

SENATE BILL No. 292

DIGEST OF SB 292 (Updated February 2, 1998 5:35 pm - DI 88)

Citations Affected: IC 27-1; IC 27-4; IC 27-8; IC 27-13.

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 service health maintenance organizations as types of insurers to which the unauthorized insurers statute applies. Adds limited service health maintenance organizations as insurers to which the provisions of the medical child support statute apply. Provides that dependents of eligible employees are entitled to small group conversion policies. Requires health maintenance organizations to provide coverage for the following: (1) Newly born children. (2)
(Continued next page)

Effective: July 1, 1998.

Miller, Simpson, Randolph

January 8, 1998, read first time and referred to Committee on Health and Environmental Affairs.

January 29, 1998, reported favorably — Do Pass.

February 2, 1998, read second time, amended, ordered engrossed.

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Digest Continued

Mammography services. Provides specific features these coverages must include.

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Reprinted
February 3, 1998

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:

- 1 SECTION 1. IC 27-1-15.5-8, AS AMENDED BY P.L.253-1997(ss),
2 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 1998]: Sec. 8. (a) The commissioner may suspend, revoke,
4 refuse to continue, renew, or issue any license issued under this
5 chapter, or impose any of the disciplinary sanctions under subsection
6 (f) if, after notice to the licensee and to the insurer represented and a
7 hearing, the commissioner finds as to the licensee any one (1) or more
8 of the following conditions:
9 (1) Any materially untrue statement in the license application.
10 (2) Any cause for which issuance of the license could have been
11 refused had it then existed and been known to the commissioner
12 at the time of issuance.
13 (3) Violation of or noncompliance with any insurance laws,
14 violation of any provision of IC 28 concerning the sale of a life
15 insurance policy or an annuity contract, or violation of any lawful

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- 1 rule, regulation, or order of the commissioner or of a
 2 commissioner of another state.
- 3 (4) Obtaining or attempting to obtain any such license through
 4 misrepresentation or fraud.
- 5 (5) Improperly withholding, misappropriating, or converting to
 6 the licensee's own use any money belonging to policyholders,
 7 insurers, beneficiaries, or others received in the course of the
 8 licensee's insurance business.
- 9 (6) Misrepresentation of the terms of any actual or proposed
 10 insurance contract.
- 11 (7) Conviction of a felony or misdemeanor involving moral
 12 turpitude.
- 13 (8) The licensee has been found guilty of any unfair trade practice
 14 or of fraud.
- 15 (9) In the conduct of the licensee's affairs under the license, the
 16 licensee has used fraudulent, coercive, or dishonest practices, or
 17 has shown himself to be incompetent, untrustworthy, or
 18 financially irresponsible, or not performing in the best interests of
 19 the insuring public.
- 20 (10) The licensee's license has been suspended or revoked in any
 21 ~~other~~ state, province, district, or territory.
- 22 (11) The licensee has forged another's name to an application for
 23 insurance.
- 24 (12) An applicant has been found to have been cheating on a
 25 examination for an insurance license.
- 26 (13) The applicant or licensee is on the most recent tax warrant
 27 list supplied to the commissioner by the department of state
 28 revenue.
- 29 (14) The licensee has failed to satisfy the continuing education
 30 requirements under section 7.1 of this chapter.
- 31 (b) The commissioner shall refuse to:
- 32 (1) issue a license; or
- 33 (2) renew a license issued;
- 34 under this chapter to any person who is the subject of an order issued
 35 by a court under IC 31-14-12-7 or IC 31-16-12-10 (or
 36 IC 31-1-11.5-13(m) or IC 31-6-6.1-16(m) before their repeal).
- 37 (c) In the event that the action by the commissioner is to not renew
 38 or to deny an application for a license, the commissioner shall notify
 39 the applicant or licensee and advise, in writing, the applicant or
 40 licensee of the reasons for the denial or nonrenewal of the applicant's
 41 or licensee's license. Not later than sixty (60) days after receiving a
 42 notice from the commissioner under this subsection, the applicant or

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

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

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

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

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

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

24 (3) Suspend a licensee's certificate.

25 (4) Censure a licensee.

26 (5) Issue a letter of reprimand.

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

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

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

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

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

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

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1 denying, suspending, or revoking a license.

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

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

12 (1) The lawful transaction of surplus lines insurance.

13 (2) The lawful transaction of reinsurance by insurers.

