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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 853 Session of  
2019

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INTRODUCED BY OBERLANDER, MILLARD, STRUZZI, KAUFFMAN, BARRAR,  
MURT, BERNSTINE, PYLE, SAYLOR, HARKINS, SCHWEYER, LONGIETTI,  
SCHLOSSBERG, DeLUCA, ZIMMERMAN, NELSON, PICKETT, DiGIROLAMO  
AND T. DAVIS, MARCH 18, 2019

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REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, MARCH 18, 2019

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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 methods of competition and  
6 unfair or deceptive acts or practices defined.

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

9 Section 1. Section 5(a) of the act of July 22, 1974  
10 (P.L.589, No.205), known as the Unfair Insurance Practices Act,  
11 is amended by adding a paragraph to read:

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

16 \* \* \*

17 (15) Altering the coverage provided by a health insurance  
18 policy, including, but not limited to, raising the premium,  
19 copayment, coinsurance or deductible or denying or otherwise

1 failing to provide continued coverage for a health care benefit  
2 that was included in the insured's health insurance policy and  
3 when the insured has already received the health care benefit.

4 The following shall apply:

5 (i) This paragraph shall not apply to health care benefits  
6 obtained by an insured through fraudulent or criminal activity  
7 or subject to:

8 (A) a statement issued by the United States Food and Drug  
9 Administration (FDA) calling into question the clinical safety  
10 of the benefit; or

11 (B) a notice provided by the manufacturer of a prescription  
12 drug to the FDA related to a manufacturing discontinuance or  
13 potential discontinuance of the drug.

14 (ii) In addition to any other penalties authorized by this  
15 act, a violation of this paragraph shall be deemed a violation  
16 of the act of December 17, 1968 (P.L.1224, No.387), known as the  
17 "Unfair Trade Practices and Consumer Protection Law." Nothing in  
18 this act shall preclude an insured from exercising any right  
19 provided under the "Unfair Trade Practices and Consumer  
20 Protection Law." A civil penalty of up to one thousand dollars  
21 (\$1,000) shall be imposed on a health insurer who violates this  
22 paragraph.

23 (iii) As used in this paragraph:

24 (A) "Biological product" shall have the same meaning as  
25 "biological product" in the Public Health Service Act (58 Stat.  
26 682, 42 U.S.C. § 201 et seq.).

27 (B) "Health care benefits" means all products, services,  
28 procedures, treatments and prescription drugs for which coverage  
29 is provided under a health insurance policy offered by a health  
30 insurer.

1 (C) (I) "Health insurance policy" means a group or  
2 individual health or sickness or accident insurance policy,  
3 subscriber contract or certificate issued by an entity subject  
4 to any one of the following:

5 (a) The act of May 17, 1921 (P.L.682, No.284), known as "The  
6 Insurance Company Law of 1921," including section 630 and  
7 Article XXIV of that act.

8 (b) The act of December 29, 1972 (P.L.1701, No.364), known  
9 as the "Health Maintenance Organization Act."

10 (c) 40 Pa.C.S. Ch. 61 (relating to hospital plan  
11 corporations) or 63 (relating to professional health services  
12 plan corporations).

13 (II) The term does not include accident only, fixed  
14 indemnity, limited benefit, credit, dental, vision, specified  
15 disease, Medicare supplement, Civilian Health and Medical  
16 Program of the Uniformed Services (CHAMPUS) supplement, long-  
17 term care or disability income, workers' compensation or  
18 automobile medical payment insurance.

19 (D) "Health insurer" means an entity licensed by the  
20 department with accident and health authority to issue a policy,  
21 subscriber contract, certificate or plan that provides medical  
22 or health care coverage that is offered or governed under any of  
23 the following:

24 (I) The "Insurance Company Law of 1921," including section  
25 630 and Article XXIV of that act.

26 (II) The "Health Maintenance Organization Act."

27 (III) 40 Pa.C.S. Ch. 61 or 63.

28 (E) "Insured" means a person who receives coverage under a  
29 health insurance policy and has paid all premiums due under the  
30 contract or policy. As used in this paragraph, the term shall

1 include all individuals named in a health insurance policy  
2 issued by a health insurer.

3 (F) "Prescription drug" means a controlled substance, other  
4 drug, including a biological product, or device for medication  
5 dispensed by order of an appropriately licensed medical  
6 professional.

7 (iv) This paragraph shall not be interpreted to impact or  
8 inhibit the applicability of any provision of the act of  
9 November 24, 1976 (P.L.1163, No.259), referred to as the Generic  
10 Equivalent Drug Law.

11 (v) Nothing in this paragraph shall be construed to prohibit  
12 a health insurer from adding health care benefits during the  
13 term of a health insurance policy.

14 \* \* \*

15 Section 2. This act shall take effect in 60 days.