SENATE BILL No. 292

DIGEST OF INTRODUCED BILL

Citations Affected: IC 27-1-15.5-8; IC 27-4-5-2; IC 27-8-15-31; IC 27-8-23-4; IC 27-13-7-15; IC 27-13-7-16.

Synopsis: Various insurance provisions. Provides that the insurance commissioner may revoke an insurance agent's license or refuse to issue an insurance agent's license to an applicant if the agent's or applicant's license has been suspended or revoked in Indiana or any state, province, district, or territory. (Current law gives the insurance commissioner this authority only if the license suspension or revocation has taken place in a state other than Indiana.) Adds health maintenance organizations and limited services health maintenance organizations as types of insurers to which both the unauthorized insurers statute and

(Continued next page)

Effective: July 1, 1998.

Miller, Simpson

January 7, 1998, read first time and referred to Committee on Health and Environmental Affairs.

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Digest Continued

medical child support statute apply. Provides that dependents of eligible employees are entitled to small group conversion policies. Requires health maintenance organizations and limited service health maintenance organizations to provide coverage for the following: (1) Newly born children. (2) Mammography services.

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Introduced

Second Regular Session 110th General Assembly (1998)

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 1997 General Assembly.

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SENATE BILL No. 292

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

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

SECTION 1. IC 27-1-15.5-8, AS AMENDED BY P.L.253-1997(ss), SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 8. (a) The commissioner may suspend, revoke, refuse to continue, renew, or issue any license issued under this chapter, or impose any of the disciplinary sanctions under subsection (f) if, after notice to the licensee and to the insurer represented and a hearing, the commissioner finds as to the licensee any one (1) or more of the following conditions:

(1) Any materially untrue statement in the license application.

(2) Any cause for which issuance of the license could have been refused had it then existed and been known to the commissioner at the time of issuance.

(3) Violation of or noncompliance with any insurance laws, violation of any provision of IC 28 concerning the sale of a life insurance policy or an annuity contract, or violation of any lawful

rule, regulation, or order of the commissioner or of a commissioner of another state.

(4) Obtaining or attempting to obtain any such license through misrepresentation or fraud.

(5) Improperly withholding, misappropriating, or converting to the licensee's own use any money belonging to policyholders, insurers, beneficiaries, or others received in the course of the licensee's insurance business.

(6) Misrepresentation of the terms of any actual or proposed insurance contract.

(7) Conviction of a felony or misdemeanor involving moral turpitude.

(8) The licensee has been found guilty of any unfair trade practice or of fraud.

(9) In the conduct of the licensee's affairs under the license, the licensee has used fraudulent, coercive, or dishonest practices, or has shown himself to be incompetent, untrustworthy, or financially irresponsible, or not performing in the best interests of the insuring public.

(10) The licensee's license has been suspended or revoked in any ~~other~~ state, province, district, or territory.

(11) The licensee has forged another's name to an application for insurance.

(12) An applicant has been found to have been cheating on an examination for an insurance license.

(13) The applicant or licensee is on the most recent tax warrant list supplied to the commissioner by the department of state revenue.

(14) The licensee has failed to satisfy the continuing education requirements under section 7.1 of this chapter.

(b) The commissioner shall refuse to:

(1) issue a license; or

(2) renew a license issued;

under this chapter to any person who is the subject of an order issued by a court under IC 31-14-12-7 or IC 31-16-12-10 (or IC 31-1-11.5-13(m) or IC 31-6-6.1-16(m) before their repeal).

(c) In the event that the action by the commissioner is to not renew or to deny an application for a license, the commissioner shall notify the applicant or licensee and advise, in writing, the applicant or licensee of the reasons for the denial or nonrenewal of the applicant's or licensee's license. Not later than sixty (60) days after receiving a notice from the commissioner under this subsection, the applicant or

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licensee may make written demand upon the commissioner for a hearing to determine the reasonableness of the commissioner's action. Such hearing shall be held within thirty (30) days from the date of receipt of the written demand of the applicant.

