Bill as Introduced

HB 472 – AS INTRODUCED

2003 SESSION

03-0752
01/09

HOUSE BILL ***472***

AN ACT relative to health insurance terminology.

SPONSORS: Rep. Gilman, Graf 9; Rep. Ingbretson, Graf 13; Rep. Buhlman, Hills 66; Rep. Sorg, Graf 11; Sen. Martel, Dist 18

COMMITTEE: Commerce

ANALYSIS

This bill prohibits health insurance companies from using certain misleading terminology.

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 472 – AS INTRODUCED

03-0752
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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Three

AN ACT relative to health insurance terminology.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 New Section; Insurers; Misleading Terminology Prohibited. Amend RSA 400-A by inserting after section 15-a the following new section:

400-A:15-b Misleading Terminology Prohibited.

I. Health insurers which currently use the term "managed care" shall be prohibited from using the term "care" in the description of their own services. Other insurance terms such as "coverage" are acceptable.

II. The term, "care" shall be reserved for those who actually provide direct service to the patients, with the rights and responsibilities of those practices.

III. The provisions of this section shall apply to group hospital and medical expense policies subject to RSA 415, group health service plan contracts issued pursuant to RSA 420-A, and health maintenance organization policies and plans issued pursuant to RSA 420-B.

2 Effective Date. This act shall take effect 60 days after its passage.

Speakers

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # HB 472 Date 2-5-03

Committee Commerce

** Please Print All Information **

Name	Address	Phone	Representing	Pro	Con
SEN. ANDRÉ A. MARTEL	237 RIVERDALE AVE. MAN. N.H. 03103	622-8411 271-8567	Constituents	✓	

Hearing Minutes

HOUSE COMMITTEE ON COMMERCE

PUBLIC HEARING ON HB 472

BILL TITLE: relative to health insurance terminology.

DATE: February 5, 2003

LOB ROOM: 302 **Time Public Hearing Called to Order:** 1:15 pm

Time Adjourned: 1:45 pm

(please circle if present)

Committee Members: Reps. Hunt, L. Fraser, Francoeur, Belanger, Langley, DiFruscia, D. Flanders, Spiess, Holden, Lield, Quandt, Charles Clark, Brady, Scamman, Stepanek, Reardon, Kathleen Taylor, Meader, DeStefano, Vachon and Kopka

Bill Sponsors: Reps. Gilman, Ingbretson, Buhlman, Sorg and Sen. Martel

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

***Rep. Mike Gilman, prime sponsor** – This is the first of three bills that I will introduce today. See written testimony.

***Dr. Deborah Warner, representing self** – Supports the bill. See written testimony, page 4, subparagraph VI, Insurance Terminology.

Q: Rep. Leo Fraser – Is it true that all those professionals who represent the insurance companies on questions of managed care are licensed medical professionals?

A: My experience is that the people I actually deal with on a daily basis are not medical professionals, and that a doctor or nurse cannot in fact, provide care if they have not seen the patient.

Q: Chairman John Hunt – How are consumers actually hurt by the nomenclature we use?

A: We all have a concept of what managed care is, but it varies from person to person, and individuals are confused about who actually delivers the care (the physicians or the insurance companies).

Q: Rep. Anthony DiFruscia – Is there any other state that does not use the term managed care as we know it?

A: No, but I am confidant that New Hampshire can lead the way.

Yvonne Nanasi, BC/BS ANTHEM – We oppose the bill, but we do not necessarily disagree with the points that Dr. Warner is making. If we were to take the term "care" out of every document, there would be a huge cost in time and dollars that would be borne by the policy holder.

Respectfully Submitted:

Paul D. Spiess, Clerk

Sub-Committee Actions

HOUSE COMMITTEE ON COMMERCE

SUBCOMMITTEE WORK SESSION ON HB 472

BILL TITLE: relative to health insurance terminology.

DATE: March 10, 2003

Subcommittee Members: Reps. Liebl, Kopka and Brady

Comments and Recommendations: Rep. Liebl opened the discussion. Rep. Gilman requested the committee ITL the bill.

