



January 24, 2022

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## HOUSE BILL No. 1296

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DIGEST OF HB 1296 (Updated January 24, 2022 10:31 am - DI 137)

**Citations Affected:** IC 27-1; IC 27-4.

**Synopsis:** Multiple employer welfare arrangements. Amends the law concerning multiple employer welfare arrangements (MEWA) to require a MEWA to provide each participating employer access to claims data that is specific to that employer. Amends the definition of "health payer" for purposes of the all payer claims data base to include a MEWA. Makes the violation of any requirement of the MEWA law an unfair method of competition or unfair or deceptive act or practice.

**Effective:** Upon passage; July 1, 2022.

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January 10, 2022, read first time and referred to Committee on Financial Institutions and Insurance.  
January 24, 2022, amended, reported — Do Pass.

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HB 1296—LS 7013/DI 55





January 24, 2022

Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

## HOUSE BILL No. 1296

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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 27-1-34-2 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 2. (a) An arrangement  
3 must annually obtain a certificate of registration from the department  
4 under rules adopted by the commissioner.  
5 (b) An arrangement that does not obtain a certificate of registration  
6 described in subsection (a) or violates ~~the requirements~~ **a requirement**  
7 of this chapter is subject to IC 27-4.  
8 SECTION 2. IC 27-1-34-3.5 IS ADDED TO THE INDIANA CODE  
9 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
10 1, 2022]: **Sec. 3.5. An arrangement providing benefits under this**  
11 **chapter shall provide each employer access to claims data specific**  
12 **to that employer.**  
13 SECTION 3. IC 27-1-34-5 IS AMENDED TO READ AS  
14 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 5. Except as provided  
15 by this chapter, ~~and by IC 27-4,~~ **and IC 27-9,** Indiana insurance law  
16 does not apply to the operation of multiple employer welfare  
17 arrangements.

HB 1296—LS 7013/DI 55



1 SECTION 4. IC 27-1-44.5-2, AS AMENDED BY P.L.195-2021,  
 2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 3 UPON PASSAGE]: Sec. 2. As used in this chapter, "health payer"  
 4 includes the following:

- 5 (1) Medicare.  
 6 (2) Medicaid or a managed care organization (as defined in  
 7 IC 12-7-2-126.9) that has contracted with Medicaid to provide  
 8 services to a Medicaid recipient.  
 9 (3) An insurer that issues a policy of accident and sickness  
 10 insurance (as defined in IC 27-8-5-1), except for the following  
 11 types of coverage:  
 12 (A) Accident only, credit, dental, vision, ~~Medicare~~  
 13 ~~supplement~~, long term care, or disability income insurance.  
 14 (B) Coverage issued as a supplement to liability insurance.  
 15 (C) Automobile medical payment insurance.  
 16 (D) A specified disease policy.  
 17 (E) A policy that provides indemnity benefits not based on any  
 18 expense incurred requirements, including a plan that provides  
 19 coverage for:  
 20 (i) hospital confinement, critical illness, or intensive care; or  
 21 (ii) gaps for deductibles or copayments.  
 22 (F) Worker's compensation or similar insurance.  
 23 (G) A student health plan.  
 24 (H) A supplemental plan that always pays in addition to other  
 25 coverage.  
 26 ~~(I) An employer sponsored health benefit plan that is:~~  
 27 ~~(i) provided to individuals who are eligible for Medicare;~~  
 28 ~~and~~  
 29 ~~(ii) not marketed as, or held out to be, a Medicare~~  
 30 ~~supplement policy.~~  
 31 (4) A health maintenance organization (as defined in  
 32 IC 27-13-1-19).  
 33 (5) A pharmacy benefit manager (as defined in IC 27-1-24.5-12).  
 34 (6) An administrator (as defined in IC 27-1-25-1).  
 35 **(7) A multiple employer welfare arrangement (as defined in**  
 36 **IC 27-1-34-1).**  
 37 ~~(7)~~ **(8)** Any other person identified by the commissioner for  
 38 participation in the data base described in this chapter.

39 SECTION 5. IC 27-4-1-4, AS AMENDED BY P.L.196-2021,  
 40 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 41 JULY 1, 2022]: Sec. 4. (a) The following are hereby defined as unfair  
 42 methods of competition and unfair and deceptive acts and practices in