(d) The license of a corporation may be suspended, revoked, or refused if the commissioner finds, after hearing, that an individual licensee's violation was known or should have been known by one (1) or more of the officers or managers acting on behalf of the corporation and such violation was not reported to the insurance department nor corrective action taken in relation to the violation.

(e) In addition to or in lieu of any applicable denial, suspension, or revocation of a license, any person violating this chapter may, after hearing, be subject to a civil penalty of not less than fifty dollars ($50) nor more than ten thousand dollars ($10,000). Such a penalty may be enforced in the same manner as civil judgments.

(f) The commissioner may impose any of the following sanctions, singly or in combination, when the commissioner finds that a licensee is guilty of any offense under subsection (a):

(1) Permanently revoke (as defined in subsection (h)) a licensee's certificate.

(2) Revoke a licensee's certificate with a stipulation that the licensee may not reapply for a certificate for a period fixed by the commissioner. The fixed period may not exceed ten (10) years.

(3) Suspend a licensee's certificate.

(4) Censure a licensee.

(5) Issue a letter of reprimand.

(6) Place a licensee on probation status and require the licensee to:

(A) report regularly to the commissioner upon the matters that are the basis of probation;

(B) limit practice to those areas prescribed by the commissioner; or

(C) continue or renew professional education under a licensee approved by the commissioner until a satisfactory degree of skill has been attained in those areas that are the basis of the probation.

The commissioner may withdraw the probation if the commissioner finds that the deficiency that required disciplinary action has been remedied.

(g) The insurance commissioner shall notify the securities commissioner when an administrative action or civil proceeding is filed under this section and when an order is issued under this section

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denying, suspending, or revoking a license.

(h) For purposes of subsection (f), "permanently revoke" means that the licensee's certificate shall never be reinstated and the licensee shall not be eligible to submit an application for a certificate to the department.

SECTION 2. IC 27-4-5-2, AS AMENDED BY P.L.252-1995, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. (a) It is a Class A infraction for an insurer to transact insurance business in this state, as set forth in subsection (b), without a certificate of authority from the commissioner. However, this section does not apply to the following:

(1) The lawful transaction of surplus lines insurance.

(2) The lawful transaction of reinsurance by insurers.

(3) Transactions in this state involving a policy lawfully solicited, written, and delivered outside of this state covering only subjects of insurance not resident, located, or expressly to be performed in this state at the time of issuance, and which transactions are subsequent to the issuance of such policy.

(4) Attorneys acting in the ordinary relation of attorney and client in the adjustment of claims or losses.

(5) Transactions in this state involving group life and group sickness and accident or blanket sickness and accident insurance or group annuities where the master policy of such groups was lawfully issued and delivered in and pursuant to the laws of a state in which the insurer was authorized to do an insurance business, to a group organized for purposes other than the procurement of insurance, and where the policyholder is domiciled or otherwise has a bona fide situs.

(6) Transactions in this state relative to a policy issued or to be issued outside this state involving insurance on vessels, craft or hulls, cargos, marine builder's risk, marine protection and indemnity or other risk, including strikes and war risks commonly insured under ocean or wet marine forms of policy.

(7) Transactions in this state involving life insurance, health insurance, or annuities provided to religious or charitable institutions organized and operated without profit to any private shareholder or individual for the benefit of such institutions and individuals engaged in the service of such institutions.

(8) Transactions in this state involving contracts of insurance not readily obtainable in the ordinary insurance market and issued to one (1) or more industrial insureds. For purposes of this section, an "industrial insured" means an insured:

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(A) who procures the insurance of any risk or risks by use of the services of a full-time employee acting as an insurance manager or buyer or the services of a regularly retained and continuously qualified insurance consultant;

(B) whose aggregate annual premium for insurance on all risks totals at least twenty-five thousand dollars ($25,000); and

(C) who has at least twenty-five (25) full-time employees.

