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September 24, 2010

TO: Members of the House Insurance Committee

FR: Vince Phillips
Lobbyist
Pennsylvania Association of Health Underwriters

RE: House Bill 2420 Printer's Number 3537

Thank you for accepting this statement regarding this legislation.

It is being submitted on behalf of the Pennsylvania Association of Health Underwriters (PAHU), an association whose members specialize in health insurance and employee benefits. Specific to this bill, many of our members concentrate on the senior market and so any legislation affecting their clients is of interest because deceptive marketing by some tarnishes the reputations of reputable insurance agents trying to meet their clients' needs..

PAHU takes the position that the bill is laudable in its intent but this particular approach may not be necessary because the Insurance Department already has the enforcement tools necessary to achieve the objective of curbing improper and misleading marketing practices where they occur.

The Insurance Department currently has broad powers to oversee the marketing of insurance products. This authority is contained within numerous laws including the Unfair Insurance Practices Act (Act 205), the Producer Licensing Law (Act 147), Life Insurance Sales and Marketing Act (Act 154), and Act 40 which regulates the sales of insurance and annuity products by banks and financial institutions.

The newest piece of legislation is Act 14 of 2010 (Senate Bill 247) which makes the insurance agent responsible for the suitability of an annuity recommendation.

Universally, these laws protect consumers against misrepresentation by insurance producers of the specific insurance product and Act 154 specifically prohibits producers from claiming to be financial advisors or consultants when in fact they are insurance and annuity salespeople. House Bill 2420 seeks to add the use of a misleading designation or credential but given legislation that already exists, it appears to be redundant. Act 147 states, for example, that an insurance license renewal may be denied because of a licensee's "worthiness". Worthiness can be interpreted as whether or not a producer is telling the truth about his/her credentials.

Another approach is for the Insurance Department to issue a Notice and publish it in the PA Bulletin spelling out its enforcement priority. This was done before when the Department issued a stern warning to insurers and agents alike that movement of an insured from one carrier to another without informed consent would be subject to enforcement action. The Department can easily issue an advisory document warning of improper use of credentials and I am sure that the Area Agencies on Aging would be happy to distribute it as would AARP and other advocacy groups.

If the Insurance Department does not feel that it has the legal authority to prevent fraudulent activities from taking place, a simple one sentence amendment to Act 154 or Act 147 would meet that need. PAHU would be happy to assist the Committee if requested.

A second reason for withholding action on House Bill 2420 is degree of abuse. If it were statistically significant, the NAIC would show those numbers but so far, those numbers are elusive. The NAIC lists annual consumer complaint data by category and the most frequent complaints are non-payment or delay of payment of claim.

The only category that could be interpreted as relating to misleading credentials is 'Coverage questions' but these only comprise 3.49% of complaints received by regulators and this category is broader than the designation question.

My point in mentioning these statistics is not to deny the unfortunate impact a bogus credential can have on an unsuspecting senior. Where they occur, they must be vigorously and forcefully suppressed. PAHU wants a high ethical standard in all aspects of marketing to seniors including Department enforcement in this area. It is just that so far, the need for separate legislation has not been demonstrated except through anecdote.

An alternative to HB 2420 is for the Department to make very clear that deceptive practices is not tolerated in the Commonwealth both by publishing a Notice, issuing media releases, and through highly publicized enforcement actions. The General Assembly can also help by making sure that the Insurance Department has the enforcement resources it needs within the budgetary process. PAHU of course would be a willing partner in promoting marketing standards of conduct.

Thank you again for reviewing this statement.