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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 695 Session of  
2021

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INTRODUCED BY THOMAS AND ZIMMERMAN, FEBRUARY 26, 2021

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REFERRED TO COMMITTEE ON INSURANCE, FEBRUARY 26, 2021

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AN ACT

1 Providing for short-term limited duration insurance policies,  
2 regulations, for fines and penalties and for repeals.

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5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Short-Term  
9 Limited Duration Insurance Minimum Requirements Act.

10 Section 2. Definitions.

11 The following words and phrases when used in this act shall  
12 have the meanings given to them in this section unless the  
13 context clearly indicates otherwise:

14 "Commissioner." The Insurance Commissioner of the  
15 Commonwealth.

16 "Department." The Insurance Department of the Commonwealth.

17 "Enrollee." A policyholder, subscriber, covered person or  
18 other individual eligible to receive health care services under  
19 a short-term limited duration insurance policy.

20 "Individual market policy." A policy, subscriber contract,  
21 certificate or plan issued by an insurer that provides medical  
22 or health care coverage for 12 consecutive months to an  
23 individual other than in connection with a group plan.

24 "Insurance producer." As defined under section 601-A of the  
25 act of May 17, 1921 (P.L.789, No.285), known as The Insurance  
26 Department Act of 1921.

27 "Insurer." An entity licensed by the department with  
28 accident and health authority to issue a policy, subscriber  
29 contract, certificate or plan that provides medical or health  
30 care coverage and is offered or governed under any of the

1 following:

2 (1) The act of May 17, 1921 (P.L.682, No.284), known as  
3 The Insurance Company Law of 1921, including section 630 and  
4 Article XXIV of that act.

5 (2) The act of December 29, 1972 (P.L.1701, No.364),  
6 known as the Health Maintenance Organization Act.

7 (3) 40 Pa.C.S. Ch. 61 (relating to hospital plan  
8 corporations).

9 (4) 40 Pa.C.S. Ch. 63 (relating to professional health  
10 services plan corporations).

11 "Medical loss ratio" or "MLR." The ratio of an insurer's  
12 incurred claims to the insurer's earned premiums for a plan  
13 year.

14 "Short-term limited duration insurance policy." A policy,  
15 subscriber contract, certificate or plan issued by an insurer  
16 that provides medical or health care coverage for less than 12  
17 consecutive months. In addition to hospital and medical-surgical  
18 coverages, the policy may include any of the following  
19 coverages:

20 (1) Accident only coverage.

21 (2) Specified disease coverage.

22 (3) Fixed indemnity coverage.

23 The term does not include any of the following:

24 (1) Credit only coverage.

25 (2) Long-term care or disability income coverage.

26 (3) Medicare supplement coverage.

27 (4) A TRICARE policy, including a Civilian Health and  
28 Medical Program of the Uniformed Services (CHAMPUS)  
29 supplement policy.

30 (5) Dental only coverage.

- 1 (6) Vision only coverage.  
2 (7) Workers' compensation coverage.  
3 (8) An automobile medical payment policy under 75  
4 Pa.C.S. (relating to vehicles).

5 Section 3. Construction of terms.

6 On or after the effective date of this act, the terms  
7 "limited benefit policy," "limited benefits" and "excepted  
8 benefits," insofar as they may be used in the insurance laws of  
9 the Commonwealth to refer to insurance policies, may not be  
10 construed to apply to short-term limited duration insurance  
11 policies.

12 Section 4. Disclosure requirements.

13 (a) Written disclosure.--In addition to any disclosure  
14 requirements prescribed by Federal or State law or regulation,  
15 an application and all accompanying materials for a short-term  
16 limited duration insurance policy offered or issued or renewed  
17 in this Commonwealth must include the following:

18 (1) A written disclosure on a page that contains no  
19 other text which is included as the first and last pages of  
20 each document, in no less than 14-point font, in the  
21 following format, stating verbatim:

22 This is a LIMITED POLICY meant only TO FILL TEMPORARY  
23 GAPS between comprehensive major medical health  
24 insurance coverages.

