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**By: Delegate Frank**

Introduced and read first time: February 2, 1996

Assigned to: Economic Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Insurance - Fraudulent Acts - Professionals**

3 FOR the purpose of making it a fraudulent insurance act for any person, for personal  
4 gain, to solicit another person injured by or in a motor vehicle to sue or retain a  
5 lawyer to represent that person in a lawsuit or to seek care from a health care  
6 practitioner; making it a fraudulent insurance act for any health care practitioner or  
7 lawyer to compensate another person to solicit or attempt to solicit clients for the  
8 health care practitioner or lawyer; requiring the Insurance Fraud Division of the  
9 Maryland Insurance Administration to notify certain professional licensing boards  
10 of evidence of insurance fraud under certain circumstances; limiting written  
11 communications by lawyers to prospective clients under certain circumstances;  
12 requiring certain health professional licensing boards to revoke the license of any  
13 licensee convicted of certain insurance fraud; and generally relating to fraudulent  
14 insurance acts and certain professionals.

15 BY repealing and reenacting, with amendments,  
16 Article 48A - Insurance Code  
17 Section 233(f) and (g) and 233AC  
18 Annotated Code of Maryland  
19 (1994 Replacement Volume and 1995 Supplement)

20 BY adding to  
21 Article - Business Occupations and Professions  
22 Section 10-605.1  
23 Annotated Code of Maryland  
24 (1995 Replacement Volume and 1995 Supplement)

25 BY adding to  
26 Article - Health Occupations  
27 Section 3-317, 8-320, 12-318, 13-320, 14-416, and 15-316  
28 Annotated Code of Maryland  
29 (1994 Replacement Volume and 1995 Supplement)

30 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
31 MARYLAND, That the Laws of Maryland read as follows:

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1           **Article 48A - Insurance Code**

2 233.

3           (f) IT SHALL BE A FRAUDULENT INSURANCE ACT FOR:

4                   (1) ANY PERSON, FOR PERSONAL GAIN, TO SOLICIT A PERSON INJURED  
5 BY OR IN A MOTOR VEHICLE, TO SUE OR RETAIN A LAWYER TO REPRESENT THAT  
6 PERSON IN A LAWSUIT;

7                   (2) ANY PERSON, FOR PERSONAL GAIN, TO SOLICIT A PERSON INJURED  
8 BY OR IN A MOTOR VEHICLE TO SEEK CARE FROM A HEALTH CARE PRACTITIONER;  
9 AND

10                  (3) ANY HEALTH CARE PRACTITIONER OR LAWYER TO EMPLOY,  
11 DIRECTLY OR INDIRECTLY, OR IN ANY WAY COMPENSATE ANY PERSON FOR THE  
12 PURPOSE OF HAVING THAT PERSON SOLICIT OR ATTEMPT TO SOLICIT CLIENTS FOR  
13 THE LAWYER OR HEALTH CARE PRACTITIONER.

14           (G) (1) (i) A person convicted of violating SUBSECTION (F) OF THIS  
15 SECTION, OR any OTHER provision of this section where the claim or act that is the  
16 subject of the fraud has a value of \$300 or greater is guilty of a felony and for each such  
17 violation shall restore to the victim the property taken or the value of the property taken  
18 and shall be fined as described in paragraph (2) of this subsection or be imprisoned for  
19 not more than 15 years or both.

20                   (ii) A person convicted of any of the provisions of this section where  
21 the claim or act that is the subject of the fraud has a value of under \$300 is guilty of a  
22 misdemeanor and shall restore to the victim the property taken or the value of the  
23 property taken and shall be fined as described in paragraph (2) of this subsection or be  
24 imprisoned for not more than 18 months or both.

25           (2) In addition to the penalties provided in paragraph (1) of this subsection:

26                   (i) A person convicted of violating any provision of subsection (b) of  
27 this section shall for each such violation be subject to a fine, the maximum of which shall  
28 not exceed three times the value of the claim or act that is the subject of the fraud or  
29 \$10,000, whichever is greater, and the minimum of which shall be \$500.

