

17B:26-45 to 17B:26-47

LEGISLATIVE HISTORY CHECKLIST

(Health insurance--individual--Commissioner
may set minimum standards for form, contents
and sale)

NJSA 17B:26-45 to 17B:26-47

LAWS OF 1979 CHAPTER 78

Bill No. A1474

Sponsor(s) Bornheimer and others

Date Introduced June 8, 1978

Committee: Assembly Banking and Insurance
Senate Labor, Industry and Professions

Amended during passage Yes ~~XA~~ Amendments during passage
denoted by asterisks

Date of Passage: Assembly Oct. 16, 1978
Senate Jan. 22, 1979

Date of approval April 15, 1979

Following statements are attached if available:

Sponsor statement	Yes	XA
Committee Statement: Assembly	Yes	XA
Senate	Yes	XA
Fiscal Note	Yes	No
Veto message	Yes	No
Message on signing	Yes	XA

Following were printed:

Reports	Yes	XA
Hearings	Yes	XA

974.90 N.J. Legislature. Assembly.
I59 Banking and Insurance Committee.
1978b Public hearing, held May 2, 1978.
Trenton.

974.90 N.J. Department of Law and Public Safety.
I59 Report to Governor Brendan T. Byrne:
1979 inquiry into the business practices of Intercontinental
Life Insurance Company. Trenton, 1979.

8/1/78

(over)

The following deal with some of the issues pertinent to A1474, reveals need and makes recommendations for health insurance policy standards.

Congressional hearings:

Y4.In8/4 U.S. Congress. House. Committee on Interstate and
96-25 Foreign Commerce. Subcommittee on Health and Environment.
Hearing on H.R. 2602..., held 6-13-79.

Y4.F49: U.S. Congress. Senate Committee on Finance.
H34/19 Health insurance proposals: materials presented
to the Committee on Finance. Washington, D.C.; 1979.

Y4.Ag4 U.S. Congress. House. Select Committee on Aging.
2:H34/16 Abuses in the sale of health insurance to
the elderly: hearing... Nov. 28, 1978. Washington,
D.C., 1979.

Y4.Ag4 U.S. Congress. House. Select Committee on Aging.
2:H34/15 Abuses in the sale of health insurance in
supplementation of medicare: a national scandal:
a staff study. Washington, D.C., 1978.

N.J. investigative study:

See:

Newspaper clipping file "N.J.-Insurance Health (1978)
for Star Ledger Special Report on Health Insurance by Herb Jaffee.

See also:

Newspaper clipping file "N.J.-Insurance, Health (1979)

Proposed regulations pursuant to this act located in:

11 N.J.R. 348 (N.J.A.C. 11:4-16.1)

78
4.15.79

[SECOND OFFICIAL COPY REPRINT]

ASSEMBLY, No. 1474

STATE OF NEW JERSEY

INTRODUCED JUNE 8, 1978

By Assemblymen BORNHEIMER, KARCHER, PATERO, FROUDE, BURSTEIN, OTLOWSKI, SCHWARTZ, DEVERIN, LESNIAK, ORECHIO, Assemblywoman SZABO, Assemblymen BURNS, PASCULLI, Assemblywoman CURRAN, Assemblymen HURLEY, KAVANAUGH, CODEY and JACKMAN

Referred to Committee on Banking and Insurance

AN ACT concerning minimum standards in the form, content and sale of health insurance and supplementing Subtitle 3 of Title 17B of the New Jersey Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. a. The commissioner of insurance shall issue such regulations
2 as he shall deem necessary or desirable to establish minimum
3 standards, including standards for full and fair disclosure, for the
4 form, content and sale of individual health insurance issued pur-
5 suant to chapter 26 of Title 17B of the New Jersey Statutes. Such
6 regulations shall apply to all, any portion, or reasonable classifica-
7 tions of such insurance, other than conversion policies pursuant
8 to a contractual conversion privilege.

9 b. The purposes of such minimum standards shall include any
10 or all of the following: (1) reasonable standardization and simpli-
11 fication of language, terms and coverages to facilitate understand-
12 ing and comparisons; (2) elimination of provisions which may be
13 misleading or unreasonably confusing in connection with either
14 the purchase of such insurance or the settlement of claims; (3)
15 elimination of deceptive practices in connection with the sale of
16 such insurance; (4) elimination of provisions which may be con-
17 trary to the health care needs of the public; (5) elimination of

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

18 coverages which are so limited in scope as to be of no substantial
 19 economic value to the holders thereof; and (6) elimination of unfair
 20 renewal practices which are contrary to the health care needs and
 21 economic well-being of the public.

22 c. Any such regulations shall be promulgated in accordance with
 23 the Administrative Procedure Act (P. L. 1968, c. 410, C. 52:14B-1
 24 et seq.).

