



February 11, 2011

SENATE BILL No. 87

DIGEST OF SB 87 (Updated February 9, 2011 3:43 pm - DI 104)

Citations Affected: IC 27-4; IC 27-8; IC 27-13.

Synopsis: Contracts for dental services. Prohibits dental insurers and health maintenance organizations from requiring dentists to accept certain payments.

Effective: July 1, 2011.

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January 5, 2011, read first time and referred to Committee on Health and Provider Services.
February 10, 2011, amended, reported favorably — Do Pass.

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SB 87—LS 6458/DI 97+



February 11, 2011

First Regular Session 117th General Assembly (2011)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2010 Regular Session of the General Assembly.

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SENATE BILL No. 87



A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 27-4-1-4, AS AMENDED BY P.L.1-2009,
 2 SECTION 146, IS AMENDED TO READ AS FOLLOWS
 3 [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) The following are hereby
 4 defined as unfair methods of competition and unfair and deceptive acts
 5 and practices in the business of insurance:
 6 (1) Making, issuing, circulating, or causing to be made, issued, or
 7 circulated, any estimate, illustration, circular, or statement:
 8 (A) misrepresenting the terms of any policy issued or to be
 9 issued or the benefits or advantages promised thereby or the
 10 dividends or share of the surplus to be received thereon;
 11 (B) making any false or misleading statement as to the
 12 dividends or share of surplus previously paid on similar
 13 policies;
 14 (C) making any misleading representation or any
 15 misrepresentation as to the financial condition of any insurer,
 16 or as to the legal reserve system upon which any life insurer
 17 operates;

SB 87—LS 6458/DI 97+



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- (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

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1 employees to issue or deliver, agency company stock or other
2 capital stock, or benefit certificates or shares in any common law
3 corporation, or securities or any special or advisory board
4 contracts or other contracts of any kind promising returns and
5 profits as an inducement to insurance.

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

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

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

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

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

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

39 (iii) policies or contracts of any other kind or kinds of
40 insurance whatsoever.

41 However, nothing contained in clause (C) shall be construed to
42 apply to any of the kinds of insurance referred to in clauses (A)

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

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

28 (A) Paying bonuses to policyholders or otherwise abating their
29 premiums in whole or in part out of surplus accumulated from
30 nonparticipating insurance, so long as any such bonuses or
31 abatement of premiums are fair and equitable to policyholders
32 and for the best interests of the company and its policyholders.

33 (B) In the case of life insurance policies issued on the
34 industrial debit plan, making allowance to policyholders who
35 have continuously for a specified period made premium
36 payments directly to an office of the insurer in an amount
37 which fairly represents the saving in collection expense.

38 (C) Readjustment of the rate of premium for a group insurance
39 policy based on the loss or expense experience thereunder, at
40 the end of the first year or of any subsequent year of insurance
41 thereunder, which may be made retroactive only for such
42 policy year.

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

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

20 (10) Entering into any contract, combination in the form of a trust
 21 or otherwise, or conspiracy in restraint of commerce in the
 22 business of insurance.

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

37 (12) Requiring as a condition precedent to the sale of real or
 38 personal property under any contract of sale, conditional sales
 39 contract, or other similar instrument or upon the security of a
 40 chattel mortgage, that the buyer of such property negotiate any
 41 policy of insurance covering such property through a particular
 42 insurance company, insurance producer, or broker or brokers.

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However, this subdivision shall not prevent the exercise by any seller of such property or the one making a loan thereon of the right to approve or disapprove of the insurance company selected by the buyer to underwrite the insurance.

(13) Issuing, offering, or participating in a plan to issue or offer, any policy or certificate of insurance of any kind or character as an inducement to the purchase of any property, real, personal, or mixed, or services of any kind, where a charge to the insured is not made for and on account of such policy or certificate of insurance. However, this subdivision shall not apply to any of the following:

(A) Insurance issued to credit unions or members of credit unions in connection with the purchase of shares in such credit unions.

(B) Insurance employed as a means of guaranteeing the performance of goods and designed to benefit the purchasers or users of such goods.

(C) Title insurance.

(D) Insurance written in connection with an indebtedness and intended as a means of repaying such indebtedness in the event of the death or disability of the insured.

(E) Insurance provided by or through motorists service clubs or associations.