30                   (ii) A person convicted of violating any provision of subsection (c), (d),  
31 [or] (e), OR (F) of this section is for each such violation subject to a fine not to exceed  
32 \$10,000.

33           (3) (I) The penalties imposed under this section may be imposed separate  
34 from and consecutive to or concurrent with a sentence for any other offense based upon  
35 the act or acts establishing a violation of this section.

36           (II) EACH ACT OF SOLICITATION UNDER SUBSECTION (F) OF THIS  
37 SECTION SHALL CONSTITUTE A SEPARATE VIOLATION FOR THE PURPOSES OF  
38 PENALTIES IMPOSED UNDER THIS SUBSECTION.

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1 [(g)] (H) Notwithstanding any other provision of law, a penalty imposed for a  
2 violation pursuant to subsection [(f)(2)] (G)(2) of this section shall be mandatory and not  
3 subject to suspension.

4 233AC.

5 The Insurance Fraud Division shall:

6 (1) Have the authority to investigate any person suspected of engaging in  
7 insurance fraud;

8 (2) Where appropriate after an investigation[, refer]:

9 (I) REFER suspected cases of insurance fraud to the Office of the  
10 Attorney General or the appropriate local State's Attorney to criminally prosecute a  
11 person for insurance fraud; AND

12 (II) NOTIFY THE APPROPRIATE PROFESSIONAL LICENSING BOARD  
13 OR DISCIPLINARY BODY OF EVIDENCE OF INSURANCE FRAUD INVOLVING  
14 PROFESSIONALS;

15 (3) Compile and abstract information that includes the number of  
16 confirmed acts of insurance fraud and the type of acts of insurance fraud;

17 (4) In exercising its authority under this subtitle, cooperate with the  
18 Department of State Police, the Office of the Attorney General, the local State's  
19 Attorney in the jurisdiction in which the alleged acts of insurance fraud took place and  
20 appropriate local and federal law enforcement authorities;

21 (5) Operate or provide for a toll-free insurance fraud hot line for the  
22 purpose of receiving and recording information on alleged acts of insurance fraud; and

23 (6) In cooperation with the Office of the Attorney General and the  
24 Department of State Police, conduct public outreach and awareness programs on the  
25 costs of insurance fraud to the public.

26 **Article - Business Occupations and Professions**

27 10-605.1.

28 A LAWYER MAY NOT SEND A WRITTEN COMMUNICATION, DIRECTLY OR  
29 THROUGH AN AGENT, TO A PROSPECTIVE CLIENT FOR THE PURPOSE OF OBTAINING  
30 PROFESSIONAL EMPLOYMENT IF THE COMMUNICATION CONCERNS AN ACTION FOR  
31 PERSONAL INJURY OR WRONGFUL DEATH, OR OTHERWISE RELATES TO AN  
32 AUTOMOBILE ACCIDENT INVOLVING THE PERSON TO WHOM THE COMMUNICATION  
33 IS ADDRESSED OR THE PERSON'S RELATIVE, UNLESS THE ACCIDENT OCCURRED  
34 MORE THAN 30 DAYS BEFORE THE DATE THE COMMUNICATION IS MAILED.

35 **Article - Health Occupations**

36 3-317.

37 (A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, THE  
38 BOARD SHALL REVOKE THE LICENSE OF ANY LICENSEE CONVICTED OF INSURANCE  
39 FRAUD UNDER ARTICLE 48A, § 233 OF THE CODE.

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1 (B) WITH RESPECT TO ANY MATTER REFERRED TO THE BOARD UNDER  
2 ARTICLE 48A, § 233AC(2)(II) OF THE CODE, THE BOARD SHALL REPORT IN WRITING  
3 TO THE INSURANCE FRAUD UNIT:

4 (1) THE FINAL DISPOSITION OF THE MATTER; AND

5 (2) IF NO DISCIPLINARY ACTION IS TAKEN, THE REASON WHY SUCH  
6 ACTION WAS NOT TAKEN.

