

PROPOSED AMENDMENT

SB 189 # 1

DIGEST

Nonparticipating providers. Prohibits a health carrier from assessing a health provider facility or a provider an administrative fee or penalty related to the provision of care to an individual that involves an out of network provider. Provides that if a health carrier assesses a health provider facility or a provider an administrative fee or penalty related to the provision of care to an individual that involves an out of network provider, the health carrier commits an unfair and deceptive act or practice in the business of insurance.

- 1 Page 1, line 12, after "fee" insert "**or penalty**".
- 2 Page 1, line 14, after "fee" insert "**or penalty**".
- 3 Page 1, line 15, delete "the commissioner shall impose on the health
- 4 carrier" and insert "**the health carrier commits an unfair and**
- 5 **deceptive act or practice in the business of insurance under**
- 6 **IC 27-4-1-4 and is subject to the penalties and procedures set forth**
- 7 **in IC 27-4-1.**
- 8 SECTION 2. IC 27-4-1-4, AS AMENDED BY P.L.158-2024,
- 9 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 10 JULY 1, 2026]: Sec. 4. (a) The following are hereby defined as unfair
- 11 methods of competition and unfair and deceptive acts and practices in
- 12 the business of insurance:
- 13 (1) Making, issuing, circulating, or causing to be made, issued, or
- 14 circulated, any estimate, illustration, circular, or statement:
- 15 (A) misrepresenting the terms of any policy issued or to be
- 16 issued or the benefits or advantages promised thereby or the
- 17 dividends or share of the surplus to be received thereon;
- 18 (B) making any false or misleading statement as to the
- 19 dividends or share of surplus previously paid on similar
- 20 policies;
- 21 (C) making any misleading representation or any
- 22 misrepresentation as to the financial condition of any insurer,
- 23 or as to the legal reserve system upon which any life insurer
- 24 operates;
- 25 (D) using any name or title of any policy or class of policies

misrepresenting the true nature thereof; or

(E) making any misrepresentation to any policyholder insured in any company for the purpose of inducing or tending to induce such policyholder to lapse, forfeit, or surrender the policyholder's insurance.

(2) Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to any person in the conduct of the person's insurance business, which is untrue, deceptive, or misleading.

(3) Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of any oral or written statement or any pamphlet, circular, article, or literature which is false, or maliciously critical of or derogatory to the financial condition of an insurer, and which is calculated to injure any person engaged in the business of insurance.

(4) Entering into any agreement to commit, or individually or by a concerted action committing any act of boycott, coercion, or intimidation resulting or tending to result in unreasonable restraint of, or a monopoly in, the business of insurance.

(5) Filing with any supervisory or other public official, or making, publishing, disseminating, circulating, or delivering to any person, or placing before the public, or causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive. Making any false entry in any book, report, or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to which such insurer is required by law to report, or which has authority by law to examine into its condition or into any of its affairs, or, with like intent, willfully omitting to make a true entry of any material fact pertaining to the business of such insurer in any book, report, or statement of such insurer.

(6) Issuing or delivering or permitting agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance.

(7) Making or permitting any of the following:

(A) Unfair discrimination between individuals of the same class and equal expectation of life in the rates or assessments charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract. However, in determining the class, consideration may be given to the nature of the risk, plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(B) Unfair discrimination between individuals of the same class involving essentially the same hazards in the amount of premium, policy fees, assessments, or rates charged or made for any policy or contract of accident or health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever. However, in determining the class, consideration may be given to the nature of the risk, the plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(C) Excessive or inadequate charges for premiums, policy fees, assessments, or rates, or making or permitting any unfair discrimination between persons of the same class involving essentially the same hazards, in the amount of premiums, policy fees, assessments, or rates charged or made for:

(i) policies or contracts of reinsurance or joint reinsurance, or abstract and title insurance;

(ii) policies or contracts of insurance against loss or damage to aircraft, or against liability arising out of the ownership, maintenance, or use of any aircraft, or of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance; or

(iii) policies or contracts of any other kind or kinds of

1 insurance whatsoever.

2 However, nothing contained in clause (C) shall be construed to
3 apply to any of the kinds of insurance referred to in clauses (A)
4 and (B) nor to reinsurance in relation to such kinds of insurance.
5 Nothing in clause (A), (B), or (C) shall be construed as making or
6 permitting any excessive, inadequate, or unfairly discriminatory
7 charge or rate or any charge or rate determined by the department
8 or commissioner to meet the requirements of any other insurance
9 rate regulatory law of this state.

