

LEGAL UPDATE

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What the
Health Care Bill
Means for
Your Business

Health Care Bill

Two Statutes:

- The Patient Protection and Affordable Care Act
- The Health Care and Education Reconciliation Act

Health Care Bill

Two Questions:

- What does the bill require you to do?
- How could the bill benefit your business?

Health Care Bill

Requirements:

- Must provide notice to employees of health insurance options

Health Care Bill

Requirements:

- Starting 2014:
Employer Responsibility
 - >200 employees: required to automatically enroll employees in health insurance plan

Health Care Bill

Requirements:

- Starting 2014:
Employer Responsibility
 - >50 employees: must provide health insurance paying at least 60% of premiums, or face fines of up to \$2,000 per employee

Health Care Bill

Requirements:

- Starting 2014:
Employer Responsibility
- Employers with <50 full-time employees exempt from fines

Health Care Bill

Benefits

- Small Business Health Care Affordability Tax Credits
 - Starts Calendar Year 2010
 - Sliding scale tax credits to small employers with <25 employees and average annual wages of <\$50,000

Health Care Bill

- Full credit available to employers with <10 employees and average annual wages of \$25,000 or less
 - 2010-2013: credit of up to 35% of employer's contribution
 - 2014 and beyond: Eligible employers who purchase coverage through the Exchange can get up to 50% for 2 years

Health Care Bill

Benefits

- Small Business Health Care Affordability Tax Credits
 - To be eligible, employer must contribute at least 50% of total premium

Health Care Bill

Participation in Small Business Health Options Program (SHOP) Exchanges

- State-based programs for small businesses with up to 50 employees (some states up to 100 employees)

Health Care Bill

Participation in Small Business Health Options Program (SHOP) Exchanges

- Will provide choices among several standard benefit packages

Health Care Bill

Participation in Small Business Health Options Program (SHOP) Exchanges

- Web portals that allow small businesses to compare and purchase health insurance over the Internet
- Targeted for 2014



Bereaved Consumer's
Bill of Rights Act
H.R. 3655

Bereaved Consumer's Bill of Rights Act

- Requires FTC to develop a new Rule that would apply disclosure requirements in Funeral Rule to cemeteries and third-party retailers

Bereaved Consumer's Bill of Rights Act

- Prohibits “unfair or deceptive acts or practices in the provision of funeral goods *or* services.”

As a result, the new rule would cover cemeteries.

Bereaved Consumer's Bill of Rights Act

Pre-Need Requirements

- Bill would require all pre-paid funeral contracts to disclose:
 - Any future fees and costs that purchasers may incur
 - Any penalties for cancellation or transfer of the contract to another provider

Bereaved Consumer's Bill of Rights Act

Parents Patriae Actions

- Allows for enforcement by state attorneys general in federal court
- Can enjoin behavior and/or recover damages, restitution, or compensation

Bereaved Consumer's Bill of Rights Act

Parents Patriae Actions

- States must allow FTC to intervene, and may not sue named defendants in current FTC enforcement actions

Bereaved Consumer's Bill of Rights Act



Current Status



April 19
FTC Advisory Opinion
on Third-Party
Casket Deliveries

Third-Party Casket Deliveries

- Funeral Rule prohibits practices that “unreasonably burden a consumer’s choice to purchase an item from a third party”
- ***Avoid acts or practices that treat third-party casket retailers differently from your regular casket supplier***



Funeral Rule Violations

Funeral Rule Violations

- Requiring a consumer's presence at delivery
- Refusing to sign acknowledgement of delivery in consumer's absence
- Charging a fee for storage for delivery in advance of *at-need* disposition

Funeral Rule Violations

- Charging a fee for disposal of packaging



Funeral Rule Violations

Violations *if applied only to third party casket retailers:*

- Refusing to accept delivery more or less than a specified number of days in advance of use

Funeral Rule Violations

Violations if applied only to third party casket retailers:

- Refusing to accept delivery during regular business hours of 8 a.m. to 5 p.m. except by prior appointment (unless funeral home does not hold regular business hours)

Funeral Rule Violations

Violations if applied only to third party casket retailers:

- Refusing to accept delivery during regular business hours at a particular date and time, unless provider is unable to receive caskets from any provider during that time (for example, because the provider is conducting a funeral)

Funeral Rule Violations

- Withholding use of funeral provider's standard equipment, such as church trucks
- Disparagement of quality of third-party caskets, or misleading consumers about potential savings, *only if material representations are false, misleading or deceptive*

Funeral Rule Violations

- Refusal to help unload and remove from packaging does not necessarily violate rule, but providers may not “unreasonably impede” delivery



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