

SENATE
STATE OF MINNESOTA
EIGHTY-SEVENTH LEGISLATURE

S.F. No. 2342

(SENATE AUTHORS: GAZELKA)

DATE	D-PG	OFFICIAL STATUS
03/08/2012	4245	Introduction and first reading Referred to Commerce and Consumer Protection
03/19/2012		Comm report: To pass as amended Second reading

1.1 A bill for an act
1.2 relating to commerce; regulating auto insurance claims practices; amending
1.3 Minnesota Statutes 2010, sections 65B.54, subdivision 6; 609.612, subdivision 1.

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

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

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

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

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

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

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

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

2.4 (c) This subdivision does not apply to:

2.5 (1) advertising that does not involve direct contact with specific prospective patients,
2.6 in public media such as telephone directories, professional directories, ads in newspapers
2.7 and other periodicals, radio or television ads, Web sites, billboards, or similar media;

2.8 (2) general marketing practices such as giving lectures; participating in special
2.9 events, trade shows, or meetings of organizations; or making presentations relative to the
2.10 benefits of ~~chiropractic~~ a specific medical treatment;

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

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

2.15 (5) a situation in which the injured person:

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

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

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

2.20 (d) Any solicitations or advertisements for medical treatment of an injury arising
2.21 out of the maintenance or use of an automobile shall only be undertaken by a Minnesota
2.22 licensed health care provider using the licensee's own legal name and the legal name of
2.23 the licensee's clinic. The advertisement or solicitation shall not include an assumed or
2.24 fictional name for the licensee or clinic. The licensee's legal name or the legal name of
2.25 the licensee's clinic must be prominently displayed or referenced in the solicitation or
2.26 advertisement. The legal name of a provider's clinic shall accurately describe the nature of
2.27 its practice and shall not include a telephone number, Internet address, or other misleading
2.28 description of the provider.

2.29 (e) A violation of this subdivision is grounds for the licensing authority to take
2.30 disciplinary action against the licensee, including revocation in appropriate cases. In
2.31 addition, charges for any services provided by a health care provider in violation of this
2.32 subdivision are not compensable and not enforceable as a matter of law. In any action
2.33 challenging whether such charges are in violation of this subdivision, a reparation obligor
2.34 may initiate or remove such an action directly to district court.

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

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

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

3.7 (c) "Runner," "capper," or "steerer" means a person who for a pecuniary
3.8 gain procures ~~patients or clients~~ or solicits prospective patients through telephonic
3.9 communication, written communication, or in-person contact at the direction of, or in
3.10 cooperation with, a health care provider when the person knows or has reason to know that
3.11 the provider's purpose is to ~~fraudulently~~ perform or obtain services or benefits under or
3.12 relating to a contract of motor vehicle insurance. The term runner, capper, or steerer does
3.13 not include a ~~person~~ licensed health care provider who directly procures clients through
3.14 public media only using its own legal name.