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Liebl

Seconded by Rep. Kopka

Vote: 3-0

Respectfully submitted,

Rep. George J. Liebl
Subcommittee Chairman/Clerk

Testimony

Sponsor: Rep. Michael Gilman 444-1512 email: Mgilman@ncia.net
Spokesperson: Dr. Deborah Warner, Littleton (social security number withheld).

I. Health Insurance Bills HB 470, HB 471, HB 472

Health Insurance reform has much public support. Yet reasonable practices must prevail. Unfortunately, in the current market, there is an imbalance, with insurance companies dictating procedures as they choose, demanding more labor intensive and costly adherence requirements to the silenced providers while also cutting back on reimbursements. In the end, the consumer suffers with no voice, less choice in health care, and higher costs. These bills address these issues in a fair and balanced fashion, providing a voice to all stakeholders in the process and providing reasonable methods for assessing system wide problems and methods for fair feedback.

II. "Any Willing Provider"

HB 470 would require that insurance companies allow open enrollment of doctors, which would improve access to medical care, and would allow doctors to be better advocates for their patients without fear of reprisals by the insurance carrier.

A. Increased supply of doctors
    1. Expand consumer choice
        a) More doctors in insurance plan
        b) More doctors will move here due to open market
    2. Lower costs through competition
    3. Competition stimulates quality delivery

B. Improved access to care
    1. More readily available appointments
    2. More use of preventive care
    3. Rural areas with adequate coverage and improved access
    4. Preventive care improving health and reducing more expensive medical interventions later

C. Doctors free to practice and advocate for proper patient care
    1. Without threat of being terminated from panels and jeopardizing economic survival
    2. Able to order appropriate tests for diagnosis and recommend appropriate treatment
        a) Saving lives - & not finding out 2 weeks before death that someone has colon cancer

D. Restraint of Trade
    1. American business methods do not endorse one group imposing unfair restrictions on the practice and business of another group of businesses

III. Privacy Clause

HB 470 deals with insurance company relationships with doctors. It includes a privacy clause to keep the insurance company from disclosing personal private information about doctors to patients. Information such as the doctor's social security number, home address and telephone and such similar information.

A. HB 470 Protects secure access to patient records and prevents breaches, it protects patient confidentiality

B. HB 470 Protects doctors from identity theft, where others might use the doctor's identity for criminal purposes or financial fraud

C. HB 470 Protects doctors from invasion of privacy

1. I.e., phone & utility records, financial data
2. Family and children's security

D. HB 470 Protects doctors from stalking by high risk patients

IV. Cost Containment

HB 471 addresses the cost containment practices of the insurance companies and provides reasonable limitations on such practices so that they do not interfere with the conduct of the provider's care.

A. Making insurance review process a reasonable inquiry about patient response to care, not micro-managing a competent doctor's care

B. Spacing of reviews to coincide with average response to treatment for given diagnoses or classes thereof

C. Cost to consumer

1. Doctors of various specialties spend considerable time writing treatment reports and tracking "authorizations" for care
2. This is uncompensated time thus it raises the cost of other medical services

D. Privacy Implications

1. For most patients responding to treatment, very little detail needs to be transmitted to the insurance company.

Most patients will respond to treatment within the initial coverage unit. Thus for most patients, very little personal medical information would be shared with the insurance carrier because detailed treatment care plans would not be necessary.

2. Under this legislation, less than half of patients receiving monitored services would be subject to detailed review.

Although all insured patients sign a waiver to allow the transfer of information, it is best to keep the scope and frequency of transmitted information at a minimum, for the benefit of privacy. The utility of sharing information is only pertinent for those whose response to treatment is sluggish or using extra financial resources.

V. Insurance Advisory Board for the Insurance Commissioner

HB 471 would create an advisory board to the insurance Commissioner, finally giving a voice to consumers and providers to discuss pressing issues with insurance providers who have long had the upper hand in the arena, and to bring forward issues of practice to the Commissioner for action. The advisory board created by HB 471 would also report back annually to the legislature concerning the state of insurance issues and recommend further action as needed.

