

SENATE BILL REPORT

SB 5588

As Reported By Senate Committee On:
Health & Long-Term Care, February 24, 1999

Title: An act relating to classifying false or misleading advertising by health carriers as unfair and deceptive acts.

Brief Description: Classifying false advertising of health carriers as unfair or deceptive acts.

Sponsors: Senators Wojahn, Snyder, Thibaudeau, Fairley, Winsley, Costa, Hale, Prentice, McAuliffe, Kohl-Welles, Rasmussen, Franklin and Sellar.

Brief History:

Committee Activity: Health & Long-Term Care: 2/11/99, 2/24/99 [DPS].

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Majority Report: That Substitute Senate Bill No. 5588 be substituted therefor, and the substitute bill do pass.

Signed by Senators Thibaudeau, Chair; Wojahn, Vice Chair; Costa, Franklin.

Staff: Jonathan Seib (786-7427)

Background: Those engaged in the business of insurance are prohibited from engaging in unfair or deceptive acts or practices. Such acts and practices are defined directly in statute and through administrative rule by the Insurance Commissioner pursuant to statutory authority. The applicable administrative rule, however, explicitly states that it does not apply to health care service contractors or health maintenance organizations.

Violations of insurance regulations are generally subject to the state Consumer Protection Act (CPA). The CPA authorizes a civil action to recover treble damages and attorneys' fees.

Summary of Substitute Bill: A health carrier, already defined to include a disability insurer, a health care service contractor, or a health maintenance organization, must not engage in unfair methods of competition or in unfair or deceptive acts or practices as such acts or practices are defined under current law governing the business of insurance.

A violation of the act constitutes an unfair or deceptive act or practice in trade or commerce for the purposes of applying the Consumer Protection Act.

Substitute Bill Compared to Original Bill: In the substitute bill, language is removed which explicitly identifies false advertising as an unfair or deceptive practice. The language of the original bill is made consistent with current law. The substitute bill removes duplicative language from the original regarding the rule-making authority of the Insurance Commissioner.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: A recent court case explicitly recognized that the regulations regarding unfair and deceptive practices do not apply to health care service contractors. However, the growth of health care service contractors has removed them from the need for special protection legislation. This bill will subject health care service contractors to the good faith claims processing requirements of any other insurance company, which is really what they are.

Testimony Against: This bill is not needed. The Office of the Insurance Commissioner already has the authority to prevent deceptive advertising. It routinely reviews the advertising materials of health carriers. The bill will increase costs.

Testified: Jim Leggett, Leggett & Kram (pro); Rick Wickman, Premera Blue Cross (con).