

§ 1946. Advertisement by insurers

A. No person shall publish or print in any newspaper, magazine, periodical, circular letter, pamphlet, or in any other manner or publish by radio broadcasting in this state, any advertisement or other notice either directly or indirectly setting forth the advantages of or soliciting business for any insurer which has not been authorized to do business in Louisiana.

B. No person shall accept for publication or printing in any newspaper, magazine, or other periodical, or circular letter or pamphlet, or in any other manner, or for radio broadcasting in this state, any advertisement or other notice either directly or indirectly setting forth the advantages of or soliciting business for any insurer unless the advertisement or notice is accompanied by a certificate from the office of the commissioner of insurance to the effect that the insurer is authorized to do business in Louisiana.

C. Whoever violates this Section shall be fined not more than one thousand dollars or imprisoned for not more than one year, or both.

Renumbered from R.S. 22:1523 by Acts 2008, No. 415, § 1, eff. Jan. 1, 2009. Acts 1958, No. 125. Amended by Acts 2012, No. 271, § 1.

PART IV. CLAIMS ADJUSTERS

§ 1661. Definitions

As used in this Part, unless the context requires otherwise, the following definitions shall be applicable:

(1) "Adjuster" means an individual who investigates or adjusts losses on behalf of an insurer as an independent contractor or as an employee of:

- (a) An adjustment bureau;
- (b) An association;
- (c) A property and casualty producer;
- (d) An independent contractor;
- (e) An insurer; or
- (f) A managing general agent.

(2) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership or other legal entity.

(3) "Fingerprints" means an impression of the lines on the finger taken for purpose of identification. The impression may be electronic or in ink converted to electronic format.

(4) "Home state" means the District of Columbia and any state or territory of the United States in which the adjuster's principal place of residence or principal place of business is located. If neither the state in which the adjuster maintains the principal place of residence nor the state in which the adjuster maintains the principal place of business has a substantially similar law governing adjusters, the adjuster may declare another state in which he becomes licensed and acts as an adjuster to be the "home state".

(5) "Individual" means a natural person.

(6) "Insurer" means any type of insurer authorized or approved unauthorized to conduct business in this state.

(7) "Person" means an individual or a business entity.

(8) "Uniform individual application" means the current version of the National Association of Insurance Commissioners (NAIC) Uniform Individual Application for resident and nonresident individuals.

(9) "Uniform business entity application" means the current version of the National Association of Insurance Commissioners (NAIC) Uniform Business Entity Application for resident and nonresident business entities.

Renumbered from R.S. 22: 121 0. 71 by Acts 2008, No. 415, § 1, eff. Jan. 1, 2009. Added by Acts 2006, No. 783, § 1, eff. Jan. 1, 2007.

§ 1662. General exemptions

This Part does not apply to:

- (1) An attorney at law admitted to practice in this state, when acting in his professional capacity as an attorney.
- (2) An employee of an insurer who is not regularly engaged in the adjustment or investigation of insurance claims.
- (3) A person employed only to furnish technical assistance to a licensed adjuster, including but not limited to an investigator, an attorney, an engineer, an estimator, a handwriting expert, a photographer, and a private detective.
- (4) A producer of an authorized insurer or a licensed employee of a producer who processes an undisputed or uncontested loss for the insurer under a policy issued by the producer.
- (5) A person who performs clerical duties and does not negotiate with parties on disputed or contested claims.
- (6)(a) An individual who collects claim information from, or furnishes claim information to, insureds or claimants, who conducts data entry including entering data into an automated claims adjudication system if such individual is an employee of a business entity licensed pursuant to this Chapter, or an employee of an affiliate of a business entity licensed pursuant to the Chapter, if there are no more than twenty-five individuals under the supervision of one licensed individual adjuster or licensed individual insurance producer. As used in this Part, "automated claims adjudication system" means a preprogrammed computer system designed for the collection, data entry, calculation and system generated final resolution of consumer electronic products insurance claims which:
 - (i) May be utilized only by a licensed adjuster or licensed producer, or supervised individuals operating pursuant to this Paragraph;
 - (H) Must comply with all claims payment requirements of the Louisiana Insurance Code; and
 - (iii) Must be certified as compliant with this Section by a licensed adjuster that is an officer of a licensed business entity under this Chapter.
- (b) Individuals who are licensed as producers pursuant to R.S. 22:1543 are not required to be licensed as an adjuster for purposes of this Section.
- (7) A person who handles claims arising under life, accident, and health insurance policies.
- (8) A person who is employed principally as a right-of-way agent or a right-of-way and claims agent whose primary responsibility is the acquisition of servitudes, leases, permits, or other real property rights and who handles only claims arising out of operations under those servitudes, leases, permits, or other contracts or contractual obligations.

