

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.