any other legal entity engaged in the business of
21 insurance;[, including agents, brokers and adjusters and also
22 means health care plans as defined in 40 Pa.S. Ch.61 relating to
23 hospital plan corporations, 40 Pa.S. Ch.63 relating to
24 professional health services plan corporations, 40 Pa.S. Ch.65
25 relating to fraternal and beneficial societies, 40 Pa.S. Ch.67
26 relating to beneficial societies and the act of December 29,
27 1972 (P.L.1701, No.364), known as the "Voluntary Nonprofit
28 Health Service Act of 1972."]

29 (2) a health care plan as defined in 40 Pa.C.S. Ch. 61
30 (relating to hospital plan corporations), 40 Pa.C.S. Ch. 63

(relating to professional health services plan corporations), 40
Pa.C.S. Ch. 67 (relating to beneficial societies), Article XXIV
of the act of act of May 17, 1921 (P.L.682, No.284), known as
"The Insurance Company Law of 1921" and the act of December 29,
1972 (P.L.1701, No.364), known as the "Health Maintenance
Organization Act";

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

(4) an employer-organized insurance association.

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

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

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

"Victim of abuse" means an individual who is a victim or an

1 individual who seeks or has sought medical or psychological
2 treatment for abuse, protection from abuse or shelter from
3 abuse.

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

6 Section 5. Unfair Methods of Competition and Unfair or
7 Deceptive Acts or Practices Defined.--(a) "Unfair methods of
8 competition" and "unfair or deceptive acts or practices" in the
9 business of insurance means:

10 * * *

11 (15) Knowingly doing any of the following:

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

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

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

20 * * *

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

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

30 Section 4. The amendment or addition of sections 5(a)(15)

1 and 14 of the act shall apply to insurance policies issued or
2 renewed on or after the effective date of this section.

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