(9) An individual who is employed to investigate suspected fraudulent insurance claims but who does not adjust losses or determine claims payments.

(10) A full-time salaried employee of a property owner or a property management company retained by a property owner who either does not hold the employee out as an insurance adjuster or who has not been hired to handle a specific claim resulting from a fire or casualty loss and who acts at the sole discretion of the property owner or management company regarding a claim related to the owner's property.

(11) A person who handles claims arising under vehicle mechanical breakdown insurance policies as defined in R.S. 22:361.

(12) A person who handles claims arising under property residual value insurance policies as defined in R.S. 22:381.

(13) A person handling claims for workers' compensation benefits pursuant to Title 23 of the Louisiana Revised Statutes of 1950 or a person handling claims arising under a workers' compensation policy or group self insurers fund indemnity agreement.

(14) A person handling commercial claims for excess coverages as classified by R.S. 22:47.

(15) A person who settles on I y reinsurance or subrogation claims.

Renumbered from R.S. 22:1210.72 by Acts 2008, No. 415, § 1, eff. Jan. 1, 2009. Added by Acts 2006, No. 783, § 1, eff. Jan. 1, 2007. Amended by Acts 2010, No. 1007, § 1; Acts 2011, No. 94, § 1, eff. Jan. 1, 2012.

§ 1663. License required

A. A person shall not act or hold himself out as a claims adjuster in this state unless the person is licensed as a claims adjuster in accordance with this Part.

B. A business entity acting as a claims adjuster is required to obtain a claims adjuster license. Application shall be made using the uniform business entity application. Before approving the application, the commissioner of insurance shall find that:

(1) The business entity has paid the fees set forth in R.S. 22:821.

(2) The business entity has designated a licensed adjuster responsible for the business entity's compliance with the insurance laws, rules, and regulations of this state.

Renumbered from R.S. 22:1210.73 by Acts 2008, No. 415, § 1, eff. Jan. 1, 2009. Added by Acts 2006, No. 783, § 1, eff. Jan. 1, 2007.

§ 1664. Application for claims adjuster license

A. Any person who is either employed or contracts to perform services in Louisiana as an adjuster shall obtain a license to do so from the Department of Insurance. A person applying for a claims adjuster license shall make application to the commissioner of insurance on the appropriate uniform application or other application required by the commissioner of insurance.

B. The applicant shall declare under penalty of perjury and under penalty of refusal, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the applicant's knowledge and belief.

C. (1) In order to make a determination of eligibility, the commissioner of insurance is authorized to require fingerprints of applicants and submit the fingerprints and the fee required to perform the criminal history record checks to the Louisiana Bureau of Criminal Identification and Information and the Federal Bureau of Investigation (FBI) for state and national criminal history record checks. The commissioner of insurance shall require a criminal history record check on each applicant in accordance with this Part. The commissioner of insurance shall require each applicant to submit a full set of fingerprints in order for the commissioner of insurance to obtain and receive National Criminal History Records from the FBI Criminal Justice Information Services Division. (2) All business entities applying to do business as independent adjusting companies shall provide a listing of all executive officers and directors of the applicant and of all executive officers and directors of entities owning and any individuals owning, directly or indirectly, ten percent or more of the outstanding voting securities of the applicant.

§ 1673. Continuing education

A. An individual who holds an adjuster license and who is not exempt under Subsection B of this Section shall satisfactorily complete a minimum of twenty-four hours of continuing education courses, including ethics, reported on a biennial basis in conjunction with the license renewal cycle.