A. Nearly every other major issue and regulatory agency has an advisory board.

1. These collaborative boards are constructed to represent the "stakeholders" affected by a particular regulation or issue. Thus most

boards are comprised of representatives of parties that regulate, those who are regulated and consumers

2. In NH, there are many more than 50 advisory and regulatory boards for various issues from electrical supply, to beauticians and barbers, to rehabilitative services, and college and university systems, & you name it.

3. This advisory process is done because it is considered a good way to discuss issues and balance the perspectives and needs of these parties.

    a) The focus is to deal with the practical application of rules, regulations, and practices, providing informed feedback and to generate reasonable solutions.

    b) It is considered important to have balance of input by stakeholders so that one or another faction does not have undue influence on the process of the system.

4. Health care is one of the major pressing issues in America today.

    a) In ratings polls, it is in top three election issues, and moves into first place at some times.

    b) Such an important issue should not leave the stakeholders without a voice.

5. Health care is changing rapidly and needs a responsive process to deal with its regulation, with rapid feedback and depth of input.

    a) Medical practices have changed dramatically in last 20, 10 and even 5 years.

        (1) Economics: Doctors have had to hire new divisions of staff to deal with insurance company demands on time and tracking

        (2) Ethics: End of life issues have changed greatly with complicated care and economic impact

        (3) Availability: E.g., Some expensive treatments are now affordable such as AIDs medications

    b) Insurance companies have restructured and shifted risks and costs into new areas

        (1) Non-profits have become for-profits

        (2) Companies are limiting procedures

        (3) There are fewer insurance companies based in NH

        (4) Companies are looking for all possible ways to curtail costs and keep premiums low

    c) Consumers must deal with access and quality issues

        (1) Affordable insurance and health care are high priorities

        (2) Access to local doctors who have available appointments is necessary for adequate care

        (3) Faith in doctor's care is essential to trust that all appropriate tests and procedures will be used to deliver quality care

(4) In current system, the consumer is dis-empowered, i.e. see movie John Q, many people found they could relate to this film—as the desperate acts of being alienated from the process

d) All three groups need to work together to bring about successful and practical solutions

(1) Finding NH solutions to address our widely acknowledged "health care crisis"

(2) Empowering consumers and providers and insurers with regulators in balanced input to address regulatory issues in a practical manner

(3) Each of these groups: consumers, providers and insurers-- invited to this board is missioned to support the well being of each other. Their goal shall be to advise the Commissioner with suggestions of local NH solutions at reasonable cost for quality care that is sustainable for providers and insurers and affordable for consumers.

VI. Insurance Terminology

HB 472, would prohibit insurance companies from using misleading terminology that confuses people about their actual role in medicine. Under HB 472, insurance companies would be prohibited from using terms such as "Managed Care," since they do not provide care nor actually manage any care, as care is managed and provided by doctors, nurses and hospitals, but not by insurance companies. Insurance companies issue units of insurance to cover such services, but do NOT provide care nor are they licensed to manage one's medical care.

A. "Care"

1. The term "CARE" in the medical field is widely understood to mean the provision of services to benefit the patient.
2. Insurance companies have co-opted this term in their attempt to insinuate themselves into the decision structure of the doctor's provision of care.
3. The use of the term CARE by insurance companies confuses the public about who is in charge of their care.
   a) The insurance company manages risk not care.
   b) It is the doctor who manages your care.

B. "Authorize"

1. In truth, it is only the patient who authorizes the doctor to deliver care or treatment.
2. The insurance company in truth does not authorize treatment, but issues coverage units.
   a) The insurance companies currently call their coverage units "treatment authorizations."
   b) In truth, once the patient has consented to the doctor's care, it is the doctor who then authorizes further treatments and tests under their license to practice that specialty on behalf of patients who have given their consent for care

C. What do Insurance companies manage then?

1. Risk is not managed individually.
   Insurance companies manage risk in their actuarial tables and setting of insurance rates. Their issuance of insurance units for covered services is unrelated to their managing of risk, which is done over the entire population and on an annual basis prior to contract renewals.
2. Insurance companies review utilization rates and compare practices to population averages.
   There is no way for a mathematical formula to administer medicine, nor should it dictate a particular patient's care.
3. How can they reasonably contain costs?
   a) They may place limitations on particular services by contract.
   b) They may investigate fraud.
   c) They could make unobtrusive reviews of patient progress for slow-responding or intractable cases, in streamlined peer review formats, by other licensed practitioners who can understand individual patient response.