(F) Insurance that is provided to the purchaser or holder of an air transportation ticket and that:

- (i) insures against death or nonfatal injury that occurs during the flight to which the ticket relates;
- (ii) insures against personal injury or property damage that occurs during travel to or from the airport in a common carrier immediately before or after the flight;
- (iii) insures against baggage loss during the flight to which the ticket relates; or
- (iv) insures against a flight cancellation to which the ticket relates.

(14) Refusing, because of the for-profit status of a hospital or medical facility, to make payments otherwise required to be made under a contract or policy of insurance for charges incurred by an insured in such a for-profit hospital or other for-profit medical facility licensed by the state department of health.

(15) Refusing to insure an individual, refusing to continue to issue insurance to an individual, limiting the amount, extent, or kind of coverage available to an individual, or charging an individual a

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- 1 different rate for the same coverage, solely because of that
- 2 individual's blindness or partial blindness, except where the
- 3 refusal, limitation, or rate differential is based on sound actuarial
- 4 principles or is related to actual or reasonably anticipated
- 5 experience.
- 6 (16) Committing or performing, with such frequency as to
- 7 indicate a general practice, unfair claim settlement practices (as
- 8 defined in section 4.5 of this chapter).
- 9 (17) Between policy renewal dates, unilaterally canceling an
- 10 individual's coverage under an individual or group health
- 11 insurance policy solely because of the individual's medical or
- 12 physical condition.
- 13 (18) Using a policy form or rider that would permit a cancellation
- 14 of coverage as described in subdivision (17).
- 15 (19) Violating IC 27-1-22-25, IC 27-1-22-26, or IC 27-1-22-26.1
- 16 concerning motor vehicle insurance rates.
- 17 (20) Violating IC 27-8-21-2 concerning advertisements referring
- 18 to interest rate guarantees.
- 19 (21) Violating IC 27-8-24.3 concerning insurance and health plan
- 20 coverage for victims of abuse.
- 21 (22) Violating IC 27-8-26 concerning genetic screening or testing.
- 22 (23) Violating IC 27-1-15.6-3(b) concerning licensure of
- 23 insurance producers.
- 24 (24) Violating IC 27-1-38 concerning depository institutions.
- 25 (25) Violating IC 27-8-28-17(c) or IC 27-13-10-8(c) concerning
- 26 the resolution of an appealed grievance decision.
- 27 (26) Violating IC 27-8-5-2.5(e) through IC 27-8-5-2.5(j) (expired
- 28 July 1, 2007, and removed) or IC 27-8-5-19.2 (expired July 1,
- 29 2007, and repealed).
- 30 (27) Violating IC 27-2-21 concerning use of credit information.
- 31 (28) Violating IC 27-4-9-3 concerning recommendations to
- 32 consumers.
- 33 (29) Engaging in dishonest or predatory insurance practices in
- 34 marketing or sales of insurance to members of the United States
- 35 Armed Forces as:
 - 36 (A) described in the federal Military Personnel Financial
 - 37 Services Protection Act, P.L.109-290; or
 - 38 (B) defined in rules adopted under subsection (b).
- 39 (30) Violating IC 27-8-19.8-20.1 concerning stranger originated
- 40 life insurance.
- 41 **(31) Violating IC 27-8-11-4.7 or IC 27-13-34-15.2 concerning**
- 42 **contracts for dental services.**

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1 (b) Except with respect to federal insurance programs under
2 Subchapter III of Chapter 19 of Title 38 of the United States Code, the
3 commissioner may, consistent with the federal Military Personnel
4 Financial Services Protection Act (P.L.109-290), adopt rules under
5 IC 4-22-2 to:

- 6 (1) define; and
- 7 (2) while the members are on a United States military installation
8 or elsewhere in Indiana, protect members of the United States
9 Armed Forces from;
10 dishonest or predatory insurance practices.

11 SECTION 2. IC 27-8-11-4.7 IS ADDED TO THE INDIANA CODE
12 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
13 1, 2011]: **Sec. 4.7. (a) As used in this section, "covered services"
14 means health care services for which any reimbursement is
15 available under an insured's policy, regardless of whether the
16 actual reimbursement is contractually limited by a deductible,
17 copayment, coinsurance, waiting period, annual or lifetime
18 maximum, frequency limitation, alternative benefit payment, or
19 any other limitation.**

20 (b) An insurer may not, under an agreement under section 3 of
21 this chapter, require a dentist to accept an amount set by the
22 insurer as payment for health care services provided to an insured
23 unless the health care services are covered services under the
24 insured's policy.