B. This Section shall not apply to:

(1) Licensees not licensed for one full year prior to the end of the applicable continuing education biennium; or (2) Licensees holding nonresident adjuster licenses who have met the continuing education requirements of their home state and whose home state gives credit to residents of this state on the same basis.

C. Only continuing education courses approved by the commissioner of insurance shall be used to satisfy the continuing education requirement of Subsection A of this Section.

Renumbered from R.S. 22:1210.83 by Acts 2008, No. 415, § I, efT. Jan. I, 2009. Added by Acts 2006, No. 783, §I, eff. Jan. 1, 2007. Amended by Acts 2011, No. 94, § 1, efT. Jan. 1, 2012.

§ 1674. Standards of conduct

- A An adjuster shall not permit an unlicensed employee or representative of the adjuster to conduct business for which a license is required under this Part.
- B. An adjuster shall not have a direct or indirect financial interest in any aspect of the claim, other than the salary, fee, or other consideration established with the insurer.
- C. An adjuster shall not acquire any interest in salvage of property subject to the contract with the insurer.
- D. An adjuster shall not solicit employment for, recommend or otherwise solicit engagement, directly or indirectly, for or on behalf of any attorney at law, contractor or subcontractor, in connection with any loss or damage with respect to which such adjuster is concerned or employed.
- E. An adjuster shall not solicit or accept any compensation, direct or indirect, from, by, or on behalf of any contractor or subcontractor engaged by or on behalf of any insured by which such adjuster has been, is, or will be employed or compensated, directly or indirectly.
- F. Adjusters shall also adhere to the following general requirements:
- (1) An adjuster shall not undertake the adjustment of any claim if the adjuster is not competent and knowledgeable as to the terms and conditions of the insurance coverage, or which otherwise exceeds the adjuster's current expertise;
 - (2) An adjuster shall not knowingly make any oral or written material misrepresentations or statements which are false or maliciously critical and intended to injure any person engaged in the business of insurance;
 - (3) No adjuster, while so licensed by the department, may represent or act as a public adjuster; and
 - (4) No adjuster shall materially misrepresent to an insured or other interested party the terms and coverage of an insurance contract with intent and for the purpose of effecting settlement of a claim for loss or damage or benefit under such contract on less favorable terms than those provided in and contemplated by the insurance contract.

Renumbered from R.S. 22:1210.84 by Acts 2008, No. 415, § 1, eff. Jan. 1, 2009. Added by Acts 2006, No. 783, § 1, eff. Jan. 1, 2007.

§ 1961. Purpose

The purpose of this Part is to regulate the trade practices in the business of insurance, in accordance with the intent of congress as expressed in Public Law 15- 79th Congress, 1 by defining or providing for the detennination of all acts, methods, and practices which constitute unfair methods of competition and unfair or deceptive acts and practices in this state, and to prohibit the same.

Renumbered from R.S. 22:1211 by Acts 2008, No. 415, § 1, eff. Jan. 1, 2009. Acts 1958, No. 125. Amended by Acts 1993, No. 953, § 1.
1 15 U.S.C.A. §§ 1011 to 1015.

§ 1962. Definitions

When used in this Part:

A. "Commissioner" means the commissioner of insurance of this state.

B. "Insured" means the party named on a policy or certificate as the individual with legal rights to the benefits provided by such policy.

C. "Insurer" means any person, reciprocal exchange, interinsurer, Lloyds insurer, fraternal benefit society, industrial and burial insurer, or any insurer that markets under the Home Service Marketing distribution method and issues a majority of its policies on a weekly or monthly basis, or any other legal entity engaged in the business of insurance, including insurance producers. Insurer shall also mean medical service plans, hospital service plans, health maintenance organizations, and prepaid limited health care service plans. For the purposes of this Part, these foregoing entities shall be deemed to be engaged in the business of insurance.

D. "Person" means any natural or artificial entity, including but not limited to individuals, partnerships, associations, trusts, or corporations.

E. "Policy" or "certificate" means any contract of insurance, indemnity, medical, health or hospital service, suretyship, or annuity issued, proposed for issuance, or intended for issuance by any insurer.