10 (8) Except as otherwise expressly provided by IC 27-1-47 or
11 another law, knowingly permitting or offering to make or making
12 any contract or policy of insurance of any kind or kinds
13 whatsoever, including but not in limitation, life annuities, or
14 agreement as to such contract or policy other than as plainly
15 expressed in such contract or policy issued thereon, or paying or
16 allowing, or giving or offering to pay, allow, or give, directly or
17 indirectly, as inducement to such insurance, or annuity, any rebate
18 of premiums payable on the contract, or any special favor or
19 advantage in the dividends, savings, or other benefits thereon, or
20 any valuable consideration or inducement whatever not specified
21 in the contract or policy; or giving, or selling, or purchasing or
22 offering to give, sell, or purchase as inducement to such insurance
23 or annuity or in connection therewith, any stocks, bonds, or other
24 securities of any insurance company or other corporation,
25 association, limited liability company, or partnership, or any
26 dividends, savings, or profits accrued thereon, or anything of
27 value whatsoever not specified in the contract. Nothing in this
28 subdivision and subdivision (7) shall be construed as including
29 within the definition of discrimination or rebates any of the
30 following practices:

31 (A) Paying bonuses to policyholders or otherwise abating their
32 premiums in whole or in part out of surplus accumulated from
33 nonparticipating insurance, so long as any such bonuses or
34 abatement of premiums are fair and equitable to policyholders
35 and for the best interests of the company and its policyholders.
36 (B) In the case of life insurance policies issued on the
37 industrial debit plan, making allowance to policyholders who
38 have continuously for a specified period made premium
39 payments directly to an office of the insurer in an amount
40 which fairly represents the saving in collection expense.

1 (C) Readjustment of the rate of premium for a group insurance
2 policy based on the loss or expense experience thereunder, at
3 the end of the first year or of any subsequent year of insurance
4 thereunder, which may be made retroactive only for such
5 policy year.

6 (D) Paying by an insurer or insurance producer thereof duly
7 licensed as such under the laws of this state of money,
8 commission, or brokerage, or giving or allowing by an insurer
9 or such licensed insurance producer thereof anything of value,
10 for or on account of the solicitation or negotiation of policies
11 or other contracts of any kind or kinds, to a broker, an
12 insurance producer, or a solicitor duly licensed under the laws
13 of this state, but such broker, insurance producer, or solicitor
14 receiving such consideration shall not pay, give, or allow
15 credit for such consideration as received in whole or in part,
16 directly or indirectly, to the insured by way of rebate.

17 (9) Requiring, as a condition precedent to loaning money upon the
18 security of a mortgage upon real property, that the owner of the
19 property to whom the money is to be loaned negotiate any policy
20 of insurance covering such real property through a particular
21 insurance producer or broker or brokers. However, this
22 subdivision shall not prevent the exercise by any lender of the
23 lender's right to approve or disapprove of the insurance company
24 selected by the borrower to underwrite the insurance.

25 (10) Entering into any contract, combination in the form of a trust
26 or otherwise, or conspiracy in restraint of commerce in the
27 business of insurance.

28 (11) Monopolizing or attempting to monopolize or combining or
29 conspiring with any other person or persons to monopolize any
30 part of commerce in the business of insurance. However,
31 participation as a member, director, or officer in the activities of
32 any nonprofit organization of insurance producers or other
33 workers in the insurance business shall not be interpreted, in
34 itself, to constitute a combination in restraint of trade or as
35 combining to create a monopoly as provided in this subdivision
36 and subdivision (10). The enumeration in this chapter of specific
37 unfair methods of competition and unfair or deceptive acts and
38 practices in the business of insurance is not exclusive or
39 restrictive or intended to limit the powers of the commissioner or
40 department or of any court of review under section 8 of this

- 1 chapter.
- 2 (12) Requiring as a condition precedent to the sale of real or
3 personal property under any contract of sale, conditional sales
4 contract, or other similar instrument or upon the security of a
5 chattel mortgage, that the buyer of such property negotiate any
6 policy of insurance covering such property through a particular
7 insurance company, insurance producer, or broker or brokers.
8 However, this subdivision shall not prevent the exercise by any
9 seller of such property or the one making a loan thereon of the
10 right to approve or disapprove of the insurance company selected
11 by the buyer to underwrite the insurance.
- 12 (13) Issuing, offering, or participating in a plan to issue or offer,
13 any policy or certificate of insurance of any kind or character as
14 an inducement to the purchase of any property, real, personal, or
15 mixed, or services of any kind, where a charge to the insured is
16 not made for and on account of such policy or certificate of
17 insurance. However, this subdivision shall not apply to any of the
18 following:
- 19 (A) Insurance issued to credit unions or members of credit
20 unions in connection with the purchase of shares in such credit
21 unions.
- 22 (B) Insurance employed as a means of guaranteeing the
23 performance of goods and designed to benefit the purchasers
24 or users of such goods.
- 25 (C) Title insurance.
- 26 (D) Insurance written in connection with an indebtedness and
27 intended as a means of repaying such indebtedness in the
28 event of the death or disability of the insured.
- 29 (E) Insurance provided by or through motorists service clubs
30 or associations.
- 31 (F) Insurance that is provided to the purchaser or holder of an
32 air transportation ticket and that:
- 33 (i) insures against death or nonfatal injury that occurs during
34 the flight to which the ticket relates;
- 35 (ii) insures against personal injury or property damage that
36 occurs during travel to or from the airport in a common
37 carrier immediately before or after the flight;
- 38 (iii) insures against baggage loss during the flight to which
39 the ticket relates; or
- 40 (iv) insures against a flight cancellation to which the ticket