(9) Transactions in Indiana involving the rendering of any service by any ambulance service provider and all fees, costs, and membership payments charged for the service. To qualify under this subdivision, the ambulance service provider:

(A) must have its ambulance service program approved by an ordinance of the legislative body of the county or city in which it operates; and

(B) may not offer any membership program that includes benefits exceeding one (1) year in duration.

(b) Any of the following acts in this state effected by mail or otherwise by or on behalf of an unauthorized insurer constitutes the transaction of an insurance business in this state. The venue of an act committed by mail is at the point where the matter transmitted by mail is delivered and takes effect. Unless otherwise indicated, the term "insurer" as used in this section includes all persons engaged as principals in the business of insurance and also includes interinsurance exchanges, ~~and~~ mutual benefit societies, **health maintenance organizations (as defined in IC 27-13-1-19), and limited service health maintenance organizations (as defined in IC 27-13-34-4).**

(1) The making of or proposing to make, as an insurer, an insurance contract.

(2) The making of or proposing to make, as guarantor or surety, any contract of guaranty or suretyship as a vocation and not merely incidental to any other legitimate business or activity of the guarantor or surety.

(3) The taking or receiving of any application for insurance.

(4) The receiving or collection of any premium, commission, membership fees, assessments, dues, or other consideration for any insurance or any part thereof.

(5) The issuance or delivery of contracts of insurance to residents of this state or to persons authorized to do business in this state.

(6) Acting as an agent for or otherwise representing or aiding on behalf of another person or insurer in the solicitation, negotiation, procurement, or effectuation of insurance or renewals thereof or in the dissemination of information as to coverage or rates, or

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forwarding of applications, or delivery of policies or contracts, or inspection of risks, a fixing of rates or investigation or adjustment of claims or losses or in the transaction of matters subsequent to effectuation of the contract and arising out of it, or representing or assisting a person or an insurer in the transaction of insurance with respect to subjects of insurance resident, located, or to be performed in this state. This subdivision does not prohibit full-time salaried employees of a corporate insured from acting in the capacity of an insurance manager or buyer in placing insurance in behalf of the employer.

(c)(1) The failure of an insurer transacting insurance business in this state to obtain a certificate of authority does not impair the validity of any act or contract of such insurer and does not prevent such insurer from defending any action at law or suit in equity in any court of this state, but no insurer transacting insurance business in this state without a certificate of authority may maintain an action in any court of this state to enforce any right, claim, or demand arising out of the transaction of such business until such insurer obtains a certificate of authority.

(2) In the event of failure of any such unauthorized insurer to pay any claim or loss within the provisions of such insurance contract, any person who assisted or in any manner aided directly or indirectly in the procurement of such insurance contract is liable to the insured for the full amount of the claim or loss in the manner provided by the insurance contract.

SECTION 3. IC 27-8-15-31, AS ADDED BY P.L.93-1995, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 31. (a) If an eligible employee **or a dependent of an eligible employee** who has been continuously covered under a health insurance plan for at least ninety (90) days:

(1) loses coverage under the plan as the result of:

(A) termination of **the eligible employee's** employment;

(B) reduction of **the eligible employee's** hours;

(C) ~~marriage~~ dissolution **of the eligible employee's marriage**; or

(D) attainment of any age specified in the plan; and

(2) requests a conversion policy from the small employer insurer that insured the health insurance plan;

the individual is entitled to receive a conversion policy from the small employer insurer.

(b) A request under subsection (a)(2) must be made within thirty (30) days after the individual loses coverage under the health insurance

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plan.

(c) The premium for a conversion policy issued under this section shall not exceed one hundred fifty percent (150%) of the rate that would have been charged under the small employer health insurance plan with respect to the individual if the individual had been covered as an eligible employee **or a dependent of an eligible employee** under the plan during the same period. If the health insurance plan under which the individual was covered is canceled or is not renewed, the rates shall be based on the rate that would have been charged with respect to the individual if the plan had continued in force, as determined by the small employer insurer in accordance with standard actuarial principles.