F. "Producer" means a person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance, and includes all persons or business entities otherwise referred to in this Code as "insurance agent", "agent", "insurance broker", "broker", "insurance solicitor", "solicitor", or "surplus lines broker".

Renumbered from R.S. 22:1212 by Acts 2008, No. 415, § 1, eff. Jan. 1, 2009. Acts 1958, No. 125. Amended by Acts 1993, No. 953, § 1; Acts 1997, No. 949, § 1; Acts 2001, No. 158, § 1, eff. Jan. 1, 2002; Acts 2012, No. 271, § 1.

§ 1963. Unfair methods and unfair or deceptive acts and practices prohibited

No person shall engage in this state in any trade practice which is defined in this Part to be an unfair method of competition or an unfair or deceptive act or practice in the conduct of the business of insurance, including unauthorized insurance as provided in R.S. 22:1902 et seq. Renumbered from R.S. 22: 1213 by Acts 2008, No. 415, § 1, eff. Jan. 1, 2009. Acts 1958, No. 125. Amended by Acts 1993, No. 953, § 1.

§ 1964. Methods, acts, and practices which are defined as unfair or deceptive

The following are declared to be unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

(1) 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 does any of the following:

(a) Misrepresents the benefits, advantages, conditions, or terms of any policy issued or to be issued.

(b) Misrepresents the dividends or share of the surplus to be received on any policy.

(c) Makes a false or misleading statement as to the dividends or share of surplus previously paid on similar policies.

(d) Makes 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.

(e) Misrepresents to any policyholder insured by any insurer for the purpose of inducing or tending to induce such policyholder to lapse, forfeit, or surrender his insurance.

(f) Uses any name or title of any policy or class of policies misrepresenting the true nature thereof.

(g) Makes a misrepresentation for the purpose of effecting a pledge or assignment or effecting a loan against any policy.

(h) Misrepresents any policy as being shares of stock.

(2) 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 person in the conduct of his insurance business, which is untrue, deceptive or misleading.

(3) 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 an insurer, and which is calculated to injure any person engaged in the business of insurance.

(4) Boycott, coercion and intimidation. Entering into any agreement to commit or by any 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) False financial statements and false entries.

(a) 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 any insurer.

(b) 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 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.

(6) Stock operations and advisory board contract. 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 corporation, or securities or any special advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insure.

(7) Unfair discrimination.

(a) Making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates 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, if, 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) Making or permitting any unfair discrimination between individuals of the same class involving essentially the same hazards in the amount of premium, policy fees, or rates charged for any policy or contract of health or accident insurance or in the benefits payable thereon, or in any of the terms or conditions of such contract, or in any other manner whatever, if, 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.

(c) Violating the provisions of R.S. 22:34.

(d) Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazard by refusing to insure, refusing to renew, cancelling, or limiting the amount of insurance coverage on a property or casualty risk solely because of the geographic location of the risk, unless such action is a result of the application of sound underwriting and actuarial principles related to actual or reasonably anticipated loss experience.

(e) Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to insure, refusing to renew, cancelling, or limiting the amount of insurance coverage on the residential property risk, or the personal property contained therein, solely because of the age of the residential property.

(f) Refusing to insure, refusing to continue to insure, or limiting the amount of coverage available to an individual solely because of the sex, marital status, race, religion, or national origin of the individual. However, nothing in this Subsection shall prohibit an insurer from taking marital status into account for the purpose of defining persons eligible for dependent benefits. Nothing in this Section shall prohibit or limit the operation of fraternal benefit societies.

(g) Terminating or modifying coverage, or refusing to issue or refusing to renew any property or casualty policy solely because the applicant or insured or employee of either is mentally or physically impaired, unless the applicant, insured, or employee is mentally and physically incapable of operating an automobile and does not possess a valid operator's license issued by the state. However, this Subsection shall not apply to accident health insurance sold by a casualty insurer and shall not be interpreted to modify any other provision of law relating to the termination, modification, issuance, or renewal of any insurance policy or contract.