- 1 the business of insurance:
- 2 (1) Making, issuing, circulating, or causing to be made, issued, or
- 3 circulated, any estimate, illustration, circular, or statement:
- 4 (A) misrepresenting the terms of any policy issued or to be
- 5 issued or the benefits or advantages promised thereby or the
- 6 dividends or share of the surplus to be received thereon;
- 7 (B) making any false or misleading statement as to the
- 8 dividends or share of surplus previously paid on similar
- 9 policies;
- 10 (C) making any misleading representation or any
- 11 misrepresentation as to the financial condition of any insurer,
- 12 or as to the legal reserve system upon which any life insurer
- 13 operates;
- 14 (D) using any name or title of any policy or class of policies
- 15 misrepresenting the true nature thereof; or
- 16 (E) making any misrepresentation to any policyholder insured
- 17 in any company for the purpose of inducing or tending to
- 18 induce such policyholder to lapse, forfeit, or surrender the
- 19 policyholder's insurance.
- 20 (2) Making, publishing, disseminating, circulating, or placing
- 21 before the public, or causing, directly or indirectly, to be made,
- 22 published, disseminated, circulated, or placed before the public,
- 23 in a newspaper, magazine, or other publication, or in the form of
- 24 a notice, circular, pamphlet, letter, or poster, or over any radio or
- 25 television station, or in any other way, an advertisement,
- 26 announcement, or statement containing any assertion,
- 27 representation, or statement with respect to any person in the
- 28 conduct of the person's insurance business, which is untrue,
- 29 deceptive, or misleading.
- 30 (3) Making, publishing, disseminating, or circulating, directly or
- 31 indirectly, or aiding, abetting, or encouraging the making,
- 32 publishing, disseminating, or circulating of any oral or written
- 33 statement or any pamphlet, circular, article, or literature which is
- 34 false, or maliciously critical of or derogatory to the financial
- 35 condition of an insurer, and which is calculated to injure any
- 36 person engaged in the business of insurance.
- 37 (4) Entering into any agreement to commit, or individually or by
- 38 a concerted action committing any act of boycott, coercion, or
- 39 intimidation resulting or tending to result in unreasonable
- 40 restraint of, or a monopoly in, the business of insurance.
- 41 (5) Filing with any supervisory or other public official, or making,
- 42 publishing, disseminating, circulating, or delivering to any person,



- 1 or placing before the public, or causing directly or indirectly, to  
2 be made, published, disseminated, circulated, delivered to any  
3 person, or placed before the public, any false statement of  
4 financial condition of an insurer with intent to deceive. Making  
5 any false entry in any book, report, or statement of any insurer  
6 with intent to deceive any agent or examiner lawfully appointed  
7 to examine into its condition or into any of its affairs, or any  
8 public official to which such insurer is required by law to report,  
9 or which has authority by law to examine into its condition or into  
10 any of its affairs, or, with like intent, willfully omitting to make a  
11 true entry of any material fact pertaining to the business of such  
12 insurer in any book, report, or statement of such insurer.
- 13 (6) Issuing or delivering or permitting agents, officers, or  
14 employees to issue or deliver, agency company stock or other  
15 capital stock, or benefit certificates or shares in any common law  
16 corporation, or securities or any special or advisory board  
17 contracts or other contracts of any kind promising returns and  
18 profits as an inducement to insurance.
- 19 (7) Making or permitting any of the following:
- 20 (A) Unfair discrimination between individuals of the same  
21 class and equal expectation of life in the rates or assessments  
22 charged for any contract of life insurance or of life annuity or  
23 in the dividends or other benefits payable thereon, or in any  
24 other of the terms and conditions of such contract. However,  
25 in determining the class, consideration may be given to the  
26 nature of the risk, plan of insurance, the actual or expected  
27 expense of conducting the business, or any other relevant  
28 factor.
- 29 (B) Unfair discrimination between individuals of the same  
30 class involving essentially the same hazards in the amount of  
31 premium, policy fees, assessments, or rates charged or made  
32 for any policy or contract of accident or health insurance or in  
33 the benefits payable thereunder, or in any of the terms or  
34 conditions of such contract, or in any other manner whatever.  
35 However, in determining the class, consideration may be given  
36 to the nature of the risk, the plan of insurance, the actual or  
37 expected expense of conducting the business, or any other  
38 relevant factor.
- 39 (C) Excessive or inadequate charges for premiums, policy  
40 fees, assessments, or rates, or making or permitting any unfair  
41 discrimination between persons of the same class involving  
42 essentially the same hazards, in the amount of premiums,



1 policy fees, assessments, or rates charged or made for:

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

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

10 (iii) policies or contracts of any other kind or kinds of  
11 insurance whatsoever.

