

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 7281**

**BILL NUMBER:** HB 1421

**NOTE PREPARED:** Jan 6, 2021

**BILL AMENDED:**

**SUBJECT:** Various Health Care Matters.

**FIRST AUTHOR:** Rep. Schaibley

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:**  GENERAL  
 DEDICATED  
 FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** *Mergers, Acquisitions, and Other Transactions:* The bill requires the Attorney General (AG) to review mergers, acquisitions, and other transactions concerning hospitals, hospital systems, and investors of hedge funds and public equity funds. It authorizes the AG to approve or deny the merger, acquisition, or transaction and allows for a waiver under certain circumstances.

*State Employees Health Plans:* It specifies that the state employee health plan statute does not prohibit the State Personnel Department (SPD) from directly contracting with health care providers for health care services for state employees.

*Pricing Information:* The bill allows a hospital to comply with posting requirements concerning pricing of information by complying with the federal Centers for Medicare and Medicaid Services (CMS) final rule in effect on January 1, 2021, or as specified in the statute.

*Reporting:* The bill requires reporting by December 31 of each odd-numbered year from hospitals and hospital systems concerning activities of physician groups owned by the hospitals.

*Health Provider Contracts:* It also prohibits health provider contracts from including specified provisions.

*Health Officers:* The bill sets requirements for the director of the division of public health for a health and hospital corporation and certain health officers.

**Effective Date:** March 1, 2021 (retroactive); July 1, 2021.

**Explanation of State Expenditures:** *Summary* - The bill has significant increased workload for the AG. The bill also increases workload for the Department of Insurance (DOI) and the Indiana State Department of Health (ISDH).

*Additional Information - Mergers, Acquisitions, and Other Transactions:* The AG's workload will increase, potentially significantly, to review mergers, acquisitions, and transactions (combination) for possible formation of a monopoly within a geographic area. The AG shall also, within 45 days of the filing, approve or deny the combination. The determination of the AG is appealable, which may lead to additional court caseload. Additionally, the AG may issue a waiver for a combination in a rural area, as defined by having less than 200 persons per square mile and no population center of more than 40,000 persons. Each combination will report to the AG in December of odd numbered years on the activities of the physician group practices owned by or affiliated with a hospital or hospital system. The AG may issue civil investigative demands to obtain information, adopt rules and establish procedures to implement these responsibility. The impact will depend on the number of combinations reviewed and the complexity of issues within the merger, acquisition, or transaction. *[This fiscal note will be updated if information is received from the Attorney General's office concerning workload.]*

*Rural Areas:* Using the criteria of the bill, there are between 42 and 77 counties containing rural areas and between 14% and 38% of the population lives in rural areas. The exact criteria of the bill are not provided in the 2010 Census data.

*State Health Care Costs:* The bill requires the AG to consider if a combination would substantially lessen competition in a primary service area, or have an anti-competitive effect or create a monopoly. Despite these guidelines, the combination of hospitals may have an indeterminate impact on hospital prices in a county by potentially influence future contract negotiations between a consolidated hospital and the state employee health care plan and the state's Medicaid managed care entities. Any increases in General Fund or dedicated fund expenditures for health benefits as a result of the bill would be dependent on the number of proposed mergers that are granted certification. The total number of combinations approved is expected to be small.

*State Employees Health Plans:* Self-insured employers (such as the state of Indiana) have reported cost-savings from contracting directly with health providers for part or all of employee health care coverage. Indiana currently uses third party administrator to implement the state employees health plan. However, implementing a direct to provider model is complicated by arranging models of care and access for geographically disbursed covered individuals.

*Health Provider Contracts:* To the extent that the Department of Insurance (DOI) has oversight of the health provider contracts, workload may minimally increase to evaluate and resolve contract disputes. The increased workload is within the routine administrative function of the DOI and expected to be accomplished within existing resource and funding levels. *[The DOI is funded through a dedicated agency fund.]*

*Pricing Information:* Effective on January 1, 2021, 84 FR 65524 requires hospitals to publicly post pricing information for at least 300 "shoppable" services identified by CMS. Current Indiana statute only requires hospitals to post pricing information for 70 of those services in addition to any of the 30 most common services provided by the hospital not included in the other 70. To the extent this affects complaints made to the ISDH workload will very minimally increase.

**Explanation of State Revenues:** *License Fee Revenue:* The combination of hospitals may reduce the revenue deposited in the state General Fund from hospital license fees. The fees range between \$1,000 and

\$5,000 annually, depending on the hospitals' total operating expenses.

*Hospital Assessment Fees:* If the combined capacity of a consolidated hospital differs from that of the two hospitals before their merger, there could be an indeterminable impact to the Hospital Assessment Fee (HAF) amount paid by the consolidated hospital. [Out of the total Base HAF, 71.5% is used to leverage federal Medicaid matching funds to increase hospital Medicaid reimbursement up to specified limits. Any remainder of this 71.5% not used to increase hospital reimbursement is distributed to the Hospital Medicaid Fee Fund. In addition, 28.5% of the Base HAF revenue is distributed to the General Fund to offset Medicaid costs incurred by the state.]

*Court Fees:* A decision of the Attorney General is appealable in a civil action and there may be additional court cases concerning provisions of physician and insurance carrier contracts. If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

In addition, some or all of the judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Revenue from the pro bono services fee (\$1) is transferred by the State Auditor to the Indiana Bar Foundation for use to assist with pro bono legal services programs in Indiana, and proceeds from the automated record keeping fee (\$20) are deposited into the State User Fee Fund.

Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

**Explanation of Local Expenditures:** *Health Officers:* The qualifications for a health officer of a local health department or the public health division director of the Marion County Health and Hospital Corporation will include education, certification, or experience in public health in addition to being a licensed physician. Some local areas may have a reduced number of candidates.

*Locally Owned Hospitals:* Locally owned hospitals may increase reporting requirements concerning activities of physician groups and for forming combinations.

*Local Health Plans:* The bill potentially impacts local units of government that offer non-ERISA health insurance coverage for employees. Any increase to local health coverage costs may be mitigated with adjustments to other benefits or to the total employee compensation packages, or through the division of costs between the local unit and employees.

**Explanation of Local Revenues:** *Review of Mergers, Acquisitions, or Transactions and Health Provider Contracts:* If additional civil actions occur and court fees are collected, local governments would receive additional revenue from both a portion of the civil costs fee and other fees that would be collected.

**State Agencies Affected:** AG; DOI; ISDH; SPD.

**Local Agencies Affected:** Trial courts, city and town courts, local health departments, Marion County Health and Hospital Corporation, local units offering non-ERISA employee health care plans;.

**Information Sources:** Purdue Extension, *Defining Rural Indiana—The First Step*, EC-766-W, January 2013;

US Census, Pct\_UrbanRural\_County.xls, accessed on January 6, 2021;  
<https://www.healthaffairs.org/doi/10.1377/hblog20200413.223050/full/>;  
<https://www.kff.org/health-costs/issue-brief/what-we-know-about-provider-consolidation/>;  
<https://revcycleintelligence.com/news/healthcare-merger-and-acquisition-activity-increased-in-q3-2020>;  
<https://www.govinfo.gov/content/pkg/FR-2019-11-27/pdf/2019-24931.pdf>; Legislative Services Agency,  
*Indiana Handbook of Taxes, Revenues, and Appropriations*, FY 2020;  
<https://www.milliman.com/en/insight/is-direct-to-provider-contracting-a-potential-silver-bullet-for-achieving-value-based-care>.

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