(h) Refusing to insure solely because another insurer has refused to write a policy or has cancelled or has refused to renew an existing policy in which that person was the named insured. Nothing in this Paragraph shall prevent the termination of an excess insurance policy on account of the failure of the insured to maintain any required underlying insurance.

(i) With regard to automobile liability insurance, terminating or modifying coverage, or refusing to issue or refusing to renew any policy solely because the applicant or insured filed for bankruptcy. This Subparagraph shall not apply where the refusal to continue to insure is based upon nonpayment of premium.

(j) With regard to automobile liability insurance, refusing to issue insurance coverage or increasing insurance premiums solely based upon a lapse in insurance coverage where the insured is serving in the military and has been deployed and has performed military services out of state and where the individual has previously surrendered his automobile license number plate to the office of motor vehicles in compliance with R.S. 47:505(8). This Paragraph shall apply to all existing and new insurance policies as well as renewals of existing policies.

(8) Rebates. Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract of insurance including life insurance, life annuity or health and accident insurance, or agreement as to such contract other than as plainly expressed in the contract 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 or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such insurance or annuity or in connection therewith, any stock, bonds, or other securities of any insurer or other corporation, association, or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the contract.

(8.1) Nothing in Paragraph (7) or (8) of this Subsection 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 provided that any such bonuses or abatement of premiums shall be fair and equitable to policyholders and for the best interest of the insurer and its policyholders;

(b) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have paid premiums in advance or continuously for a specified period

made premium payment 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) Agents accepting on their own responsibility, notes for the first premiums.

(9) Requiring as a condition precedent to lending money upon the security of a mortgage on movable or immovable property that the borrower negotiate any policy of insurance covering such property through a particular insurance producer or producers, company or companies, or type of company or types of companies. However this Paragraph shall not prevent the exercise by any mortgagee of his right to approve the insurer selected by the borrower on a reasonable non-discriminatory basis related to the solvency of the company and its ability to service the policy. The mortgagee may require that the amount of insurance be at least in an amount to protect the amount of the loan on a type of policy furnishing reasonable protection to the mortgagee in a form selected by the borrower which may include additional coverages not inuring to the benefit of the mortgagee and reasonably associated or connected with the property which is the subject of the loan or mortgage. Any lender either directly or indirectly requiring a borrower to furnish insurance upon such property shall be subject to the conditions and prohibitions of this Paragraph.

(10) "Tying", which shall mean the following:

(a) The requirement by a health and accident agent or group health and accident insurer, individual health and accident insurer, or health maintenance organization, as a condition to the offer or sale of a health benefit plan to a group or individual insured, that such insured purchase any other insurance policy.

(b) Tying of a purchase of a health and life insurance policy or policies to another insurance product. "Tying" is the requirement by any small employer health insurance carrier or individual health insurance carrier, as a condition to the offer or sale of a health benefit plan, health maintenance organization, or prepaid limited health care service plan to a small employer, as defined by this Code, or to an individual, that such employer or individual purchase any other insurance product.

(c) "Tying" does not include the joint sale of group life and group health coverages or the joint sale of group life, group health, and any other employee benefit plan.

(11) No person, as defined in R.S. 22:46(12), shall directly or indirectly participate in any plan to offer or effect any kind or kinds of life or health insurance and annuities as an inducement to or in connection with the purchase by the public of any goods, securities, commodities, services, or subscriptions to periodicals. This Paragraph shall not apply to such insurance, written in connection with an indebtedness, one of the purposes of which is to pay the indebtedness in case of the death or disability of the debtor. Nor shall this Paragraph apply to the sale by life insurance producers, or by life insurance companies of equity products, including equities, mutual funds, shares of investment companies, variable annuities, and including face amount certificates of regulated investment companies under offerings registered with the Federal Securities and Exchange Commission.

(12) Any violation of any prohibitory law of this state.

(13) Fraudulent insurance act. A fraudulent insurance act is one committed by a person who knowingly and with intent to defraud presents, causes to be presented, or prepares with knowledge or belief that it will be presented to or by an insurer, purported insurer, producer, or any agent thereof, any written statement as part of, or in support of, or in opposition to an application for the issuance of, or the rating of an insurance policy for commercial insurance, or a claim for payment or other benefit pursuant to an insurance policy for commercial or personal insurance which he knows to contain materially false information concerning any fact material thereto; or conceal for the purpose of misleading information concerning any fact material thereto.

