

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 512 Session of
2007

INTRODUCED BY COHEN, JOSEPHS, OLIVER, BLACKWELL, CALTAGIRONE,
CURRY, FABRIZIO, FREEMAN, GEORGE, MAHONEY, MCGEEHAN, MUNDY,
PALLONE, PETRONE, PRESTON, PYLE, SABATINA, SHIMKUS, STABACK,
STURLA, WATERS AND YOUNGBLOOD, FEBRUARY 26, 2007

REFERRED TO COMMITTEE ON INSURANCE, FEBRUARY 26, 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)
15 (relating to definitions), notwithstanding the limited
16 applicability provision in paragraph (5) of the definition of
17 "abuse" in 23 Pa.C.S. § 6102(a). The term also means attempting
18 to cause or intentionally, knowingly or recklessly causing
19 damage to property so as to intimidate or attempt to control the

1 behavior of another person covered under 23 Pa.C.S. Ch. 61
2 (relating to protection from abuse).

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

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

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

11 "Person" means:

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

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

1 Organization Act";

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

6 (4) an employer-organized insurance association.

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

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

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

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

29 Section 2. Section 5(a)(7) of the act is amended and
30 subsection (a) is amended by adding a paragraph to read:

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

5 * * *

6 (7) Unfairly discriminating by means of:

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

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

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

29 (iv) making or permitting any unfair discrimination by
30 reclassifying or otherwise effecting a change in classification

1 of an insured based on a factor related to the health status or
2 past medical claims of the insured.

3 * * *

4 (15) Knowingly doing any of the following:

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

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

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

13 (iv) Making or permitting any unfair discrimination by
14 reclassifying or otherwise effecting a change in classification
15 of an insured based on a factor related to the gender of the
16 insured.

17 * * *

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

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

27 Section 4. The amendment or addition of sections 5(a)(7) and
28 (15) and 14 of the act shall apply to insurance policies issued
29 or renewed on or after the effective date of this section.

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