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Bill Analysis
Legislative Service Commission

Sub. S.B. 40

126th General Assembly
(As Passed by the Senate)

Sens. Jordan, Spada, Gardner, Schuler, Schuring, Hagan

BILL SUMMARY

- Prohibits soliciting chiropractic business related to an accident or workers' compensation claim in person, by telephone, or by facsimile transmission, within 30 days of the occurrence of the accident or filing of the claim.
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CONTENT AND OPERATION

Waiting period for certain chiropractic solicitations

(R.C. 4734.162)

The bill prohibits a chiropractor from soliciting chiropractic business related to an accident or claim for workers' compensation by contacting the residence or workplace of a victim of the accident, the claimant, or a relative of the victim or claimant sooner than 30 days after the occurrence of the accident or filing of the claim, either in person or by telephone or facsimile transmission. The bill also prohibits a chiropractor from having an agent contact the victim, claimant, or relative by any of those means during the same period.

The bill defines "accident" as an unplanned incident that results in physical injury to an individual. The accident may involve a motor vehicle, other transportation, or machinery, or the accident may be a disaster, or any similar incident. "Agent" is defined as any person who represents or acts on behalf of a chiropractor, including a chiropractor's employer, employee, or representative. "Telephone" is identified as including any form of verbal communication through electronic means.

The bill specifies that it does not prohibit a chiropractor or agent from engaging in written solicitation of chiropractic business by direct mail or electronic mail sent to a victim of an accident, a claimant, or a relative of the

victim or claimant within the first 30 days following the occurrence of the accident or the filing of the workers' compensation claim.

COMMENT

In 2000, the 123rd General Assembly enacted comprehensive revisions to the laws governing the powers and duties of the State Chiropractic Board. The legislation included a provision specifying that the rule-making authority granted to the Board was not to be construed as allowing the Board ". . . to prohibit or restrict commercial speech by time, place, or medium of solicitation on behalf of chiropractors" (Section 5 of Sub. H.B. 506).

In 2003, the Board adopted rules governing all forms of advertising and solicitation. In the case of telephonic solicitations, the rules identify the following activities as abusive telemarketing acts (O.A.C. 4734-9-02):

- (1) Use of threats, intimidation, or profane or obscene language;
- (2) Calling repeatedly with intent to annoy, abuse, or harass;
- (3) Calling when the person has stated a desire not to receive telephone calls made by or on behalf of the seller;
- (4) Calling a residence before 8 a.m. or after 9 p.m.;
- (5) Requiring an immediate response to the offer being made;
- (6) Failure to disclose within the first 60 seconds the solicitor's identity and the practice on whose behalf the solicitation is being made, the purpose of the call, a statement of the good or services being sold, and that no purchase or payment is necessary to participate in a promotion if a promotion is offered;
- (7) Misrepresenting the solicitor's affiliation with, or endorsement by, any government or third-party organization;
- (8) Communicating with prospective patients in a way that invades privacy or interferes with an existing relationship between a doctor and patient.

HISTORY

ACTION	DATE
Introduced	01-26-05
Reported, S. Health, Human Services & Aging	10-20-05
Passed Senate (28-3)	10-26-05

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