(14) Unfair claims settlement practices. Committing or performing with such frequency as to indicate a general business practice any of the following:

(a) Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue.

(b) Failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies.

(c) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies.

(d) Refusing to pay claims without conducting a reasonable investigation based upon all available information.

(e) Failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed.

(f) Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear.

(g) Compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by such insureds.

(h) Attempting to settle a claim for less than the amount to which a reasonable man would have believed he was entitled by reference to written or printed advertising material accompanying or made part of an application.

(i) Attempting to settle claims on the basis of an application which was altered without notice to, or knowledge or consent of, the insured.

(j) Making claims payments to insureds or beneficiaries not accompanied by statement setting forth the coverage under which the payments are being made.

(k) Making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration.

(l) Delaying the investigation or payment of claims by requiring an insured, claimant, or the physician of either to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information.

(m) Failing to promptly settle claims, where liability has become reasonably clear, under one

portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage.

(n) Failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement.

(o) Failing to provide forms necessary to present claims within fifteen calendar days of a request with reasonable explanations regarding their use, if the insurer maintains the forms for that purpose.

(15)(a) The issuance, delivery, issuance for delivery, or renewal of, or execution of a contract for, a health benefits policy or plan which:

(i) Prohibits or limits a person who is an insured or other beneficiary of the policy or plan from selecting a pharmacy or pharmacist of the person's choice to be a provider under the policy or plan to furnish pharmaceutical services or pharmaceutical products offered or provided by that policy or plan or in any manner interferes with that person's selection of a pharmacy or pharmacist, provided that the chosen pharmacy or pharmacist agrees in writing to provide pharmaceutical services and pharmaceutical products that meet all the terms and requirements, including the same administrative, financial, and professional conditions and a minimum contract term of one year if requested, that apply to all other pharmacies or pharmacists who have been designated as providers under the policy or plan or as participating providers in a pharmacy network established by the policy or plan.

(ii) Denies a pharmacy or pharmacist the right to participate as a contract provider of pharmaceutical services or pharmaceutical products under the policy or plan, or under a pharmacy network established by the policy or plan, if the pharmacy or pharmacist agrees in writing to provide pharmaceutical services and pharmaceutical products that meet all the terms and requirements, including the same administrative, financial, and professional conditions and a minimum contract term of one year, if requested, which apply to pharmacies and pharmacists which have been designated as providers under the policy or plan or as participating providers in a pharmacy network established by the policy or plan.

(b) This Paragraph shall not, however, require a health benefits policy or plan to provide pharmaceutical services or pharmaceutical products.

(c) As used in this Paragraph, the following terms shall be given these meanings:

(i) "Drug" and "prescription" have the meanings assigned by R.S. 37: 1164 and regulations of the Louisiana Board of Pharmacy.

(ii) "Health benefits policy or plan" means any and all health and accident insurance policies or contracts, including but not limited to individual, group, family, family group, blanket, and association health and accident insurance policies, as well as health maintenance organizations and preferred provider organizations, and any and all other third-party payment plans or contracts, and any and all other health care or health benefits plans, policies, contracts, or funds that either in whole or in part provide benefits for pharmaceutical services and pharmaceutical products that are necessary as a result of or to prevent an accident or sickness.

(iii) "Interferes" or "interferes with" means and includes but is not limited to the charging to or imposing on an insured or other beneficiary who does not utilize a specified or designated

pharmacy or pharmacist, a copayment fee or other condition not equally charged to or imposed on all insureds or other beneficiaries in or under the same program or policy or plan. However, "interferes" or "interferes with" does not mean or include the advertisement, or periodic dissemination, to all insureds or other beneficiaries of current lists of all pharmacies or pharmacists who have agreed to participate as a contract provider pursuant to the requirements of Item {a)(ii) of this Paragraph.

(iv) "Pharmaceutical product" means a "drug" and "prescription", as defined in this Paragraph, and home intravenous therapies.

