

CHAPTER 255—S.F.No. 2342

An act relating to commerce; regulating auto insurance claims practices; amending Minnesota Statutes 2010, sections 65B.54, subdivision 6; 609.612, subdivision 1.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2010, section 65B.54, subdivision 6, is amended to read:

Subd. 6. **Unethical practices.** (a) A licensed health care provider shall not initiate direct contact, in person, over the telephone, or by other electronic means, with any person who has suffered an injury arising out of the maintenance or use of an automobile, for the purpose of influencing that person to receive treatment or to purchase any good or item from the licensee or anyone associated with the licensee. This subdivision prohibits such direct contact whether initiated by the licensee individually or on behalf of the licensee by any employee, independent contractor, agent, or third party, including a capper, runner, or steerer, as defined in section 609.612, subdivision 1, paragraph (c). This subdivision does not apply when an injured person voluntarily initiates contact with a licensee.

(b) This subdivision does not prohibit licensees, or persons acting on their behalf, from mailing advertising literature directly to such persons, so long as:

(1) the word "ADVERTISEMENT" appears clearly and conspicuously at the beginning of the written materials;

(2) the name of the individual licensee appears clearly and conspicuously within the written materials;

(3) the licensee is clearly identified as a licensed health care provider within the written materials; and

(4) the licensee does not initiate, individually or through any employee, independent contractor, agent, or third party, direct contact with the person after the written materials are sent.

(c) This subdivision does not apply to:

(1) advertising that does not involve direct contact with specific prospective patients, in public media such as telephone directories, professional directories, ads in newspapers and other periodicals, radio or television ads, Web sites, billboards, mailed or electronically transmitted communication, or similar media if such advertisements comply with paragraph (d);

(2) general marketing practices, other than those described in clause (1), such as giving lectures; participating in special events, trade shows, or meetings of organizations; or making presentations relative to the benefits of ~~chiropractic~~ a specific medical treatment;

(3) contact with friends or relatives, or statements made in a social setting;

(4) direct contact initiated by an ambulance service licensed under chapter 144E, a medical response unit registered under section 144E.275, or by the emergency department of a hospital licensed under chapter 144, for the purpose of rendering emergency care; or

(5) a situation in which the injured person:

(i) had a prior professional relationship with the licensee;

(ii) has selected that licensee as the licensee from whom the injured person receives health care; or

(iii) has received treatment related to the accident from the licensee.

(d) For purposes of this paragraph, "legal name," for an individual means the name under which an individual is licensed or registered as a health care professional in Minnesota or an adjacent state, and for a business entity, a name under which the entity is registered with the secretary of state in Minnesota or an adjacent state, so long as the name does not include any misleading description of the nature of its health care practice; and "health care provider" means an individual or business entity that provides medical treatment of an injury eligible as a medical expense claim under this chapter. In addition to any laws governing, or rules adopted by, a health care provider licensing board, any solicitation or advertisement for medical treatment, or for referral for medical treatment, of an injury eligible for treatment under this chapter must: (1) be undertaken only by or at the direction of a health care provider; (2) prominently display or reference the legal name of the health care provider; (3) display or reference the license type of the health care provider, or in the case of a health care provider that is a business entity, the license type of all of the owners of the health care provider but need not include the names of the owners; (4) not contain any false, deceptive, or misleading information, or misrepresent the services to be provided; (5) not include any reference to the dollar amounts of the potential benefits under this chapter; and (6) not imply endorsement by any law enforcement personnel or agency.

(e) A violation of this subdivision is grounds for the licensing authority to take disciplinary action against the licensee, including revocation in appropriate cases.

EFFECTIVE DATE. This section is effective January 1, 2013.

Sec. 2. Minnesota Statutes 2010, section 609.612, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the meanings given.

(b) "Public media" means telephone directories, professional directories, newspapers and other periodicals, radio and television, billboards, and mailed or electronically transmitted written communications that do not involve in-person contact with a specific prospective patient or client.

(c) "Runner," "capper," or "steerer" means a person who for a pecuniary gain directly procures or solicits prospective patients or clients through telephonic, electronic, or written communication, or in-person contact, at the direction of, or in cooperation with, a health care provider when the person knows or has reason to know that the provider's purpose is to ~~fraudulently~~ perform or obtain services or benefits under or relating to a contract of motor vehicle insurance. The term runner, capper, or steerer does not include a person who solicits or procures clients either through public media, or consistent with the requirements of section 65B.54, subdivision 6.

EFFECTIVE DATE. This section is effective January 1, 2013.

Presented to the governor April 26, 2012

Signed by the governor April 30, 2012, 11:05 a.m.