25 This policy is NOT COMPREHENSIVE MAJOR MEDICAL HEALTH  
26 INSURANCE COVERAGE and may only offer LIMITED  
27 PROTECTION if you are deemed to have a pre-existing  
28 condition, become sick or sustain an injury. It is  
29 essential to READ THE TERMS AND CONDITIONS OF THIS  
30 POLICY CAREFULLY to ensure that you understand what

1           this policy does and does not cover.  
2           Failure to fully understand the terms and conditions  
3           of this policy may result in SIGNIFICANT MEDICAL CARE  
4           EXPENSE FOR WHICH YOU ARE RESPONSIBLE.  
5           This coverage SHOULD NOT BE PURCHASED AS A SUBSTITUTE  
6           FOR COMPREHENSIVE MAJOR MEDICAL HEALTH INSURANCE  
7           COVERAGE.

8           (2) A statement of the MLR for the insurer's short-term  
9           limited duration insurance policy for the most recent  
10          calendar year for which it is calculable, stating verbatim,  
11          including values for the bracketed items, the following:

12                 [Name of Insurer] had a [%] medical loss ratio on our  
13                 short-term limited duration insurance product in [year].  
14                 The medical loss ratio, or MLR, measures the amount of  
15                 each premium dollar that we spend on medical claims. The  
16                 amount that is not spent on medical claims is spent on  
17                 overhead expenses like marketing, salaries and profit.  
18                 For comparison, an individual plan that is compliant with  
19                 the Affordable Care Act must have at least an 80% MLR.

20          (3) An outline of coverage that satisfies the  
21          requirements of the act of May 18, 1976 (P.L.123, No.54),  
22          known as the Individual Accident and Sickness Insurance  
23          Minimum Standards Act.

24          (4) Coverage examples, as specified by the department in  
25          a notice posted on or before July 1 of each calendar year on  
26          the department's publicly accessible Internet website and  
27          published in the Pennsylvania Bulletin, that clearly  
28          illustrate to an applicant of average intelligence and  
29          education the benefits provided under the policy and the  
30          policy's coverage for a minimum of six common benefits

1 scenarios, including chronic medical conditions, in  
2 accordance with the following:

3 (i) Each benefits scenario will be a hypothetical  
4 situation, consisting of a sample treatment plan for a  
5 specified medical condition during a specific period of  
6 time, based on recognized clinical practice guidelines.

7 (ii) Each coverage example must illustrate benefits  
8 and coverage for a particular benefits scenario to  
9 provide an estimate of what an individual might expect to  
10 pay under the policy. The illustration of benefits  
11 provided must take into account any cost sharing,  
12 excluded benefits and other limitations on coverage in  
13 the policy.

14 (b) Verbal disclosure.--Prior to consummating a sale of a  
15 short-term limited duration insurance policy, an insurer's  
16 representative or an insurance producer shall verbally explain  
17 the parameters and limitations of the coverage provided by the  
18 short-term limited duration insurance policy.

19 Section 5. Acknowledgment of disclosures.

20 An insurer or insurance producer that sells a short-term  
21 limited duration insurance policy shall maintain a record of a  
22 written acknowledgment that contains the following:

23 (1) A description of the verbal disclosure required by  
24 section 4(b), the name of the person who provided the verbal  
25 disclosure and the date on which it was provided.

26 (2) A signed certification by the person who provided  
27 the verbal disclosure required by section 4(b) attesting,  
28 pursuant to 18 Pa.C.S. § 4904 (relating to unsworn  
29 falsification to authorities), that the verbal disclosure was  
30 timely provided to the consumer purchasing the policy.

1           (3) A signed certification by the enrollee purchasing  
2           the policy, attesting, pursuant to 18 Pa.C.S. § 4904, that an  
3           insurer's representative or an insurance producer provided  
4           the verbal disclosure prior to the consummation of the sale  
5           of the policy as required by section 4(b).

6 Section 6. Supervision of disclosures.

7           (a) Insurer responsibility.--An insurer offering, issuing or  
8           renewing a short-term limited duration insurance policy in this  
9           Commonwealth shall establish a supervision system that is  
10          reasonably designed to ensure that each sale, whether directly  
11          or through a producer, to an enrollee in this Commonwealth  
12          complies with the requirements of this act. The insurer's  
13          supervision system shall include at least the following:

14               (1) Maintaining written supervision procedures.

15               (2) Conducting regular reviews of disclosure materials  
16               used during the solicitation or sale of a short-term limited  
17               duration insurance policy.

18               (3) Contacting an enrollee within 10 days of issuing an  
19               enrollee's policy to verify that an enrollee's policy is  
20               consistent with the representations made to an enrollee  
21               during the sale of a policy and with the requirements of this  
22               act.