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

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

41 (A) Paying bonuses to policyholders or otherwise abating their  
42 premiums in whole or in part out of surplus accumulated from



- 1 nonparticipating insurance, so long as any such bonuses or  
2 abatement of premiums are fair and equitable to policyholders  
3 and for the best interests of the company and its policyholders.  
4 (B) In the case of life insurance policies issued on the  
5 industrial debit plan, making allowance to policyholders who  
6 have continuously for a specified period made premium  
7 payments directly to an office of the insurer in an amount  
8 which fairly represents the saving in collection expense.  
9 (C) Readjustment of the rate of premium for a group insurance  
10 policy based on the loss or expense experience thereunder, at  
11 the end of the first year or of any subsequent year of insurance  
12 thereunder, which may be made retroactive only for such  
13 policy year.  
14 (D) Paying by an insurer or insurance producer thereof duly  
15 licensed as such under the laws of this state of money,  
16 commission, or brokerage, or giving or allowing by an insurer  
17 or such licensed insurance producer thereof anything of value,  
18 for or on account of the solicitation or negotiation of policies  
19 or other contracts of any kind or kinds, to a broker, an  
20 insurance producer, or a solicitor duly licensed under the laws  
21 of this state, but such broker, insurance producer, or solicitor  
22 receiving such consideration shall not pay, give, or allow  
23 credit for such consideration as received in whole or in part,  
24 directly or indirectly, to the insured by way of rebate.
- 25 (9) Requiring, as a condition precedent to loaning money upon the  
26 security of a mortgage upon real property, that the owner of the  
27 property to whom the money is to be loaned negotiate any policy  
28 of insurance covering such real property through a particular  
29 insurance producer or broker or brokers. However, this  
30 subdivision shall not prevent the exercise by any lender of the  
31 lender's right to approve or disapprove of the insurance company  
32 selected by the borrower to underwrite the insurance.
- 33 (10) Entering into any contract, combination in the form of a trust  
34 or otherwise, or conspiracy in restraint of commerce in the  
35 business of insurance.
- 36 (11) Monopolizing or attempting to monopolize or combining or  
37 conspiring with any other person or persons to monopolize any  
38 part of commerce in the business of insurance. However,  
39 participation as a member, director, or officer in the activities of  
40 any nonprofit organization of insurance producers or other  
41 workers in the insurance business shall not be interpreted, in  
42 itself, to constitute a combination in restraint of trade or as





1 combining to create a monopoly as provided in this subdivision  
2 and subdivision (10). The enumeration in this chapter of specific  
3 unfair methods of competition and unfair or deceptive acts and  
4 practices in the business of insurance is not exclusive or  
5 restrictive or intended to limit the powers of the commissioner or  
6 department or of any court of review under section 8 of this  
7 chapter.

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

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

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

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

31 (C) Title insurance.

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

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

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

39 (i) insures against death or nonfatal injury that occurs during  
40 the flight to which the ticket relates;

41 (ii) insures against personal injury or property damage that  
42 occurs during travel to or from the airport in a common



- 1 carrier immediately before or after the flight;  
 2 (iii) insures against baggage loss during the flight to which  
 3 the ticket relates; or  
 4 (iv) insures against a flight cancellation to which the ticket  
 5 relates.
- 6 (14) Refusing, because of the for-profit status of a hospital or  
 7 medical facility, to make payments otherwise required to be made  
 8 under a contract or policy of insurance for charges incurred by an  
 9 insured in such a for-profit hospital or other for-profit medical  
 10 facility licensed by the state department of health.
- 11 (15) Refusing to insure an individual, refusing to continue to issue  
 12 insurance to an individual, limiting the amount, extent, or kind of  
 13 coverage available to an individual, or charging an individual a  
 14 different rate for the same coverage, solely because of that  
 15 individual's blindness or partial blindness, except where the  
 16 refusal, limitation, or rate differential is based on sound actuarial  
 17 principles or is related to actual or reasonably anticipated  
 18 experience.
- 19 (16) Committing or performing, with such frequency as to  
 20 indicate a general practice, unfair claim settlement practices (as  
 21 defined in section 4.5 of this chapter).
- 22 (17) Between policy renewal dates, unilaterally canceling an  
 23 individual's coverage under an individual or group health  
 24 insurance policy solely because of the individual's medical or  
 25 physical condition.
- 26 (18) Using a policy form or rider that would permit a cancellation  
 27 of coverage as described in subdivision (17).
- 28 (19) Violating IC 27-1-22-25, IC 27-1-22-26, or IC 27-1-22-26.1  
 29 concerning motor vehicle insurance rates.
- 30 (20) Violating IC 27-8-21-2 concerning advertisements referring  
 31 to interest rate guarantees.
- 32 (21) Violating IC 27-8-24.3 concerning insurance and health plan  
 33 coverage for victims of abuse.
- 34 (22) Violating IC 27-8-26 concerning genetic screening or testing.
- 35 (23) Violating IC 27-1-15.6-3(b) concerning licensure of  
 36 insurance producers.
- 37 (24) Violating IC 27-1-38 concerning depository institutions.
- 38 (25) Violating IC 27-8-28-17(c) or IC 27-13-10-8(c) concerning  
 39 the resolution of an appealed grievance decision.
- 40 (26) Violating IC 27-8-5-2.5(e) through IC 27-8-5-2.5(j) (expired  
 41 July 1, 2007, and removed) or IC 27-8-5-19.2 (expired July 1,  
 42 2007, and repealed).



