



# Beware of Unlicensed Health Plans!

Rising insurance premiums have made consumers vulnerable to sales pitches for cheap health insurance sold by unauthorized insurers. These entities/individuals often disseminate false information regarding the products they market and sell. Unsuspecting consumers who thought they were covered for their medical needs are left responsible for huge medical bills. Any new health insurance plan should be investigated thoroughly before buying it.

## **HOW CAN A CONSUMER TELL IF A HEALTH PLAN IS UNLICENSED AND ILLEGAL?**

Many of the unlicensed plans:

- 1. Claim to be exempt from state insurance laws under the Employee Retirement Income Security Act of 1974 known as ERISA.**

What is ERISA?

ERISA is the federal law that exempts self-insured health plans from most state regulation. The only plans exempt from ERISA are those established by an employer for the employer's own employees or by a union for its members. Any plan that provides coverage to more than one unrelated employer or group no longer qualifies for ERISA and **MUST** be licensed by the state.

Are ERISA plans sold by insurance agents?

**NO, legitimate ERISA plans ARE NOT MARKETED BY INSURANCE AGENTS.**

Don't be misled by an insurance company's name or logo on promotional materials for the plan. The reputable insurer may simply be providing administrative or stop loss coverage\*. Ask questions to clarify the reputable company's role. Contact the South Carolina Department Insurance if the agent or health plan being marketed has material that says the plan is an ERISA plan or "union" plan.

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### **What is Stop-Loss Insurance?**

Stop-Loss Insurance is coverage that pays only when claims exceed a certain amount.

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**2. Claim to be fully-funded\* or fully-insured\*, but the name of the carrier insuring or underwriting the product is not listed.**

Don't be embarrassed to ask hard questions about the plan being offered to you. Ask for the insurer's name and check the benefits booklet to see if it names a licensed insurer. Carefully examine the health plan's policy, summary plan description or administrative agreement. Sometimes a carrier is listed, but the company may not exist or is not insured. Ask your agent if the health coverage you are purchasing is fully-insured by licensed insurers. You can verify that an insurance company is backing the plan by contacting the company named as licensed insurer.

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What are Fully-Funded, Fully-Insured Insurance Plans?

A fully-funded or fully-insured plan indicates that the group pays their insurer a premium and in return all claims are paid by the insurer, subject to deductibles, co-pays and coverage limits.

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**3. Offer coverage with low or no minimum requirements for participation with unusually low premiums.**

Be distrustful of plans that accept applicants regardless of the applicant's health condition and offer generous benefits. Be skeptical of offers to waive printed underwriting guidelines, or plans with no underwriting guidelines. Also be wary of insurers that accept and cover individuals or groups with pre-existing conditions, even though the individuals or groups have no credible coverage.

**4. Are sold by agents selling insurance that use the terms "union plan" and require the consumer to join and pay dues to a trade, occupational or consumer "association," existing solely to obtain health coverage.**

Members of these "associations" do not control or sponsor the activities of the association, or are not given association bylaws or voting rights. These organizations do not engage in legitimate collective bargaining and exist only to market fraudulent health plans.

**5. Are sold by agents who say they do not need a license because the coverage is not insurance, or is exempt from regulation.**

Be distrustful if the agent trying to sell you coverage says he does not need a license. State and federal governments regulate health plans.

**6. Claim to be exempt from state regulation because of religious orientation or some other constitutional protection.**

State and federal governments regulate health plans.

**7. Avoid using insurance terminology, but rather refers to premiums as “contributions” and commissions as “consultant fees.”**

**WHAT SHOULD I LOOK FOR IN AN INSURANCE AGENT?**

Deal with reputable agents. Licensed agents may be duped into believing that illegal health plans are legitimate and then be recruited to sell them. These schemes routinely attempt to recruit as many local insurance agents as possible to market the coverage.

Be suspicious if the agent selling the policy does not have a commission schedule, a fixed commission, or if the agent’s commission rates are determined by the customer’s ability to pay. Be on the look out for agents who refer to themselves as “labor consultants,” or “business agents,” who try to “enroll” you in a plan that is only providing “benefits,” and not insurance. Go elsewhere if an agent becomes evasive when questioned about things like coverages, prices and installment plan arrangements.

Be distrustful of insurance agents who market and sell “employee leasing” arrangements. These agents may enroll individuals and groups into a “Professional Employer Organization” or “PEO” which provide self-funded health insurance. These PEOs may not be licensed by the South Carolina Department of Consumer Affairs as a staff leasing services company. Legitimate PEOs are licensed by the department and cannot offer self-funded insurance plans, and plans by non South Carolina licensed insurance companies.

The South Carolina Department of Insurance maintains a list of all insurers and agents licensed in South Carolina. It can be accessed through the department’s web site, [www.doi.state.sc.us](http://www.doi.state.sc.us), or by calling the department’s Office of Consumer Services,

1.800.763.3467 (toll-free in South Carolina only), or 803.737.6180. The office's e-mail address is CnsmMail@doi.state.sc.us.

### **HOW ARE CONSUMERS DAMAGED BY UNLICENSED HEALTH PLANS?**

1. A typical unlicensed health insurance scam lulls consumers into a false sense of security by paying small, initial claims, then the company begins to delay payments and offer excuses before ultimately failing to pay larger claims for serious illnesses or surgeries.
2. Consumers may lose "portability" if purchasing one of these plans, since the interval between the last legitimate plan and the next legitimate plan may be beyond the time allowed by law. Portability is the ability of anyone belonging to a group health insurance plan to purchase a new health insurance plan without regard to preexisting conditions as long as the insurance is purchased within an interval of time since the previous legitimate coverage was lost.
3. Unauthorized insurance scams compete with licensed health carriers by undercutting premium rates.

### **HOW CAN A CONSUMER PROTECT THEMSELVES FROM PURCHASING AN ILLEGAL HEALTH PLAN?**

1. Do business only with insurance companies and agents licensed in South Carolina.
2. Never sign a blank application form or allow an agent to fill out an application for you. Don't sign over your power of attorney to an agent.
3. Never pay premiums in cash. Refuse to do business with agents who insist on cash payments. Always pay by check or money order and always make your check payable to the company or insurance agency — not to an individual agent — and get a receipt. Record "for insurance" on the memo line of your check. NEVER sign a blank check for insurance.
4. Make sure that you receive your policy — not a photocopy — within a reasonable period of time. If you don't receive a policy within 30 days, contact the insurance company shown on the proof-of-insurance card, binder or application to confirm that you are covered.

5. Ask for copies of all paperwork you completed or signed. Keep a file of documents related to your insurance, including the policy, correspondence, copies of advertisements, premium payment receipts, notes of conversations and any claims submitted.
6. The South Carolina Department of Insurance maintains a database that allows users to search for insurance agencies, companies, individuals and company filings. It can be accessed on the department's web site by clicking Agent then, Search DOI Database.
7. Consumers can get additional assistance by writing the department at Post Office Box 100105, Columbia, SC 29202-3105, or by visiting the department's offices at 300 Arbor Lake Drive, Suite 1200, Columbia, SC 29223.