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

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

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

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

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

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

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- 1 (A) who procures the insurance of any risk or risks by use of
 2 the services of a full-time employee acting as an insurance
 3 manager or buyer or the services of a regularly retained and
 4 continuously qualified insurance consultant;
 5 (B) whose aggregate annual premium for insurance on all risks
 6 totals at least twenty-five thousand dollars (\$25,000); and
 7 (C) who has at least twenty-five (25) full-time employees.
- 8 (9) Transactions in Indiana involving the rendering of any service
 9 by any ambulance service provider and all fees, costs, and
 10 membership payments charged for the service. To qualify under
 11 this subdivision, the ambulance service provider:
- 12 (A) must have its ambulance service program approved by an
 13 ordinance of the legislative body of the county or city in which
 14 it operates; and
 15 (B) may not offer any membership program that includes
 16 benefits exceeding one (1) year in duration.
- 17 (b) Any of the following acts in this state effected by mail or
 18 otherwise by or on behalf of an unauthorized insurer constitutes the
 19 transaction of an insurance business in this state. The venue of an act
 20 committed by mail is at the point where the matter transmitted by mail
 21 is delivered and takes effect. Unless otherwise indicated, the term
 22 "insurer" as used in this section includes all persons engaged as
 23 principals in the business of insurance and also includes interinsurance
 24 exchanges, ~~and~~ mutual benefit societies, **health maintenance**
 25 **organizations (as defined in IC 27-13-1-19), and limited service**
 26 **health maintenance organizations (as defined in IC 27-13-34-4).**
- 27 (1) The making of or proposing to make, as an insurer, an
 28 insurance contract.
 29 (2) The making of or proposing to make, as guarantor or surety,
 30 any contract of guaranty or suretyship as a vocation and not
 31 merely incidental to any other legitimate business or activity of
 32 the guarantor or surety.
 33 (3) The taking or receiving of any application for insurance.
 34 (4) The receiving or collection of any premium, commission,
 35 membership fees, assessments, dues, or other consideration for
 36 any insurance or any part thereof.
 37 (5) The issuance or delivery of contracts of insurance to residents
 38 of this state or to persons authorized to do business in this state.
 39 (6) Acting as an agent for or otherwise representing or aiding on
 40 behalf of another person or insurer in the solicitation, negotiation,
 41 procurement, or effectuation of insurance or renewals thereof or
 42 in the dissemination of information as to coverage or rates, or

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

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

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

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

- 31 (1) loses coverage under the plan as the result of:
 32 (A) termination of **the eligible employee's** employment;
 33 (B) reduction of **the eligible employee's** hours;
 34 (C) ~~marriage~~ dissolution of **the eligible employee's marriage**;
 35 or
 36 (D) attainment of any age specified in the plan; and
 37 (2) requests a conversion policy from the small employer insurer
 38 that insured the health insurance plan;

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

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

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1 plan.

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

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

- 17 (1) comparable to those required under IC 27-13-1-4(a)(2)
 18 through IC 27-13-1-4(a)(5);
 19 (2) reasonable in relation to the premium charged; and
 20 (3) in compliance with IC 27-8-6-1.

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

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

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

37 SECTION 5. IC 27-13-7-15 IS ADDED TO THE INDIANA CODE
 38 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 39 1, 1998]: **Sec. 15. (a) A contract under this chapter that provides
 40 coverage for an individual enrollee or subscriber or a family
 41 member of an enrollee or subscriber must also provide that the
 42 coverage applicable to the individual enrollee or subscriber or a**



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

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

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

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

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

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

17 (2) payment of the required premium or fees;

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

21 SECTION 6. IC 27-13-7-16 IS ADDED TO THE INDIANA CODE
22 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
23 1, 1998]: Sec. 16. (a) As used in this section, "breast cancer
24 screening mammography" has the meaning set forth in
25 IC 27-8-14-2.

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

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

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

36 (2) If the enrollee is at least forty (40) years of age, one (1)
37 breast cancer screening mammography performed upon the
38 enrollee every year.

39 (3) Any additional views that are required for proper
40 evaluation.

41 (4) Ultrasound services, if determined medically necessary by
42 the provider treating the enrollee.



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- 1 **(d) A health maintenance organization must offer to provide**
- 2 **breast cancer screening mammography as a covered service under**
- 3 **a group contract with the health maintenance organization.**
- 4 **(e) The coverage that a health maintenance organization must**
- 5 **offer to provide under this section may not be subject to a contract**
- 6 **provision that is less favorable to an enrollee or a subscriber than**
- 7 **a contract provision applying to physical illness generally under**
- 8 **the health maintenance organization contract.**
- 9 **(f) The coverage that a health maintenance organization must**
- 10 **offer under this section is in addition to services specifically**
- 11 **provided for x-rays, laboratory testing, or wellness examinations.**

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SENATE MOTION

Mr. President: I move that Senator Randolph be added as coauthor of Senate Bill 292.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Health and Environmental Affairs, to which was referred Senate Bill 292, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 292 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 7, Nays 0.

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SENATE MOTION

Mr. President: I move that Senate Bill 292 be amended to read as follows:

Page 8, delete lines 26 through 27.

Page 8, line 28, delete "(c)" and insert "**(b)**".

Page 8, line 31, delete "(d)" and insert "(c)".

Page 8, line 33, delete "insured" and insert "**enrollee**".

Page 8, line 36, delete "insured before the insured" and insert "**enrollee before the enrollee**".

Page 8, delete lines 38 through 42.

Page 9, delete lines 1 through 7.

Page 9, line 8, delete "(4)" and insert "**(2)**".

Page 9, line 8, delete "insured" and insert "**enrollee**".

Page 9, line 8, delete "fifty (50)" and insert "**forty (40)**".

Page 9, line 10, before "every" delete "insured" and insert "**enrollee**".

Page 9, line 10, delete ", regardless of whether the insured is a" and insert ".".

Page 9, delete line 11, begin a new line block indented and insert:

"(3) Any additional views that are required for proper evaluation.

(4) Ultrasound services, if determined medically necessary by the provider treating the enrollee."

Page 9, line 12, delete "(e)" and insert "**(d)**".

Page 9, line 14, after "a" insert "**group**".

Page 9, line 15, delete "(f)" and insert "**(e)**".

Page 9, line 17, after "or" insert "**a**".

Page 9, line 20, delete "(g)" and insert "**(f)**".

Page 9, line 21, delete "any".

(Reference is to Senate Bill 292 as printed January 30, 1998.)

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