VII. Conclusion

Being heard is important to all people. The words we use to define ourselves and our actions have great impact on how we react, what we see as our duty and what we will do to remedy problems. Certain words are relevant to the field of medicine. Health Care is a responsibility for individually licensed practitioners subject to professional standards. Insurance's cost/risk containment is a serious responsibility to shareholders and society. Honesty in representation is essential to solve these issues in truth. Access to impacting the system -- by each affected party – the consumer, the provider, the insurer, -- is the only method that will result in balance.

These bills address a system that is out of balance to set it back right again. Speaking the truth, giving each party a voice, respecting privacy, honoring America's open market, working together on systemic problems -- will set our course for a better New Hampshire, a New Hampshire that will take the lead in bringing America ahead to a fair and affordable health care and a healthy economy that other states will emulate.

Voting Sheets

HOUSE COMMITTEE ON COMMERCE

EXECUTIVE SESSION on HB 472

BILL TITLE: **relative to health insurance terminology.**

DATE: March 18, 2003

LOB ROOM: 302

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

Motions: OTP, OTP/A, (ITL), Interim Study (Please circle one.)

Moved by Rep. Liebl

Seconded by Rep. Stepanek

Vote: 17-0 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: 17-0

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Paul D. Spiess, Clerk

OFFICE OF THE HOUSE CLERK

2003 SESSION

COMMERCE

Bill #: HB 472 **Title:**

PH Date: ____/____/____ **Exec Session Date:** ____/____/____

Motion: ITL **Amendment #:**

MEMBER	YEAS	NAYS
Hunt. John B. Chairman		
Fraser. Leo W. V Chairman	✓	
Francoeur. Sheila T	✓	
Belanger. Ronald J		
Langley. Jane S		
DiFruscia. Anthony R	✓	
Flanders. Donald H	✓	
Spiess. Paul D	✓	
Holden. Randolph N		
Liebl. George J	✓	
Quandt. Matthew J	✓	
Clark. Charles L	✓	
Brady. Mark A	✓	
Scamman. Stella	✓	
Stepanek. Stephen B	✓	
Reardon. Tara G	✓	
Taylor. Kathleen N	✓	
Meader. David R	✓	
DeStefano. Stephen T	✓	
Vachon. Dennis P	✓	
Kopka. Angeline A	✓	
	17	0
TOTAL VOTE:		

Printed: 1/6/2003

Committee Report

COMMITTEE REPORT

COMMITTEE: **Commerce**

BILL NUMBER: **HB 472**

TITLE: relative to health insurance terminology.

DATE: March 18, 2003 CONSENT CALENDAR YES ☒ NO ☐

☐ OUGHT TO PASS

☐ OUGHT TO PASS WITH AMENDMENT

☒ INEXPEDIENT TO LEGISLATE

☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

This proposed legislation would have prohibited the use of the term "managed care" or the term "care." The committee felt that the cost in time and money to change all documents would result in higher premiums to be paid by the policyholder.

Vote 17-0.

Rep. George J. Liebl
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

CONSENT CALENDAR

Commerce

HB 472, relative to health insurance terminology. **INEXPEDIENT TO LEGISLATE**

Rep. George J. Liebl for Commerce: This proposed legislation would have prohibited the use of the term "managed care" or the term "care." The committee felt that the cost in time and money to change all documents would result in higher premiums to be paid by the policyholder. **Vote 17-0.**

HB477 RELATIVE TO HEALTH INSURANCE TERMINOLOGY

REP. GEORGE J. LIEBL FOR COMMERCE

INEXPEDIENT TO LEGISLATE

THIS PROPOSED LEGISLATION WOULD HAVE PROHIBITED THE USE OF THE TERM "MANAGED CARE" OR THE TERM "CARE". THE COMMITTEE FELT THAT THE COST IN TIME AND MONEY TO CHANGE ALL DOCUMENTS WOULD RESULT IN HIGHER PREMIUMS TO BE PAID BY THE POLICYHOLDER.

17-0

