

SENATE FILE NO. SF0062

Discretionary Clause Prohibition Act.

Sponsored by: Senator(s) Ross, Hastert and Sessions and
Representative(s) Berger and Petersen

A BILL

for

1 AN ACT relating to insurance; creating the Discretionary
2 Clause Prohibition Act; providing definitions; specifying
3 the purpose and intent of the act; prohibiting
4 discretionary clauses in health insurance and disability
5 income protection contracts; providing penalties for
6 violations of the act; providing for severability; and
7 providing for an effective date.

8

9 *Be It Enacted by the Legislature of the State of Wyoming:*

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11 **Section 1.** W.S. 26-13-301 through 26-13-305 are
12 created to read:

13

14

ARTICLE 3

15

DISCRETIONARY CLAUSE PROHIBITION ACT

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1 **26-13-301. Short title.**

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3 This act shall be known and may be cited as the
4 "Discretionary Clause Prohibition Act."

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6 **26-13-302. Purpose and intent.**

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8 The purpose of this act is to assure that health insurance
9 benefits and disability income protection coverage are
10 contractually guaranteed, and to avoid the conflict of
11 interest that occurs when the carrier responsible for
12 providing benefits has discretionary authority to decide
13 what benefits are due. Nothing in this act shall be
14 construed as imposing any requirement or duty on any person
15 other than a health carrier or an insurer that offers
16 disability income protection coverage.

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18 **26-13-303. Definitions.**

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20 (a) As used in this act:

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22 (i) "Commissioner" means as defined in W.S.
23 26-1-102(a)(viii);

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1 (ii) "Disability income protection coverage"
2 means a policy, contract, certificate or agreement that
3 provides for periodic payments, weekly or monthly, for a
4 specified period during the continuance of disability or
5 injury or a combination of disability and injury;

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7 (iii) "Health care services" means services for
8 the diagnosis, prevention, treatment, cure or relief of a
9 health condition, illness, injury or disease;

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11 (iv) "Health carrier" means an entity subject to
12 the insurance laws and regulations of this state, or
13 subject to the jurisdiction of the commissioner, that
14 contracts or offers to contract to provide, deliver,
15 arrange for, pay for or reimburse any of the costs of
16 health care services, including a sickness and accident
17 insurance company, a health maintenance organization, a
18 nonprofit hospital and health service cooperation, or any
19 other entity providing a plan of health insurance, health
20 benefits or health services;

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22 (v) "Person" means as defined in W.S.
23 8-1-102(a)(vi);

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1 (vi) "This act" means W.S. 26-13-301 through
2 26-13-305.

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4 **26-13-304. Discretionary clause prohibited.**

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6 (a) No policy, contract, certificate or agreement
7 offered or issued in this state by a health carrier to
8 provide, deliver, arrange for pay for or reimburse any of
9 the costs of health care services may contain a provision
10 purporting to reserve discretion to the health carrier to
11 interpret the terms of the contract, or to provide
12 standards of interpretation or review that are inconsistent
13 with the laws of this state.

14

15 (b) No policy, contract, certificate or agreement
16 offered or issued in this state providing for disability
17 income coverage may contain a provision purporting to
18 reserve discretion to the insurer to interpret the terms of
19 the contract, or to provide standards of interpretation or
20 review that are inconsistent with the laws of this state.

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22 **26-13-305. Penalties.**

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1 Any person who violates this act is subject to the penalty
2 provided in W.S. 26-1-107, or as provided by any other
3 applicable law which provides a greater penalty.

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5 **Section 2.** This act is effective July 1, 2009.

6

7 (END)