25 *d. ***[When such regulations are promulgated by the commis-*
 26 *sioner, they shall be submitted to the Assembly Banking and*
 27 *Insurance Committee for review. The committee shall approve or*
 28 *disapprove such regulations within 30 days of the submission of the*
 29 *regulations to the chairman of the committee.]*** **The depart-*
 30 *ment shall transmit copies of all rules and regulations ****[pro-*
 31 *posed]**** ****adopted**** pursuant to this act to the Senate and*
 32 *General Assembly on a day on which both houses shall be meeting*
 33 *in the course of a regular or special session. The provisions of the*
 34 *“Administrative Procedure Act” or any other law to the contrary*
 35 *notwithstanding no such rule or regulation shall take effect if,*
 36 *within 60 days of the date of its transmittal to the Senate and*
 37 *General Assembly, the Legislature shall pass a concurrent resolu-*
 38 *tion stating in substance that the Legislature does not favor such*
 38A *proposed rule or regulation.***

39 **[d.]** *e.** **[When]**** **120 days after** ******the effective date*
 40 *of**** a regulation ****which**** has been adopted pursuant to*
 41 *this section **[*and approved by the Assembly Banking and In-*
 42 *surance Committee pursuant to subsection d. of this section*]****,*
 43 *all policies of insurance previously filed with the commissioner*
 44 *which are not in compliance with the regulation shall****[,]*******
 45 ***[when so provided in the regulation]** ******[**upon expiration*
 46 *of each such policy issued** ,]****** be deemed to be withdrawn from*
 47 *filing and disapproved****.**** **[as of a date specified in the*
 48 *regulation not less than 120 days after its effective date, without*
 49 *any further or additional notice other than adoption of the regula-*
 50 *tion; and all policies of insurance in force which are not in com-*
 51 *pliance with the regulation shall, when so provided in the regula-*
 52 *tion, be construed, and insurers shall be liable, as of a date specified*
 53 *in the regulation not less than 120 days after its effective date, as*
 54 *if the policies did comply with the regulation.]*** **No new*
 55 *****[contract]**** ****policy**** of insurance shall be*
 56 *****[issued in place of the expired contract]**** ****delivered or*
 57 *issued for delivery in this State**** until such new ****[contract*
 58 *is approved by]**** ****policy has been filed with**** the com-*
 59 *missioner.***

1 2. If, after notice and hearing, the commissioner finds that an
2 insurance company, agent or broker or any other person has
3 violated the provisions of this act or any regulation promulgated
4 pursuant to this act, he may, in addition to any other penalty,
5 impose a penalty not exceeding \$2,000.00 for each such violation,
6 which penalty shall be collected and enforced pursuant to the law
7 (N. J. S. 2A:58-1 et seq.).

1 3. The commissioner may, through the Attorney General of this
2 State, institute an action in the Superior Court to enjoin and re-
3 strain any insurer who has entered into a policy which does not
4 conform to the regulations promulgated pursuant to this act or an
5 insurer or any other person who has attempted to induce entry
6 into any such policy or whose method of sale is in violation of the
7 regulations promulgated pursuant to this act. The court may pro-
8 ceed in the action in a summary manner.

1 4. This act shall take effect ***[90 days after enactment]***
2 ***immediately, and the commissioner shall ***[issue the]***
3 ***file for publication in the New Jersey Register proposed***
4 regulations required by this act within 60 days thereafter***.

22 c. Any such regulations shall be promulgated in accordance with
 23 the Administrative Procedure Act (P. L. 1968, c. 410, C. 52:14B-1
 24 et seq.).

25 d. When a regulation has been adopted pursuant to this section,
 26 all policies of insurance previously filed with the commissioner
 27 which are not in compliance with the regulation shall, when so
 28 provided in the regulation, be deemed to be withdrawn from filing
 29 and disapproved as of a date specified in the regulation not less
 30 than 120 days after its effective date, without any further or ad-
 31 ditional notice other than adoption of the regulation; and all poli-
 32 cies of insurance in force which are not in compliance with the
 33 regulation shall, when so provided in the regulation, be construed,
 34 and insurers shall be liable, as of a date specified in the regulation
 35 not less than 120 days after its effective date, as if the policies did
 36 comply with the regulation.

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 4 conform to the regulations promulgated pursuant to this act or an
 5 insurer or any other person who has attempted to induce entry
 6 into any such policy or whose method of sale is in violation of the
 7 regulations promulgated pursuant to this act. The court may pro-
 8 ceed in the action in a summary manner.

1 4. This act shall take effect 90 days after enactment.

STATEMENT

This bill empowers the commissioner of insurance to establish minimum standards for the form, content, and sale of individual health insurance. These standards would require simplification of policy language, elimination of misleading and confusing provisions, elimination of deceptive sales practices, elimination of coverages which are so limited in scope as to be of no substantial economic value, and elimination of unfair renewal practices. The bill authorizes enforcement of these minimum standards by means of administrative and civil actions.

A1474 (1979)

ASSEMBLY BANKING AND INSURANCE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1474

STATE OF NEW JERSEY

DATED: OCTOBER 5, 1978

This legislation provides that the Commissioner of Insurance may issue such regulations as he shall deem necessary or desirable to establish minimum standards for health insurance policies. The standards may be promulgated to insure reasonable standardization and simplification of language, terms of the policy and policy coverages, the elimination of provisions which may be misleading or confusing, the elimination of practices considered to be deceptive, the elimination of provisions which may be contrary to the health care needs of the public, the elimination of coverages which may be so limited in scope that they are of little economic value to policyholders, and the elimination of unfair renewal practices.

