

# 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.

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- 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

1 misrepresenting the true nature thereof; or  
2 (E) making any misrepresentation to any policyholder insured  
3 in any company for the purpose of inducing or tending to  
4 induce such policyholder to lapse, forfeit, or surrender the  
5 policyholder's insurance.

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

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

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

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

7 (7) Making or permitting any of the following:

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

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

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

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

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

40 (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.

(11) Monopolizing or attempting to monopolize or combining or conspiring with any other person or persons to monopolize any part of commerce in the business of insurance. However, participation as a member, director, or officer in the activities of any nonprofit organization of insurance producers or other workers in the insurance business shall not be interpreted, in itself, to constitute a combination in restraint of trade or as combining to create a monopoly as provided in this subdivision and subdivision (10). The enumeration in this chapter of specific unfair methods of competition and unfair or deceptive acts and practices in the business of insurance is not exclusive or restrictive or intended to limit the powers of the commissioner or 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.

(17) Between policy renewal dates, unilaterally canceling an individual's coverage under an individual or group health insurance policy solely because of the individual's medical or 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.)