- 1 relates.
- 2 (14) Refusing, because of the for-profit status of a hospital or
3 medical facility, to make payments otherwise required to be made
4 under a contract or policy of insurance for charges incurred by an
5 insured in such a for-profit hospital or other for-profit medical
6 facility licensed by the Indiana department of health.
- 7 (15) Refusing to insure an individual, refusing to continue to issue
8 insurance to an individual, limiting the amount, extent, or kind of
9 coverage available to an individual, or charging an individual a
10 different rate for the same coverage, solely because of that
11 individual's blindness or partial blindness, except where the
12 refusal, limitation, or rate differential is based on sound actuarial
13 principles or is related to actual or reasonably anticipated
14 experience.
- 15 (16) Committing or performing, with such frequency as to
16 indicate a general practice, unfair claim settlement practices (as
17 defined in section 4.5 of this chapter).
- 18 (17) Between policy renewal dates, unilaterally canceling an
19 individual's coverage under an individual or group health
20 insurance policy solely because of the individual's medical or
21 physical condition.
- 22 (18) Using a policy form or rider that would permit a cancellation
23 of coverage as described in subdivision (17).
- 24 (19) Violating IC 27-1-22-25, IC 27-1-22-26, or IC 27-1-22-26.1
25 concerning motor vehicle insurance rates.
- 26 (20) Violating IC 27-8-21-2 concerning advertisements referring
27 to interest rate guarantees.
- 28 (21) Violating IC 27-8-24.3 concerning insurance and health plan
29 coverage for victims of abuse.
- 30 (22) Violating IC 27-8-26 concerning genetic screening or testing.
- 31 (23) Violating IC 27-1-15.6-3(b) concerning licensure of
32 insurance producers.
- 33 (24) Violating IC 27-1-38 concerning depository institutions.
- 34 (25) Violating IC 27-8-28-17(c) or IC 27-13-10-8(c) concerning
35 the resolution of an appealed grievance decision.
- 36 (26) Violating IC 27-8-5-2.5(e) through IC 27-8-5-2.5(j) (expired
37 July 1, 2007, and removed) or IC 27-8-5-19.2 (expired July 1,
38 2007, and repealed).
- 39 (27) Violating IC 27-2-21 concerning use of credit information.
- 40 (28) Violating IC 27-4-9-3 concerning recommendations to

- 1 consumers.
- 2 (29) Engaging in dishonest or predatory insurance practices in
- 3 marketing or sales of insurance to members of the United States
- 4 Armed Forces as:
 - 5 (A) described in the federal Military Personnel Financial
 - 6 Services Protection Act, P.L.109-290; or
 - 7 (B) defined in rules adopted under subsection (b).
- 8 (30) Violating IC 27-8-19.8-20.1 concerning stranger originated
- 9 life insurance.
- 10 (31) Violating IC 27-2-22 concerning retained asset accounts.
- 11 (32) Violating IC 27-8-5-29 concerning health plans offered
- 12 through a health benefit exchange (as defined in IC 27-19-2-8).
- 13 (33) Violating a requirement of the federal Patient Protection and
- 14 Affordable Care Act (P.L. 111-148), as amended by the federal
- 15 Health Care and Education Reconciliation Act of 2010 (P.L.
- 16 111-152), that is enforceable by the state.
- 17 (34) After June 30, 2015, violating IC 27-2-23 concerning
- 18 unclaimed life insurance, annuity, or retained asset account
- 19 benefits.
- 20 (35) Willfully violating IC 27-1-12-46 concerning a life insurance
- 21 policy or certificate described in IC 27-1-12-46(a).
- 22 (36) Violating IC 27-1-37-7 concerning prohibiting the disclosure
- 23 of health care service claims data.
- 24 (37) Violating IC 27-4-10-10 concerning virtual claims payments.
- 25 (38) Violating IC 27-1-24.5 concerning pharmacy benefit
- 26 managers.
- 27 (39) Violating IC 27-7-17-16 or IC 27-7-17-17 concerning the
- 28 marketing of travel insurance policies.
- 29 (40) Violating IC 27-1-49 concerning individual prescription drug
- 30 rebates.
- 31 (41) Violating IC 27-1-50 concerning group prescription drug
- 32 rebates.
- 33 **(42) Violating IC 27-1-37-11 concerning an administrative fee**
- 34 **or penalty imposed on a health provider facility or a provider**
- 35 **by a health carrier related to the provision of care to an**
- 36 **individual that involves an out of network provider.**
- 37 (b) Except with respect to federal insurance programs under
- 38 Subchapter III of Chapter 19 of Title 38 of the United States Code, the
- 39 commissioner may, consistent with the federal Military Personnel
- 40 Financial Services Protection Act (10 U.S.C. 992 note), adopt rules

- 1 under IC 4-22-2 to:
 - 2 (1) define; and
 - 3 (2) while the members are on a United States military installation
 - 4 or elsewhere in Indiana, protect members of the United States
 - 5 Armed Forces from;
 - 6 dishonest or predatory insurance practices.".
 - 7 Page 1, delete lines 16 through 17.
 - 8 Delete page 2.
- (Reference is to SB 189 as introduced.)