The bill also provides that when a regulation has been adopted, all policies of insurance which do not meet the standards so established would be deemed withdrawn from filing and disapproved as of a date specified in the regulation which is not less than 120 days after the effective date without any further notice than the adoption of the regulation; insurers would be liable if policies did not comply with the regulation. Insurers, agents, or brokers who violate the provisions of the act may be fined up to \$2,000.00 for each violation. Insurers may be enjoined through an action in Superior Court if the policies which are issued by them do not conform to the regulations established by the department.

There have been allegations that a large number of health insurance policies are substandard in terms of the nature of the coverages and benefits which are offered, some of which have premiums which are too high for the benefits offered, and which, as a consequence, produce a low loss ratio (losses to premium dollars earned) and, therefore, high profits. Recently, the Assembly Banking and Insurance Committee heard testimony in a public hearing which alleged that some members of the public have been taken advantage of by insurers who sell substandard policies and coverages which are not needed. One of the greatest areas of abuse is the sale of so-called "Medigap" coverage,

which offers benefits to senior citizens to supplement benefits which they are entitled to under Medicare coverage; some of these policies actually offer little in the way of tangible benefits. The Commissioner of Insurance has no present authority to establish minimum standards for policies.

While the Assembly Banking and Insurance Committee believes that the intent of this legislation is laudable, it also recognizes that the bill provides the Commissioner with a significant amount of authority with respect to the provisions of health insurance policies. Because the legislation is so broad in its scope, the committee deems it essential to institute legislative review over the commissioner's regulatory authority. Therefore, it has amended the bill to provide for review of the regulations by the Banking and Insurance Committee before they take effect.

SENATE LABOR, INDUSTRY AND
PROFESSIONS COMMITTEE

STATEMENT TO
ASSEMBLY, No. 1474

[OFFICIAL COPY REPRINT]
with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 16, 1979

This bill would authorize the Commissioner of Insurance to issue regulations to establish minimum standards for the form, content and sale of health insurance policies. The standards would be aimed at insuring (1) reasonable standardization and simplification of language; (2) elimination of provisions which may be misleading or confusing; (3) elimination of deceptive practices in the sale of health insurance; (4) elimination of provisions which may be contrary to the health needs of the public; (5) elimination of coverages which are so limited in scope as to be of no substantial economic value to the policyholders; and (6) elimination of unfair renewal practices.

The bill provides that all policies which are not in compliance with the regulations promulgated by the Commissioner shall be deemed to be withdrawn from filing and disapproved.

The Senate Labor, Industry and Professions Committee amended the bill to allow for this withdrawal and disapproval upon the expiration of each policy issued. This amendment respects the constitutional prohibition against impairment of contracts.

At the request of the sponsor, the bill was amended to provide for oversight by the Legislature as a whole. Regulations promulgated by the Department of Insurance would take effect unless, within 60 days of transmittal to the Legislature on a day when both houses are in session, the Legislature passed a concurrent resolution stating that it did not favor the proposed regulations.

Prior to the present legislation, the Commissioner of Insurance had no authority to establish minimum standards for health insurance policies.

FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

APRIL 16, 1979

KATHRYN FORSYTH

Governor Brendan Byrne has signed a bill authorizing the Commissioner of Insurance to set strict minimum standards for the form, content and sale of individual health insurance policies issued in New Jersey.

Byrne signed the measure yesterday before leaving for Europe on a foreign trade and investment mission.

The bill, A-1474, was sponsored by Assemblyman James Bornheimer (D-Middlesex).

"The purpose of this bill is to strengthen consumer protection in the area of health insurance policies. The Department of Insurance has been addressing this problem through other statutory measures and by asking the companies to voluntarily comply with consumer-oriented standards, but this bill will give us an added tool in our Administration's efforts," Byrne said.

"To most laymen, buying a health insurance policy is a confusing and complicated enterprise. Through this measure, we are removing the pitfalls involved in this type of purchase and increasing consumers' awareness as to their needs and rights," the Governor said.

Under the bill, the Commissioner will set standards to:

- simplify language, terms and coverages to make policies and policy comparisons easier for consumers to understand;
- eliminate misleading or confusing provisions dealing with the purchase of policies or the settlement of claims;
- eliminate deceptive sales practices;
- eliminate provisions contrary to the health care needs of the public, such as those dealing with policies insuring an individual against one specific disease only;

-more-

-- eliminate coverages which are so limited in scope as to be of no substantial value to the policy holders;

-- eliminate unfair renewal practices.

The regulations, which are to be drafted and publicized by the Department of Insurance within 60 days, must be approved by concurrent resolution in the Legislature.

One hundred twenty days after the effective date of each regulation adopted under the bill, all policies previously filed with the Commissioner of Insurance which are not in compliance with that regulation will be withdrawn from filing and disapproved, and companies could no longer continue to sell them. All new policies would have to be filed with the Commissioner.

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