7 8-320.

8 (A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, THE  
9 BOARD SHALL REVOKE THE LICENSE OF ANY LICENSEE CONVICTED OF INSURANCE  
10 FRAUD UNDER ARTICLE 48A, § 233 OF THE CODE.

11 (B) WITH RESPECT TO ANY MATTER REFERRED TO THE BOARD UNDER  
12 ARTICLE 48A, § 233AC(2)(II) OF THE CODE, THE BOARD SHALL REPORT IN WRITING  
13 TO THE INSURANCE FRAUD UNIT:

14 (1) THE FINAL DISPOSITION OF THE MATTER; AND

15 (2) IF NO DISCIPLINARY ACTION IS TAKEN, THE REASON WHY SUCH  
16 ACTION WAS NOT TAKEN.

17 12-318.

18 (A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, THE  
19 BOARD SHALL REVOKE THE LICENSE OF ANY LICENSEE CONVICTED OF INSURANCE  
20 FRAUD UNDER ARTICLE 48A, § 233 OF THE CODE.

21 (B) WITH RESPECT TO ANY MATTER REFERRED TO THE BOARD UNDER  
22 ARTICLE 48A, § 233AC(2)(II) OF THE CODE, THE BOARD SHALL REPORT IN WRITING  
23 TO THE INSURANCE FRAUD UNIT:

24 (1) THE FINAL DISPOSITION OF THE MATTER; AND

25 (2) IF NO DISCIPLINARY ACTION IS TAKEN, THE REASON WHY SUCH  
26 ACTION WAS NOT TAKEN.

27 13-320.

28 (A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, THE  
29 BOARD SHALL REVOKE THE LICENSE OF ANY LICENSEE CONVICTED OF INSURANCE  
30 FRAUD UNDER ARTICLE 48A, § 233 OF THE CODE.

31 (B) WITH RESPECT TO ANY MATTER REFERRED TO THE BOARD UNDER  
32 ARTICLE 48A, § 233AC(2)(II) OF THE CODE, THE BOARD SHALL REPORT IN WRITING  
33 TO THE INSURANCE FRAUD UNIT:

34 (1) THE FINAL DISPOSITION OF THE MATTER; AND

35 (2) IF NO DISCIPLINARY ACTION IS TAKEN, THE REASON WHY SUCH  
36 ACTION WAS NOT TAKEN.

5

1 14-416.

2 (A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, THE  
3 BOARD SHALL REVOKE THE LICENSE OF ANY LICENSEE CONVICTED OF INSURANCE  
4 FRAUD UNDER ARTICLE 48A, § 233 OF THE CODE.

5 (B) WITH RESPECT TO ANY MATTER REFERRED TO THE BOARD UNDER  
6 ARTICLE 48A, § 233AC(2)(II) OF THE CODE, THE BOARD SHALL REPORT IN WRITING  
7 TO THE INSURANCE FRAUD UNIT:

8 (1) THE FINAL DISPOSITION OF THE MATTER; AND

9 (2) IF NO DISCIPLINARY ACTION IS TAKEN, THE REASON WHY SUCH  
10 ACTION WAS NOT TAKEN.

11 15-316.

12 (A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, THE  
13 BOARD SHALL REVOKE THE LICENSE OF ANY LICENSEE CONVICTED OF INSURANCE  
14 FRAUD UNDER ARTICLE 48A, § 233 OF THE CODE.

15 (B) WITH RESPECT TO ANY MATTER REFERRED TO THE BOARD UNDER  
16 ARTICLE 48A, § 233AC(2)(II) OF THE CODE, THE BOARD SHALL REPORT IN WRITING  
17 TO THE INSURANCE FRAUD UNIT:

18 (1) THE FINAL DISPOSITION OF THE MATTER; AND

19 (2) IF NO DISCIPLINARY ACTION IS TAKEN, THE REASON WHY SUCH  
20 ACTION WAS NOT TAKEN.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
22 October 1, 1996.