(v) "Pharmaceutical services" means services that are ordinarily and customarily rendered by a pharmacy or pharmacist, including the preparation and dispensing of pharmaceutical products.

(vi) "Pharmacist" means a person licensed to practice pharmacy under the Pharmacy Law and Board of Pharmacy regulations of the state of Louisiana.

(vii) "Pharmacy" has the meaning assigned by R.S. 37: 1164 and regulations of the Louisiana Board of Pharmacy.

(d) This Paragraph shall be cited as the "Patient Pharmacy Preference Act".

(16) Failure to maintain marketing and performance records. Failure of an insurer to maintain its books, records, documents, and other business records in such an order that data regarding complaints, claims, rating, underwriting, and marketing are accessible and retrievable for examination by the insurance commissioner. Data for at least the current calendar year and the two preceding years shall be maintained.

(17) Failure to maintain adequate complaint handling procedures. Failure of any insurer to maintain a complete record of all the complaints that it received since the date of its last examination. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of each complaint, and the time it took to process each complaint. For purposes of this Paragraph, "complaint" shall mean any written communication primarily expressing a grievance received by the insurer from the Department of Insurance.

(18) Misrepresentation in insurance application. Making false or fraudulent statements or representations on or relative to an application for a policy, for the purpose of obtaining a fee, commission, money, or other benefit from any provider or individual person.

(19) Unfair financial planning practices. An insurance producer:

(a) Holding himself out, directly or indirectly, to the public as a "financial planner", "investment adviser", "consultant", "financial counselor", or any other specialist engaged in the business of giving financial planning or advice relating to investments, insurance, real estate, tax matters, or trust and estate matters when such person is in fact engaged only in the sale of policies.

(b)(i) Engaging in the business of financial planning without disclosing to the client prior to the execution of the agreement provided for in Subparagraph (c) of this Paragraph or solicitation of the sale of a product or service that:

(aa) He is also an insurance salesperson.

(bb) That a commission for the sale of an insurance product will be received in addition to a fee for financial planning, if such is the case.

(ii) The disclosure requirement under this Paragraph may be met by including it in any disclosure required by federal or state securities law.

(c)(i) Charging fees other than commissions for financial planning by insurance producer, unless such fees are based upon a written agreement, signed by the party to be charged in advance of the performance of the services under the agreement. A copy of the agreement shall be provided to the party to be charged at the time the agreement is signed by the party and shall specifically state:

(aa) The services for which the fee is to be charged.

(bb) The amount of the fee to be charged or how it will be determined or calculated.

(cc) That the client is under no obligation to purchase any insurance product through the insurance producer or consultant.

(ii) The insurance producer shall retain a copy of the agreement for not less than three years after completion of services, and a copy shall be available to the commissioner upon request.

(20) Failure to provide claims history.

(a) Loss information-property and casualty. Failure of a company issuing property and casualty insurance to provide the following loss information for the three previous policy years to the first named insured within thirty days of receipt of the first named insured's written request:

(i) On all claims, date, and description of occurrence, and total amount of payments.

(ii) For any occurrence not included in Item (i) of this Subparagraph, the date and description of occurrence.

(b) Should the first named insured be requested by a prospective insurer to provide detailed loss information in addition to that required under Subparagraph (a) of this Paragraph, the first named insured may mail or deliver a written request to the insurer for the additional information. No prospective insurer shall request more detailed loss information than reasonably required to underwrite the same line or class of insurance. The insurer shall provide information under this Subparagraph to the first named insured as soon as possible, but in no event later than twenty days of receipt of the written request. Notwithstanding any other provision of this Section, no insurer shall be required to provide loss reserve information, and no prospective insurer may refuse to insure an applicant solely because the prospective insurer is unable to obtain loss reserve information.

(c) The commissioner may promulgate regulations to exclude the providing of the loss information as outlined in Subparagraph (a) of this Paragraph for any line or class of insurance where it can be shown that the information is not needed for that line or class of insurance or where the provision of loss information otherwise is required by law.

(d) Information provided under Subparagraph (b) of this Paragraph shall not be subject to discovery by any party other than the insured, the insurer, and the prospective insurer.