25 (c) An insurer may not provide merely de minimis
26 reimbursement or coverage in an effort to avoid the requirements
27 of this section.

28 (d) This section does not apply to a discount medical card
29 program provider agreement regulated under IC 27-17.

30 (e) A violation of this section is an unfair and deceptive act in
31 the business of insurance under IC 27-4-1-4.

32 SECTION 3. IC 27-13-34-15.2 IS ADDED TO THE INDIANA
33 CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 15.2. (a) As used in this section,
34 "covered services" means limited health services for which any
35 coverage is available under an enrollee's individual contract or
36 group contract, regardless of whether the actual coverage is
37 contractually limited by a deductible, copayment, coinsurance,
38 waiting period, annual or lifetime maximum, frequency limitation,
39 alternative benefit payment, or any other limitation.**

40 (b) A limited service health maintenance organization may not,
41 under a contract described in section 15 of this chapter, require a
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1 dentist to accept an amount set by the limited service health
2 maintenance organization as payment for limited health services
3 provided to an enrollee unless the limited health services are
4 covered services under the enrollee's individual contract or group
5 contract.

6 (c) A limited service health maintenance organization may not
7 provide merely de minimis reimbursement or coverage in an effort
8 to avoid the requirements of this section.

9 (d) This section does not apply to a discount medical card
10 program provider agreement regulated under IC 27-17.

11 (e) A violation of this section is an unfair and deceptive act in
12 the business of insurance under IC 27-4-1-4.

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COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 87, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 27-4-1-4, AS AMENDED BY P.L.1-2009, SECTION 146, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) The following are hereby defined as unfair methods of competition and unfair and deceptive acts and practices in the business of insurance:

(1) Making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, or statement:

(A) misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon;

(B) making any false or misleading statement as to the dividends or share of surplus previously paid on similar policies;

(C) making any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates;

(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

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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

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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 insurance whatsoever.

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

(8) Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract or policy of insurance of any kind or kinds whatsoever, including but not in limitation, life annuities, or agreement as to such contract or policy other than as plainly expressed in such contract or policy issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends, savings, or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract or policy; or

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giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such insurance or annuity or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, limited liability company, or partnership, or any dividends, savings, or profits accrued thereon, or anything of value whatsoever not specified in the contract. Nothing in this subdivision and subdivision (7) shall be construed as including within the definition of discrimination or rebates any of the following practices:

(A) Paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, so long as any such bonuses or abatement of premiums are fair and equitable to policyholders and for the best interests of the company and its policyholders.

(B) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense.

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

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

(9) Requiring, as a condition precedent to loaning money upon the security of a mortgage upon real property, that the owner of the property to whom the money is to be loaned negotiate any policy of insurance covering such real property through a particular insurance producer or broker or brokers. However, this subdivision shall not prevent the exercise by any lender of the

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lender's right to approve or disapprove of the insurance company selected by the borrower to underwrite the insurance.

(10) Entering into any contract, combination in the form of a trust or otherwise, or conspiracy in restraint of commerce in the 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 chapter.

(12) Requiring as a condition precedent to the sale of real or personal property under any contract of sale, conditional sales contract, or other similar instrument or upon the security of a chattel mortgage, that the buyer of such property negotiate any policy of insurance covering such property through a particular insurance company, insurance producer, or broker or brokers. However, this subdivision shall not prevent the exercise by any seller of such property or the one making a loan thereon of the right to approve or disapprove of the insurance company selected by the buyer to underwrite the insurance.

(13) Issuing, offering, or participating in a plan to issue or offer, any policy or certificate of insurance of any kind or character as an inducement to the purchase of any property, real, personal, or mixed, or services of any kind, where a charge to the insured is not made for and on account of such policy or certificate of insurance. However, this subdivision shall not apply to any of the following:

(A) Insurance issued to credit unions or members of credit unions in connection with the purchase of shares in such credit unions.

(B) Insurance employed as a means of guaranteeing the performance of goods and designed to benefit the purchasers or users of such goods.

