

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2161 Session of
1986

INTRODUCED BY MICHLOVIC, McVERRY, ARTY, KUKOVICH, VAN HORNE,
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GAMBLE AND SEVENTY, FEBRUARY 12, 1986

REFERRED TO COMMITTEE ON INSURANCE, FEBRUARY 12, 1986

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 unfair acts; requiring health insurance
6 policies to contain certain provisions; and making an
7 editorial change.

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

10 Section 1. Sections 3 and 5(a)(7) of the act of July 22, 1974
11 (P.L.589, No.205), known as the Unfair Insurance Practices Act,
12 are amended to read:

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

14 "Commissioner" means the Insurance Commissioner of the
15 Commonwealth of Pennsylvania.

16 "Insurance policy" or "insurance contract" means any contract
17 of insurance, indemnity, health care, suretyship, title
18 insurance, or annuity issued, proposed for issuance or intended

1 for issuance by any person.

2 "Mental illness" means a syndrome of clinically significant
3 psychological, biological or behavioral abnormalities that
4 result in painful symptoms (distress) or impairment, or both, in
5 one or more important areas of functioning (disability).

6 "Non-hospital residential services" means the provision of
7 medically necessary or psychologically necessary therapeutic
8 services to patients suffering from alcohol abuse or drug abuse
9 in a residential environment according to an individualized
10 treatment plan in a facility licensed by the Commonwealth.

11 "Outpatient services" means a non-residential treatment
12 modality which is provided on an ambulatory basis to patients
13 with mental illness and substance abuse or dependency and which
14 includes psychiatric, psychological or social services carried
15 out by or under the direct supervision of a physician or
16 psychologist, according to an individualized treatment plan.

17 "Partial hospitalization services" means a non-residential
18 treatment modality which provides medically or psychologically
19 necessary therapeutic services to patients according to an
20 individualized treatment plan performed by or under the direct
21 supervision of a physician or psychologist. It is designed for
22 patients with moderate to severe mental disorders and substance
23 abuse or dependence. Partial hospitalization patients require
24 less than 24-hour care but more intensive and comprehensive
25 services than are offered in outpatient treatment programs.
26 Partial hospitalization is provided on a planned and regularly
27 scheduled basis for a minimum of three hours but less than 24
28 hours in any one day.

29 "Person" means any individual, corporation, association,
30 partnership, reciprocal exchange, inter-insurer, Lloyds insurer,

1 fraternal benefit society, beneficial association and any other
2 legal entity engaged in the business of insurance, including
3 agents, brokers and adjusters and also means health care plans
4 as defined in 40 Pa.S. Ch.61 relating to hospital plan
5 corporations, 40 Pa.S. Ch.63 relating to professional health
6 services plan corporations, 40 Pa.S. Ch.65 relating to fraternal
7 and beneficial societies, 40 Pa.S. Ch.67 relating to beneficial
8 societies and the act of December 29, 1972 (P.L.1701, No.364),
9 known as the ["Voluntary Nonprofit Health Service Act of 1972."]
10 "Health Maintenance Organization Act." For purposes of this act,
11 health care plans, fraternal benefit societies and beneficial
12 societies shall be deemed to be engaged in the business of
13 insurance.

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

27 "Substance abuse or dependence" means any use of drugs or
28 alcohol which produces a pattern of pathological use causing
29 impairment in social or occupational functioning or resulting in
30 psychological dependency evidenced by physical tolerance or

1 withdrawal.

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

6 * * *

7 (7) Unfairly discriminating by means of:

8 (i) making or permitting any unfair discrimination between
9 individuals of the same class and equal expectation of life in
10 the rates charged for any contract of life insurance or of life
11 annuity or in the dividends or other benefits payable thereon,
12 or in any other of the terms and conditions of such contract; or

13 (ii) making or permitting any unfair discrimination between
14 individuals of the same class and of essentially the same hazard
15 in the amount of premium, policy, fees or rates charged for any
16 policy or contract of insurance or in the benefits payable
17 thereunder, or in any of the terms or conditions of such
18 contract, or in any other manner whatever; or

19 (iii) making or permitting any unfair discrimination between
20 individuals of the same class and essentially the same hazard
21 with regard to underwriting standards and practices or
22 eligibility requirements by reason of race, religion,
23 nationality or ethnic group, age, sex, family size, occupation,
24 place of residence or marital status. The terms "underwriting
25 standards and practices" or "eligibility rules" do not include
26 the promulgation of rates if made or promulgated in accordance
27 with the appropriate Rate Regulatory Act of this Commonwealth
28 and regulations promulgated by the commissioner pursuant to such
29 act[.]; or

30 (iv) offering, issuing, revising or renewing any policy of

1 health care insurance whereby such offering, issuance, revision
2 or renewal would provide for or have the effect of creating or
3 perpetuating the use of a separate or different:
4 (A) lifetime and annual maximum benefits;
5 (B) criteria for the renewability of lifetime maximum
6 benefits;
7 (C) formula or method of determining the amount of payment
8 or reimbursement;
9 (D) limitations on the duration of treatment which is
10 covered;
11 (E) restrictions as to the eligibility of any provider for
12 payment or reimbursement;
13 (F) allocation as part of a total pool of available
14 benefits; or
15 (G) formula or method of determining deductibles, copayment
16 or any other limitation upon full payment or reimbursement; or
17 (v) offering or issuing any policy, contract or benefit plan
18 of health care insurance after the effective date of this act
19 which does not provide coverage for any treatment for mental
20 illness, substance abuse and dependence or substance abuse or
21 dependence at least equal to the coverage available for other
22 conditions subject to coverage under the policy.

23 * * *

24 Section 2. The act is amended by adding a section to read:

25 Section 5.1. Health Insurance Policies.--(a) All health
26 insurance policies shall provide adequate affordable alternative
27 care settings for the treatment of mental illness and substance
28 abuse dependency, including, but not limited to, nonhospital
29 residential services, outpatient services and partial
30 hospitalization services. All ambulatory mental health and

1 substance abuse services shall be covered on the same basis as
2 other ambulatory health care services. Policy provisions
3 relating to treatment of mental illness, substance abuse and
4 dependence or substance abuse or dependence shall provide
5 coverage comparable to coverage for the treatment for any other
6 conditions covered under the policy.

7 (b) No policy, contract or benefit plan of health insurance
8 shall reduce or eliminate the amount, duration or level of
9 health care insurance issued or in effect on January 1, 1985,
10 unless any such reduction or other change is equally applicable
11 to all conditions covered under the policy.

12 (c) The commissioner shall undertake a review of each
13 submission by any person seeking to offer, issue or revise any
14 policy of health care insurance within this Commonwealth
15 following the effective date of this act to determine that each
16 policy or proposal does not contravene the provisions of this
17 act. The commissioner shall, with the Secretary of Health, the
18 Secretary of Public Welfare and the Commissioner of Professional
19 and Occupational Affairs, by regulation, establish procedures
20 for the submission and review of all health insurance policies.
21 The commissioner shall enjoin the issuance or revision of any
22 policy, contract or benefit plan which does not comply with the
23 provisions of this act.

24 Section 3. This act shall take effect immediately.