

By Mr. Mara of Brockton, petition of Francis G. Mara, Susan F. Rourke and Thomas P. Walsh for legislation to further regulate false health care claims under the insurance laws of the Commonwealth. Insurance.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-One.

AN ACT RELATIVE TO FURTHER REGULATING THE SOLICITATION OF PRODUCTS UNDER THE INSURANCE LAW CONCERNING FALSE HEALTH CARE CLAIMS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 3 of Chapter 175H of the General Laws,
2 as it appears in the 1988 Official Edition, is hereby amended by
3 striking out Section 3 and inserting in place thereof, the following:
4 Any person who knowingly, willfully and with fraudulent
5 intent, solicits or receives any remuneration, directly or indirectly,
6 overtly or covertly, in cash or in kind in return for purchasing,
7 leasing, ordering or arranging for or recommending purchasing,
8 leasing, or ordering of any good, facility, service, or item for which
9 payment is or may be made in whole or in part by a health care
10 corporation or health care insurer, or any person who knowingly,
11 willfully and with fraudulent intent, offers or pays any
12 remuneration, including any bribe, or rebate, directly or
13 indirectly, overtly or covertly, in cash or in kind to induce any
14 person to purchase, lease, order or arrange for or recommend
15 purchasing, leasing or ordering of any good, facility, service, or
16 item for which payment is or may be made in whole or in part
17 by a health care corporation or health care insurer, shall be
18 purchased by a fine of not more than ten thousand dollars, or
19 by imprisonment in a jail or house of correction for not more than
20 two and one-half years or in the state prison for not more than
21 five years, or by both such fine and imprisonment, and may be
22 held liable in a civil action under section six.

1 SECTION 2. Section 3 of Chapter 175H is hereby further
2 amended by adding at the end thereof the following paragraph: —

3 This section shall not be applicable to the following: —

4 a) a discount or other reduction in price obtained by a provider
5 of services or other entity under this chapter if such a reduction
6 in price does not result in referrals without a legitimate medical
7 purpose;

8 b) any amount paid by an employer to an employee, who has
9 a bona fide relationship with such employer, for employment in
10 the provision of covered items or services;

11 c) any amount paid by a vendor of goods or services to a person
12 authorized to act as purchasing agent for a group of individuals
13 or entities who are furnishing services.

14 d) any payment practice specified by the United States Secretary
15 of Health and Human Services in regulations promulgated
16 pursuant to Section 14(a) of Public Law 100-93, the so-called
17 federal Medicare and Medicaid Patient Program Protection Act
18 of 1987;

19 e) prescription drug samples, items of nominal value,
20 educational and promotional materials and offerings, provided
21 that such samples, items, materials or offerings are consistent with
22 the provisions of the Federal Food, Drug and Cosmetic Act;

23 f) services or items provided by any medical or health care
24 facility, including a physician's office, in which a referring
25 physician has an ownership interest if such referral serves a
26 legitimate medical purpose.

27 g) referral services which are operated by professional societies;
28 and

29 h) benefits or discounts offered to physicians by hospitals or
30 clinics for the purposes of recruitment retention.

31 For the purposes of this section, "ownership interests" shall
32 mean any and all ownership interest including but not limited to
33 any membership, proprietary interest, stock interest, co-
34 ownership in any form or any profit sharing arrangement.