(d) A conversion policy issued under this section must be approved by the insurance commissioner as described in IC 27-8-5-1. The commissioner may not approve a conversion policy unless the policy and its benefits are:

(1) comparable to those required under IC 27-13-1-4(a)(2) through IC 27-13-1-4(a)(5);

(2) reasonable in relation to the premium charged; and

(3) in compliance with IC 27-8-6-1.

If the benefit limits of the conversion policy are not more than the benefit limits of the small employer's health insurance plan, the small employer insurer shall credit the individual with any waiting period, deductible, or coinsurance credited to the individual under the small employer's health insurance plan.

(e) This section expires on the effective date of a mechanism enacted by the general assembly to offset the potential fiscal impact on small employers and small employer insurers that results from the establishment of a continuation policy under section 31.1 of this chapter.

SECTION 4. IC 27-8-23-4, AS ADDED BY P.L.133-1995, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 4. As used in this chapter, "insurer" has the meaning set forth in IC 12-7-2-120. **The term includes a limited service health maintenance organization (as defined in IC 27-13-34-4).**

SECTION 5. IC 27-13-7-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 15. (a) A contract under this chapter that provides coverage for an individual enrollee or subscriber or a family member of an enrollee or subscriber must also provide that the coverage applicable to the individual enrollee or subscriber or a**

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family member of the enrollee or subscriber is applicable, from the moment of birth, to a newly born child of the enrollee or subscriber.

(b) The coverage for a newly born child required by subsection (a) must include the following:

(1) Coverage for injury or sickness, including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities.

(2) Coverage for inpatient or outpatient services for medical and dental treatment (including orthodontic and oral surgery treatment) involved in the management of the birth defects known as cleft lip and cleft palate.

(c) If payment of a specific premium or contract fee is required to provide coverage for a newly born child, the contract may require that:

(1) notification of birth of a newly born child; and

(2) payment of the required premium or fees;

must be furnished to the insurer within thirty-one (31) days after the date of birth in order to have the coverage continue beyond the thirty-one (31) day period.

SECTION 6. IC 27-13-7-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 16. (a) As used in this section, "breast cancer screening mammography" has the meaning set forth in IC 27-8-14-2.**

(b) As used in this section, "woman at risk" has the meaning set forth in IC 27-8-14-5.

(c) A health maintenance organization issued a certificate of authority in Indiana must offer to provide coverage for breast cancer screening mammography.

(d) The coverage that a health maintenance organization must offer to provide under this section must include the following:

(1) If an insured is at least thirty-five (35) years of age but less than forty (40) years of age, coverage for at least one (1) baseline breast cancer screening mammography performed upon the insured before the insured becomes forty (40) years of age.

(2) If an insured is:

(A) at least forty (40) years of age but less than fifty (50) years of age; and

(B) not a woman at risk;

coverage for one (1) breast cancer screening mammography

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performed upon the insured in every two (2) year period.

(3) If an insured is:

(A) at least forty (40) years of age but less than fifty (50) years of age; and

(B) a woman at risk;

one (1) breast cancer screening mammography performed upon the insured every year.

(4) If the insured is at least fifty (50) years of age, one (1) breast cancer screening mammography performed upon the insured every year, regardless of whether the insured is a woman at risk.

(e) A health maintenance organization must offer to provide breast cancer screening mammography as a covered service under a contract with the health maintenance organization.

(f) The coverage that a health maintenance organization must offer to provide under this section may not be subject to a contract provision that is less favorable to an enrollee or subscriber than a contract provision applying to physical illness generally under the health maintenance organization contract.

(g) The coverage that a health maintenance organization must offer under this section is in addition to any services specifically provided for x-rays, laboratory testing, or wellness examinations.

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