- 1 (27) Violating IC 27-2-21 concerning use of credit information.  
 2 (28) Violating IC 27-4-9-3 concerning recommendations to  
 3 consumers.  
 4 (29) Engaging in dishonest or predatory insurance practices in  
 5 marketing or sales of insurance to members of the United States  
 6 Armed Forces as:  
 7 (A) described in the federal Military Personnel Financial  
 8 Services Protection Act, P.L.109-290; or  
 9 (B) defined in rules adopted under subsection (b).  
 10 (30) Violating IC 27-8-19.8-20.1 concerning stranger originated  
 11 life insurance.  
 12 (31) Violating IC 27-2-22 concerning retained asset accounts.  
 13 (32) Violating IC 27-8-5-29 concerning health plans offered  
 14 through a health benefit exchange (as defined in IC 27-19-2-8).  
 15 (33) Violating a requirement of the federal Patient Protection and  
 16 Affordable Care Act (P.L. 111-148), as amended by the federal  
 17 Health Care and Education Reconciliation Act of 2010 (P.L.  
 18 111-152), that is enforceable by the state.  
 19 (34) After June 30, 2015, violating IC 27-2-23 concerning  
 20 unclaimed life insurance, annuity, or retained asset account  
 21 benefits.  
 22 (35) Willfully violating IC 27-1-12-46 concerning a life insurance  
 23 policy or certificate described in IC 27-1-12-46(a).  
 24 (36) Violating IC 27-1-37-7 concerning prohibiting the disclosure  
 25 of health care service claims data.  
 26 (37) Violating IC 27-4-10-10 concerning virtual claims payments.  
 27 (38) Violating IC 27-1-24.5 concerning pharmacy benefit  
 28 managers.  
 29 **(39) Violating any requirement of IC 27-1-34 concerning a**  
 30 **multiple employer welfare arrangement.**  
 31 (b) Except with respect to federal insurance programs under  
 32 Subchapter III of Chapter 19 of Title 38 of the United States Code, the  
 33 commissioner may, consistent with the federal Military Personnel  
 34 Financial Services Protection Act (10 U.S.C. 992 note), adopt rules  
 35 under IC 4-22-2 to:  
 36 (1) define; and  
 37 (2) while the members are on a United States military installation  
 38 or elsewhere in Indiana, protect members of the United States  
 39 Armed Forces from;  
 40 dishonest or predatory insurance practices.  
 41 **SECTION 6. An emergency is declared for this act.**



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Financial Institutions and Insurance, to which was referred House Bill 1296, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete page 2.

Page 3, delete lines 1 through 5.

Page 3, between lines 5 and 6, begin a new paragraph and insert:

"SECTION 4. IC 27-1-44.5-2, AS AMENDED BY P.L.195-2021, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter, "health payer" includes the following:

- (1) Medicare.
- (2) Medicaid or a managed care organization (as defined in IC 12-7-2-126.9) that has contracted with Medicaid to provide services to a Medicaid recipient.
- (3) An insurer that issues a policy of accident and sickness insurance (as defined in IC 27-8-5-1), except for the following types of coverage:
  - (A) Accident only, credit, dental, vision, ~~Medicare supplement~~, long term care, or disability income insurance.
  - (B) Coverage issued as a supplement to liability insurance.
  - (C) Automobile medical payment insurance.
  - (D) A specified disease policy.
  - (E) A policy that provides indemnity benefits not based on any expense incurred requirements, including a plan that provides coverage for:
    - (i) hospital confinement, critical illness, or intensive care; or
    - (ii) gaps for deductibles or copayments.
  - (F) Worker's compensation or similar insurance.
  - (G) A student health plan.
  - (H) A supplemental plan that always pays in addition to other coverage.
  - ~~(I) An employer sponsored health benefit plan that is:
 
    - (i) provided to individuals who are eligible for Medicare; and
    - (ii) not marketed as, or held out to be, a Medicare supplement policy.~~
- (4) A health maintenance organization (as defined in IC 27-13-1-19).
- (5) A pharmacy benefit manager (as defined in IC 27-1-24.5-12).



(6) An administrator (as defined in IC 27-1-25-1).

**(7) A multiple employer welfare arrangement (as defined in IC 27-1-34-1).**

~~(7)~~ **(8)** Any other person identified by the commissioner for participation in the data base described in this chapter."

Page 10, delete lines 8 through 30.

Page 10, after line 30, begin a new paragraph and insert:

"SECTION 6. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1296 as introduced.)

CARBAUGH

Committee Vote: yeas 11, nays 0.