23           (b) Independent agency responsibility.--A general agent or  
24           independent agency shall adopt a supervision system established  
25           by an insurer that meets the requirements under subsection (a)  
26           to supervise sales and solicitations of the insurer's short-term  
27           limited duration insurance policies to ensure that each sale of  
28           a short-term limited duration insurance policy to an enrollee in  
29           this Commonwealth complies with the requirements of this act.

30 Section 7. Underwriting requirements.

1 (a) General rule.--Each request for information solicited  
2 from an applicant in the course of underwriting short-term  
3 limited duration insurance policy coverage must be in the form  
4 of a single direct question that permits a direct response of  
5 known fact in the form of a "Yes" or "No." A request for  
6 information may not be a compound question or declaratory  
7 statement. This information may be used for underwriting  
8 purposes subject to the following:

9 (1) Specific questions. An application for a short-term  
10 limited duration insurance policy may solicit information  
11 through questions about a potential enrollee's medical  
12 history only if it relates to a specific condition, whether  
13 physical or behavioral, regardless of the cause of the  
14 specific condition, for which medical advice, diagnosis, care  
15 or treatment was recommended or received.

16 (2) Look-back period. Each question about a potential  
17 enrollee's medical history on an application for a short-term  
18 limited duration insurance policy may only solicit  
19 information about specific conditions for which the enrollee  
20 received or was recommended medical advice, diagnosis, care  
21 or treatment within the five-year period ending on the date  
22 that an application is completed.

23 (3) Post-claim submission. When determining whether a  
24 submitted claim is payable under a short-term limited  
25 duration insurance policy, an issuer may only rely on the  
26 enrollee's answers to the issuer's questions included in the  
27 application for the policy.

28 (b) Fraud and nondisclosure.--An issuer may not claim that  
29 an enrollee has committed fraud or otherwise given ground for  
30 the issuer to pursue rescission of the policy unless the issuer



1 demonstrates that an enrollee made a false statement with the  
2 intent to deceive the issuer and the false statement materially  
3 affected the issuer's acceptance of the risk.

4 Section 8. Waiting period prohibition.

5 A short-term limited duration insurance policy may not  
6 establish a waiting period after the enrollee has purchased the  
7 policy before the enrollee is eligible to be covered for  
8 benefits under the terms of the policy.

9 Section 9. Coverage term limitations.

10 (a) Policy period.--The policy period of a short-term  
11 limited duration insurance policy may:

12 (1) be for up to 90 consecutive days, but in no event  
13 may it extend beyond the last day of the calendar year in  
14 which the policy takes effect;

15 (2) not begin in a different calendar year than the  
16 calendar year in which it is offered or issued; and

17 (3) be renewed for consecutive policy periods during the  
18 calendar year in which it is offered or issued.

19 (b) Renewability.--A short-term limited duration insurance  
20 policy may be renewed as follows:

21 (1) At the option of the policyholder.

22 (2) For consecutive policy periods consistent with the  
23 requirements of subsection (a).

24 Section 10. Free-look period.

25 A short-term limited duration insurance policy must have a  
26 notice prominently placed on the cover page of the policy  
27 stating that the enrollee must be permitted to return the policy  
28 within at least 20 days of the policy's delivery and to have any  
29 premium paid refunded if the enrollee is not satisfied with the  
30 policy for any reason. Upon return of the policy to the insurer

1 or insurance producer who issued or sold the policy, the policy  
2 shall be considered void and the parties shall be in the same  
3 position as if no policy had been issued.

4 Section 11. Minimum standards.

5 Short-term limited duration insurance policies must comply  
6 with the standards specified for basic medical-surgical expense  
7 coverage and basic hospital expense coverage in the act of May  
8 18, 1976 (P.L.123, No.54), known as the Individual Accident and  
9 Sickness Insurance Minimum Standards Act.

10 Section 12. Sales limitations.

11 (a) Prohibitions.--The following shall apply:

12 (1) An insurer may not issue more than one short-term  
13 limited duration insurance policy per calendar year to an  
14 enrollee.

15 (2) An insurance producer may not sell more than one  
16 short-term limited duration insurance policy per calendar  
17 year to an enrollee.

18 (b) Policy may be renewed.--Notwithstanding subsection (a),  
19 a policy issued or sold may be renewed, consistent with section  
20 9, during the same calendar year in which the policy is issued  
21 or sold.

