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Department of Aging and Office of Long-Term Living

House Bill 2420, PN 3537

House Insurance Committee Meeting  
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Plum, PA

Good morning. My name is Robert McNamara and I am the Director of the Department of Aging's Office of Policy and Strategic Planning. I would like to thank Chairman DeLuca, Chairman Micozzie, and the honorable members of the House Insurance Committee for inviting the Pennsylvania Department of Aging here today to offer testimony in support of the concepts embodied in House Bill 2420. As experts on insurance matters, the Department of Insurance can better speak to the specifics of this legislation, so we encourage you to take seriously their concerns and suggestions related to this. The Department of Aging strongly supports measures to protect seniors from misleading insurance marketing, and we are happy to work with this committee and our colleagues at Insurance to see that the goals of this legislation are achieved.

As a staunch advocate for the needs of older Pennsylvanians and adults with disabilities, the Department of Aging takes financial abuse of older Pennsylvanians very seriously. The Older American's Act defines exploitation to include "An act or course of conduct by a caretaker or other person against an older adult or an older adult's resources, without the informed consent of the older adult or with consent obtained *through misrepresentation, coercion or threats of force, that results in monetary, personal or other benefit, gain or profit for the perpetrator or monetary or personal loss to the older adult.*" Our Bureau of Advocacy and Protection is charged with acting on reports of abuse and exploitation of people over the age of 60. While most of those reports center on physical and emotional abuse, financial exploitation is the third highest complaint that we receive.

The vast majority of these complaints involve actions of relatives against the older person, but in 2008 the State Net Capitol Journal reported an increase by state insurance regulators of complaints and subsequent investigations related to senior sales practices.

In addition, according to reports that are available through the FBI, financial exploitation by unscrupulous insurance agents is occurring in Pennsylvania and across the country.

There is the case of an insurance agent from Elizabethtown who convinced six elderly people to invest in worthless securities by promising to support charity businesses.

There is the case of the Manheim Township resident who raised more than \$50 million from over 500 mostly elderly investors - misleading, deceiving and defrauding them by failing to disclose facts about the safety of the investments he was making for them.

He misled them about his educational credentials and used their money to pay for a car, country club dues, travel and land.

Unfortunately, financial exploitation against the elderly is often not reported. The FBI provides a number of reasons – victims don't know where to report the crime, they are too ashamed at having been scammed, or they don't know they have been scammed. Older people with diminished cognitive ability may also be afraid that they will be seen as incapable of handling their own financial affairs. They are easy prey because they come from a trusting generation that saved in order to have a nest egg and good credit.

In an article in Aging Well, we get a picture of the quantitative impact of financial exploitation of older people. Citing a Delaware County, PA district attorney's report,

between 2003 and 2008 reports of elder financial exploitation topped \$5.2 million. That's one county out of sixty- seven in a state that has the third largest senior population in the country.

According to MetLife, between April 2008 and June 2008, the media reported a total dollar value of elder financial abuse of approximately \$396,654,700, with the largest percentage of cases involving close associates of the victim—families, friends, caregivers, and neighbors—as the perpetrator of the abuse, accounting collectively for almost 40% of reported cases. The largest single category, however, included a variety of financial professionals, attorneys, and fiduciary agents.

While there is no silver bullet to eradicate financial exploitation of seniors, House Bill 2420, which is based on the National Association of Insurance Commissions' model rule, would:

- Prohibit the misleading or fraudulent use of senior-specific certifications or professional designations by insurance agents marketing life insurance and annuities to seniors.
- Send a clear message to unscrupulous insurance agents that if they falsely represent themselves as experts or authorities on the needs of seniors, they could lose their licenses, pay up to \$5,000 in fines and could be responsible for restitution.

The Department of Insurance has submitted testimony recommending that this issue be addressed through regulation rather than legislation. Since they have oversight for

insurance matters, we will work with them and with the committee to ensure that the concepts embodied in House Bill 2420 come into effect. Regardless of the mechanism, the Department of Aging strongly supports the intent of this bill to protect seniors from financial exploitation, and thanks the sponsor and this committee for bringing it to our attention.