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NATIONAL COUNCIL OF INSURANCE LEGISLATORS (NCOIL)

Auto Insurance Fraud Model Act

Adopted by the NCOIL Executive Committee on July 22, 2006. Readopted by the Executive Committee on February 26, 2012, July 15, 2017 and July 16, 2022. **Sponsored by Sen. Neil Breslin (NY), Sen. William J. Larkin (NY), and Assem. Ivan Lafayette (NY)**

TITLE I – ANTI-RUNNER1

1. Definitions

As used in this section, the following terms have the meanings given.

(a) “Provider” means an attorney, health care professional, owner of a health care practice or facility, or any person employed or acting on behalf of any of the aforementioned persons.

(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 client.

(c) “Runner,” “capper,” or “steerer” means a person who for pecuniary benefit, whether directly or indirectly, or in cash or in kind, procures or attempts to procure a client, patient or customer at the direction of, request of, or in cooperation with a Provider whose intent is to seek to obtain benefits under a contract of insurance or to assert a claim against an insured or an insurer for providing services to the client, patient or customer. The term does not include a person who procures clients, patients or customers through the use of Public Media.

2. Whoever employs, uses, or acts as a Runner, Capper, or Steerer with the intent to falsely or fraudulently obtain benefits under a contract of insurance or to falsely or fraudulently assert a claim against an insured or an insurer for providing services to the client, patient or customer is guilty of a felony and may be sentenced to _____ and to a payment of a fine of not more than \$_____.

Drafting Note:

A state may wish to include a definition of “insurer” in order to correspond to the state’s insurance code or insurance fraud law, assuring that there is symmetry between the anti-runner law, the insurance fraud law, and the state insurance code.

TITLE II – STAGED ACCIDENTS

A person may not organize, plan, or knowingly participate in an intentional motor vehicle crash or a scheme to create documentation of a motor vehicle crash that did not occur for the purpose of making motor vehicle claims or claims for personal injury protection (PIP) benefits. Any person who violates this title commits a felony of the second degree. A person who is convicted of a violation of this title shall be sentenced to a minimum term of imprisonment of two (2) years.

TITLE III – RESTRICTION ON ACCESS TO ACCIDENT REPORTS

1. Crash reports that reveal the identity, home or employment telephone number or home or employment address of, or other personal information concerning the parties involved in the crash and that are held by any agency that regularly receives or prepares information from or concerning the parties to motor vehicle crashes are confidential and exempt for a period of 60 days after the date the report is filed.

2. (a) Crash reports held by an agency under Section 1 may be made immediately available to the parties involved in the crash; their legal representatives; their licensed insurance agents; their insurers or insurers to which they have applied for coverage; persons under contract with such insurers to provide claims or underwriting information; prosecutorial authorities; victim services programs; radio and television stations licensed by the Federal Communications Commission; newspapers qualified to publish legal notices; and free newspapers of general circulation, published once a week or more often, available and of interest to the public generally for the dissemination of news.

(b) For the purposes of this section, the following products or publications are not newspapers as referred to in this section: those intended primarily for members of a particular profession or occupational group; those with the primary purpose of distributing advertising; and those with the primary purpose of publishing names and other personal identifying information concerning parties to motor vehicle crashes.

3. Any local, state, or federal agency that is authorized to have access to crash reports by any provision of law shall be granted such access in the furtherance of the agency's statutory duties.

4. (a) As a condition precedent to accessing a crash report within 60 days after the date the report is filed, a person must present a valid driver's license or other photographic identification, proof of status, or identification that demonstrates his or her qualifications to access that information, and file a written sworn statement with the state or local agency in possession of the information stating that information from a crash report made confidential and exempt by this title will not be used for any commercial solicitation of accident victims, or knowingly disclosed to any third party for the purpose of such solicitation, during the period of time that the information remains confidential and exempt.

(b) In lieu of requiring the written sworn statement, an agency may provide crash reports by electronic means to third-party vendors under contract with one or more insurers,

but only when such contract states that information from a crash report made confidential and exempt by this title will not be used for any commercial solicitation of accident victims by the vendors, or knowingly disclosed by the vendors to any third party for the purpose of such solicitation, during the period of time that the information remains confidential and exempt, and only when a copy of such contract is furnished to the agency as proof of the vendor's claimed status.

5. This section does not prevent the dissemination or publication of news to the general public by any legitimate media entitled to access confidential and exempt information pursuant to this section.

6. (a) Any employee of a state or local agency in possession of information made confidential and exempt by this title who knowingly discloses such information under this section is guilty of a felony of the third degree.

(b) Any person, knowing that he or she is not entitled to obtain information made confidential and exempt by this title, who obtains or attempts to obtain such information is guilty of a felony of the third degree.

(c) Any person who knowingly uses confidential and exempt information in violation of a filed written sworn statement or contractual agreement required by this title commits a felony of the third degree.

TITLE IV – DRIVER'S LICENSE SUSPENSION

1. Any person convicted of the crime of insurance fraud while using a motor vehicle, or adjudicated as a juvenile delinquent or youthful offender that otherwise would be defined as insurance fraud if committed by an adult while using a motor vehicle, may have their license or registration suspended for one year.

2. Any fee to reinstate a driver's license or registration on account of a violation of Section 1 of this title shall be double that of the normal and regular fees charged for the reinstatement of any license or registration.

*1 Known separately as the Coalition Against Insurance Fraud/NCOIL Model Anti-Runners Fraud Bill.

*2 Based on Florida statute and New York State Senate bill.

*3 Based on Florida statute.

*4 Based on Florida and New York statutes.

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