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- (C) Title insurance.
- (D) Insurance written in connection with an indebtedness and intended as a means of repaying such indebtedness in the event of the death or disability of the insured.
- (E) Insurance provided by or through motorists service clubs or associations.
- (F) Insurance that is provided to the purchaser or holder of an air transportation ticket and that:
 - (i) insures against death or nonfatal injury that occurs during the flight to which the ticket relates;
 - (ii) insures against personal injury or property damage that occurs during travel to or from the airport in a common carrier immediately before or after the flight;
 - (iii) insures against baggage loss during the flight to which the ticket relates; or
 - (iv) insures against a flight cancellation to which the ticket relates.
- (14) Refusing, because of the for-profit status of a hospital or medical facility, to make payments otherwise required to be made under a contract or policy of insurance for charges incurred by an insured in such a for-profit hospital or other for-profit medical facility licensed by the state department of health.
- (15) Refusing to insure an individual, refusing to continue to issue insurance to an individual, limiting the amount, extent, or kind of coverage available to an individual, or charging an individual a different rate for the same coverage, solely because of that individual's blindness or partial blindness, except where the refusal, limitation, or rate differential is based on sound actuarial principles or is related to actual or reasonably anticipated experience.
- (16) Committing or performing, with such frequency as to indicate a general practice, unfair claim settlement practices (as defined in section 4.5 of this chapter).
- (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.
- (18) Using a policy form or rider that would permit a cancellation of coverage as described in subdivision (17).
- (19) Violating IC 27-1-22-25, IC 27-1-22-26, or IC 27-1-22-26.1 concerning motor vehicle insurance rates.
- (20) Violating IC 27-8-21-2 concerning advertisements referring

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to interest rate guarantees.

(21) Violating IC 27-8-24.3 concerning insurance and health plan coverage for victims of abuse.

(22) Violating IC 27-8-26 concerning genetic screening or testing.

(23) Violating IC 27-1-15.6-3(b) concerning licensure of insurance producers.

(24) Violating IC 27-1-38 concerning depository institutions.

(25) Violating IC 27-8-28-17(c) or IC 27-13-10-8(c) concerning the resolution of an appealed grievance decision.

(26) Violating IC 27-8-5-2.5(e) through IC 27-8-5-2.5(j) (expired July 1, 2007, and removed) or IC 27-8-5-19.2 (expired July 1, 2007, and repealed).

(27) Violating IC 27-2-21 concerning use of credit information.

(28) Violating IC 27-4-9-3 concerning recommendations to consumers.

(29) Engaging in dishonest or predatory insurance practices in marketing or sales of insurance to members of the United States Armed Forces as:

(A) described in the federal Military Personnel Financial Services Protection Act, P.L.109-290; or

(B) defined in rules adopted under subsection (b).

(30) Violating IC 27-8-19.8-20.1 concerning stranger originated life insurance.

(31) Violating IC 27-8-11-4.7 or IC 27-13-34-15.2 concerning contracts for dental services.

(b) Except with respect to federal insurance programs under Subchapter III of Chapter 19 of Title 38 of the United States Code, the commissioner may, consistent with the federal Military Personnel Financial Services Protection Act (P.L.109-290), adopt rules under IC 4-22-2 to:

(1) define; and

(2) while the members are on a United States military installation or elsewhere in Indiana, protect members of the United States Armed Forces from;

dishonest or predatory insurance practices."

Page 1, line 5, after "the" insert "**actual**".

Page 1, line 9, delete "another" and insert "**any other**".

Page 1, line 15, after "(c)" insert "**An insurer may not provide merely de minimis reimbursement or coverage in an effort to avoid the requirements of this section.**

(d)".

Page 1, between lines 16 and 17, begin a new paragraph and insert:

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"(e) A violation of this section is an unfair and deceptive act in the business of insurance under IC 27-4-1-4."

Page 2, line 5, after "the" insert **"actual"**.

Page 2, line 8, delete "another" and insert **"any other"**.

Page 2, line 16, after "(c)" insert **"A limited service health maintenance organization may not provide merely de minimis reimbursement or coverage in an effort to avoid the requirements of this section."**

(d)".

Page 2, after line 17, begin a new paragraph and insert:

"(e) A violation of this section is an unfair and deceptive act in the business of insurance under IC 27-4-1-4."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 87 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 8, Nays 0.

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