22 (c) Association or trust.--If a short-term limited duration  
23 insurance policy is issued to, or offered through, an  
24 association or a trust or trustees of a trust that is  
25 established or participated in by one or more associations, to  
26 insure association members or spouses or dependents of members,  
27 the association must meet the bona fide association requirements  
28 in section 621.2 of the act of May 17, 1921 (P.L.682, No.284),  
29 known as The Insurance Company Law of 1921, and the coverage  
30 provided by the policy must be in compliance with all

1 requirements of the laws of this Commonwealth.

2 Section 13. Compliance.

3 An insurer or insurance producer may not advertise, market,  
4 solicit, sell or otherwise represent to the public a short-term  
5 limited duration insurance policy that does not comply with this  
6 act.

7 Section 14. Enforcement.

8 (a) General rule.--Upon satisfactory evidence of a violation  
9 of this act by an insurer, insurance producer or other person,  
10 the commissioner may, in the commissioner's discretion, pursue  
11 any of the following courses of action:

12 (1) Suspend, revoke or refuse to renew the license of  
13 the offending insurer or insurance producer.

14 (2) Enter a cease and desist order.

15 (3) Impose a civil penalty of not more than \$5,000 for  
16 each action in violation of this act.

17 (4) Impose a civil penalty of not more than \$10,000 for  
18 each action in willful violation of this act.

19 (b) Responsibility for violation.--The following shall  
20 apply:

21 (1) An insurer may be held independently responsible for  
22 an insurance producer's violation of this act.

23 (2) A general agent or independent agency may be held  
24 independently responsible for an insurance producer's  
25 violation of this act.

26 (c) Limitation.--The following shall apply:

27 (1) Penalties imposed against an insurance producer for  
28 actions in violation of this act shall not exceed \$25,000 in  
29 one calendar year.

30 (2) Penalties imposed against an insurer for actions in

1 violation of this act shall not exceed \$500,000 in one  
2 calendar year.

3 (d) Remedies not exclusive.--The enforcement remedies  
4 imposed under this section are in addition to any other remedies  
5 or penalties that may be imposed under any other applicable law  
6 of this Commonwealth, including:

7 (1) Article VI-A of the act of May 17, 1921 (P.L.789,  
8 No.285), known as The Insurance Department Act of 1921.

9 (2) The act of July 22, 1974 (P.L.589, No.205), known as  
10 the Unfair Insurance Practices Act. Violations of this act  
11 shall be deemed to be an unfair method of competition and an  
12 unfair or deceptive act or practice under the Unfair  
13 Insurance Practices Act.

14 (3) The act of May 18, 1976 (P.L.123, No.54), known as  
15 the Individual Accident and Sickness Insurance Minimum  
16 Standards Act.

17 (4) The act of December 18, 1996 (P.L.1066, No.159),  
18 known as the Accident and Health Filing Reform Act.

19 (e) Administrative procedure.--The administrative provisions  
20 of this section shall be subject to 2 Pa.C.S. Ch. 5 Subch. A  
21 (relating to practice and procedure of Commonwealth agencies). A  
22 party against whom penalties are assessed in an administrative  
23 action may appeal to Commonwealth Court as provided in 2 Pa.C.S.  
24 Ch. 7 Subch. A (relating to judicial review of Commonwealth  
25 agency action).

26 Section 15. Regulations.

27 The department may promulgate regulations as may be necessary  
28 and appropriate to carry out the provisions of this act.

29 Section 16. Agency coordination.

30 (a) Investigative materials.--The department may provide to

1 the Office of Attorney General any investigative materials it  
2 receives pursuant to this act.

3 (b) Construction.--Nothing in this act shall be construed to  
4 limit the ability of the department or the Office of Attorney  
5 General from using information received under this act in the  
6 course of their regulatory or law enforcement duties under any  
7 other law.

8 Section 17. Applicability.

9 (a) General rule.--This act applies to all short-term  
10 limited duration insurance policies offered, issued or renewed  
11 in this Commonwealth on or after the effective date of this act.

12 (b) Compliance.--Notwithstanding any provision of law to the  
13 contrary, and without regard to the entity that issues the  
14 policy or is covered by the policy, a short-term limited  
15 duration insurance policy offered, issued or renewed must comply  
16 with all requirements of the act of May 17, 1921 (P.L.682,  
17 No.284), known as The Insurance Company Law of 1921.

18 Section 18. Repeal.

19 All acts and parts of acts are repealed insofar as they are  
20 inconsistent with this act.

21 Section 19. Effective date.

22 This act shall take effect immediately.