

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, REICHLLEY, ROBERTS, ROHRER, RUBLEY, SATHER, SAYLOR, SCAVELLO, SHANER, SHAPIRO, B. SMITH, SOLOBAY, STABACK, STERN, R. STEVENSON, SURRA, E. Z. TAYLOR, THOMAS, WATSON, WILT, WRIGHT, YEWIC, DENLINGER, MUSTIO, BIANCUCCI, DIVEN, MCGEEHAN, HANNA, CAUSER AND MELIO, MARCH 14, 2005

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
OCTOBER 18, 2006

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:

1 "Abuse" has the meaning given in 23 Pa.C.S. § 6102(a)
2 (relating to definitions), notwithstanding the limited
3 applicability provision in paragraph (5) of the definition of
4 "abuse" in 23 Pa.C.S. § 6102(a). THE TERM ALSO MEANS ATTEMPTING ←
5 TO CAUSE OR INTENTIONALLY, KNOWINGLY OR RECKLESSLY CAUSING
6 DAMAGE TO PROPERTY SO AS TO INTIMIDATE OR ATTEMPT TO CONTROL THE
7 BEHAVIOR OF ANOTHER PERSON COVERED UNDER 23 PA.C.S. CH. 61
8 (RELATING TO PROTECTION FROM ABUSE).

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

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

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

17 "Person" means:

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

30 (2) a health care plan as defined in 40 Pa.C.S. Ch. 61

1 (relating to hospital plan corporations), 40 Pa.C.S. Ch. 63
2 (relating to professional health services plan corporations), 40
3 Pa.C.S. Ch. 67 (relating to beneficial societies), Article XXIV
4 of the act of act of May 17, 1921 (P.L.682, No.284), known as
5 "The Insurance Company Law of 1921" and the act of December 29,
6 1972 (P.L.1701, No.364), known as the "Health Maintenance
7 Organization Act";

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

12 (4) an employer-organized insurance association.

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

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

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

1 "Victim of abuse" means an individual who is a victim or an
2 individual who seeks or has sought medical or psychological
3 treatment for abuse, protection from abuse or shelter from
4 abuse.

5 Section 2. ~~Section 5(a) of the act is amended~~ 5(A)(7) OF THE <—
6 ACT IS AMENDED AND SUBSECTION (A) IS AMENDED by adding a <—
7 ~~paragraph~~ PARAGRAPHS to read: <—

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

12 * * *

13 (7) UNFAIRLY DISCRIMINATING BY MEANS OF: <—

14 (I) MAKING OR PERMITTING ANY UNFAIR DISCRIMINATION BETWEEN
15 INDIVIDUALS OF THE SAME CLASS AND EQUAL EXPECTATION OF LIFE IN
16 THE RATES CHARGED FOR ANY CONTRACT OF LIFE INSURANCE OR OF LIFE
17 ANNUITY OR IN THE DIVIDENDS OR OTHER BENEFITS PAYABLE THEREON,
18 OR IN ANY OTHER OF THE TERMS AND CONDITIONS OF SUCH CONTRACT; OR

19 (II) MAKING OR PERMITTING ANY UNFAIR DISCRIMINATION BETWEEN
20 INDIVIDUALS OF THE SAME CLASS AND OF ESSENTIALLY THE SAME HAZARD
21 IN THE AMOUNT OF PREMIUM, POLICY, FEES OR RATES CHARGED FOR ANY
22 POLICY OR CONTRACT OF INSURANCE OR IN THE BENEFITS PAYABLE
23 THEREUNDER, OR IN ANY OF THE TERMS OR CONDITIONS OF SUCH
24 CONTRACT, OR IN ANY OTHER MANNER WHATEVER; [OR]

25 (III) MAKING OR PERMITTING ANY UNFAIR DISCRIMINATION BETWEEN
26 INDIVIDUALS OF THE SAME CLASS AND ESSENTIALLY THE SAME HAZARD
27 WITH REGARD TO UNDERWRITING STANDARDS AND PRACTICES OR
28 ELIGIBILITY REQUIREMENTS BY REASON OF RACE, RELIGION,
29 NATIONALITY OR ETHNIC GROUP, AGE, SEX, FAMILY SIZE, OCCUPATION,
30 PLACE OF RESIDENCE OR MARITAL STATUS. THE TERMS "UNDERWRITING

1 STANDARDS AND PRACTICES" OR "ELIGIBILITY RULES" DO NOT INCLUDE
2 THE PROMULGATION OF RATES IF MADE OR PROMULGATED IN ACCORDANCE
3 WITH THE APPROPRIATE RATE REGULATORY ACT OF THIS COMMONWEALTH
4 AND REGULATIONS PROMULGATED BY THE COMMISSIONER PURSUANT TO SUCH
5 ACT[.]; OR

6 (IV) MAKING OR PERMITTING ANY UNFAIR DISCRIMINATION BY
7 RECLASSIFYING OR OTHERWISE EFFECTING A CHANGE IN CLASSIFICATION
8 OF AN INSURED BASED ON A FACTOR RELATED TO THE GENDER OF THE
9 INSURED.

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 (16) VIOLATING THE REQUIREMENTS OF TITLE XI PART C OF THE ←
21 SOCIAL SECURITY ACT (49 STAT. 620, 42 U.S.C. § 1320D ET SEQ.)
22 RELATING TO UNAUTHORIZED DISCLOSURE OF IDENTIFYING INFORMATION.

23 * * *

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

25 Section 14. Exclusions.--Health care plans administered by
26 joint boards of trustees pursuant to section 302 of the Labor
27 Management Relations Act, 29 U.S.C. § 141, et seq., and employer
28 administered health care plans pursuant to collective bargaining
29 agreements which pay benefits from the assets of the trust or
30 the funds of the employer as opposed to payments through an

1 insurance company shall not be subject to any of the provisions
2 of this act except section 5(a)(15).

3 Section 4. The amendment or addition of sections ~~5(a)(15)~~ ←
4 5(A)(7), (15) AND (16) and 14 of the act shall apply to ←
5 insurance policies issued or renewed on or after the effective
6 date of this section.

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