(21) The issuance of any line of health insurance in the state by an insurer, self-insurer, or other entity that provides health and accident insurance policies or plans within five years after the entity has ceased writing insurance or issuing plans in the state.

(22) The discrimination against an insured, enrollee, or beneficiary in the issuance, payment of benefits, withholding of coverage, cancellation, or nonrenewal of a policy, contract, plan, or program based upon the results of a prenatal test.

(23) The discrimination against an insured, enrollee, or beneficiary in the issuance, payment of benefits, withholding of coverage, cancellation or nonrenewal of a policy, contract, plan, or program based upon the results of a genetic test or receipt of genetic information. Actions of an insurer or third parties dealing with an insurer taken in the ordinary course of business in connection with the sale, issuance or administration of a life, disability income, or long-term care insurance policy are exempt from the provisions of this Paragraph.

(24) Requiring a producer or offering any incentive for a producer who represents more than one company to limit information provided to consumers on limited benefit or supplemental benefit plans, including attempting to enforce a provision of a sales representative agreement, a sales agent agreement, a nonsolicitation agreement, or a noncompetition agreement against such a producer which would result in limiting the information that the producer provides to consumers on limited benefit or supplemental benefit plans. Failure to comply with the provisions of this Paragraph shall subject the insurer to a penalty, of not less than two thousand five hundred dollars nor more than five thousand dollars, payable to the producer and shall not be subject to the penalties provided for in R.S. 22:1969.

(25) Requiring a producer or offering any incentive for a producer who represents more than one insurance company to limit the number of other insurance companies such a producer may represent, including attempting to enforce a provision of a sales representative agreement, a sales agent agreement, a nonsolicitation agreement, or a noncompetition agreement against such a producer which would result in limiting the number of other insurance companies that the producer may represent. Failure to comply with the provisions of this Paragraph shall subject the insurer to a penalty up to ten thousand dollars and shall not be subject to the penalties provided for in R.S. 22:1969.

(26) Failure by an organization that negotiates with a pharmacy or pharmacies, or an organization that represents an independent pharmacy or a group of independent pharmacies, to provide to a pharmacy a contract, agreement, or other documentation relative to the pharmacy's network participation with a third- party payor as required in R.S. 22:1857.1.

(27) Deliberate use of misrepresentations or false statements for the purpose of convincing a customer to replace a limited benefit insurance policy. The commissioner shall promulgate regulations which address the replacement of limited benefit insurance policies as defined in R.S. 22:47(2)(c).

(28) Failure by an admitted insurer upon renewal or issuance of any policy or contract of insurance which includes a provision that the policy or contract contains defense costs within the limit of liability to provide notice of such provision through a separate notice or inclusion on the declaration page of the insurance policy or contract. Failure to comply with the

provisions of this Paragraph shall not subject the insurer to the penalties provided in R.S. 22:1969.

Renumbered from R.S. 22:1214 by Acts 2008, No. 415, § 1, eff. Jan. 1, 2009. Acts 1958, No. 125. Amended by Acts 1960, No. 402, § 1; Acts 1964, No. 371, § 1; Acts 1968, No. 351, §I; Acts 1986, No. 744, § 1; Acts 1989, No. 638, § 1; Acts 1992, No. 22, § 1, eff. May 18, 1992; Acts 1993, No. 139, § 1; Acts 1993, No. 663, § 2, eff. June 16, 1993; Acts 1993, No. 953, § 1; Acts 1995, No. 966, § 1; Acts 1997, No. 1418, § 1; Acts 1999, No. 748, § 1, eff. July 2, 1999; Acts 2003, No. 129, § 1, eff. May 28, 2003; Acts 2004, No. 770, § 1; Acts 2012, No. 271, § 1; Acts 2014, No. 490, § 1; Acts 2014, No. 844, § 1. prohibited by this Part.

Renumbered from R.S. 22:1215 by Acts 2008, No. 415, § 1, eff. Jan. 1, 2009. Acts 1958, No. 125. Amended by Acts 1993, No. 953, § 1; Acts 2012, No. 271 , § 1.