

UNFAIR TRADE PRACTICES ACT

Table of Contents

Section 1.	Purpose	(4)	Is misleading or is a misrepresentation as to the financial condition of any insurer, or as to legal reserve system upon which any life insurer operates; or
Section 2.	Definitions		
Section 3.	Unfair Trade Practices Prohibited		
Section 4.	Unfair Trade Practices Defined	(5)	Uses any name or title of any policy or class of policies misrepresenting the true nature thereof
Section 5.	Favored Agent or Insurer; Coercion of Debtors		
Section 6.	Power of Commissioner	(6)	Is a misrepresentation, including any intentional misquote of premium rate, for the purpose of inducing or tending to induce the purchase, lapse, forfeiture, exchange, conversion or surrender of any policy; or
Section 7.	Hearings, Witnesses, Appearances, Production of Books, and Service of Process		
Section 8.	Cease and Desist and Penalty Orders		
Section 9.	Judicial Review of Orders	(7)	Is a misrepresentation for the purpose of effecting a pledge or assignment of or effecting a transfer of any policy; or
Section 10.	Judicial Review by Intervention		
Section 11.	Penalty for Violation of Cease and Desist Orders		
Section 12.	Regulations	(8)	Misrepresents any policy as being shares of stock.
Section 13.	Provisions of Act Additional to Existing Law		
Section 14.	Immunity from Prosecution		
Section 15.	Separability Provision		

Section 4. Unfair Trade Practices Defined

Any of the following practices, if committed in violation of Section 3, are hereby defined as unfair trade practices in the business of insurance:

- A. Misrepresentations and False Advertising of Insurance Policies. Making, issuing, circulating, or causing to be made, issued or circulated, any estimate, illustration, circular or statement, sales presentation, omission or comparison that:

- B. False Information and Advertising Generally. 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 the business of insurance or with respect to any insurer in the conduct of its insurance business, which is untrue, deceptive or misleading.
- C. Defamation. 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 any insurer, and which is calculated to injure such insurer.
- D. Boycott, Coercion and Intimidation. Entering into any agreement to commit, or by any concerted action committing any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance.
- E. False Statements and Entries.
 - (1) Knowingly filing with any supervisory or other public official, or knowingly making, publishing, disseminating, circulating or delivering to any person, or placing before the public, or knowingly causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false material statement of fact as to the financial condition of an insurer.
 - (2) Knowingly making any false entry of a material fact in any book, report or statement of any insurer or knowingly 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, or knowingly making any false material statement to any insurance department official.
- F. Stock Operations and Advisory Board Contracts. 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 purchase insurance.
- G. Unfair Discrimination.
 - (1) Making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any life insurance policy or annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such policy.
 - (2) Making or permitting any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, policy fees or rates to a true accidentment chnewssr

Unfair Trade Practices Act

- (ii) The amount of the fee to be charged or how it will be determined or calculated must be specifically stated in the agreement.
- (iii) The agreement must state that the client is under no obligation to purchase any insurance product through the insurance producer or consultant.

Drafting Note: This subsection is intended to apply only to persons engaged in personal financial planning.

- (b) The insurance producer shall retain a copy of the agreement for not less than three (3) years after completion of services, and a copy shall be available to the commissioner upon request.
- N. Failure to file or to certify information regarding the endorsement or sale of long-term care insurance. Failure of any insurer to:
- (1) File with the insurance department the following material:
 - (a) The policy and certificate;
 - (b) A corresponding outline of coverage; and
 - (c) All advertisements requested by the insurance department; or
 - (2) Certify annually that the association has complied with the responsibilities for disclosure, advertising, compensation arrangements, or other information required by the commissioner, as set forth by regulation.
- O. Failure to Provide Claims History
- (1) Loss Information—Property and Casualty. Failure of a company issuing property and casualty insurance to provide the following loss information for the three (3) previous policy years to the first named insured within thirty (30) days of receipt of the first named insured's written request:
 - (a) On all claims, date and description of occurrence, and total amount of payments; and
 - (b) For any occurrence not included in Subparagraph (a) of this paragraph, the date and description of occurrence.
 - (2) Should the first named insured be requested by a prospective insurer to provide detailed loss information in addition to that required under Paragraph (1), the first named insured may mail or deliver a written request to the insurer for the add

Unfair Trade Practices Act

considering applying this requirement to life, accident and health lines of insurance should first review their state privacy act related to issues of confidentiality of individual insured information.

P. Violating any one of Sections [insert applicable sections].

Drafting Note: Insert section numbers of any other sections of the state's insurance laws deemed desirable or necessary to include as an unfair trade practice, such as cancellation and nonrenewal laws.

Chronological Summary of Actions (all references are to the Proceedings of the NAIC).

1947 Proc. 383, 392-400, 413 (adopted).
1960 Proc. II 485-487, 509-515, 516 (reprinted).
1972 Proc. I 15, 16, 443-444, 491, 493-501 (amended and reprinted).
1977 Proc. I 26, 28, 211, 226-227 (amended).
1979 Proc. II 31, 34, 38, 39, 525 (amended).
1985 Proc. I 19, 39, 85-86 (amended).
1989 Proc. II 13, 21, 129-130, 132, 133-140 (amended and reprinted).
1990 Proc. I 6, 25, 122, 146 (changed name of model).
1990 Proc. II 7, 13-14, 160, 169-177 (amended and reprinted).
1991 Proc. I 9, 16, 192-193, 196-203 (amended and reprinted).
1993 Proc. I 8, 136, 242, 246-254 (amended and reprinted).
1993 Proc. Ist Quarter 3, 34, 267, 274, 276 (amended).