

HOUSE BILL No. 1004

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.1-40; IC 16-18-2; IC 16-21-18; IC 16-51; IC 25-22.5-5.5-1.5; IC 27-1-37-8; IC 27-2.

Synopsis: Health care matters. Provides a credit against state tax liability to a physician who has an ownership interest in a physician practice and meets other eligibility criteria. Provides that the credit amount for a particular taxable year is \$10,000. Provides that a physician may not claim the credit in more than three taxable years and that the credit is nonrefundable. Allows a credit to be carried forward for not more than 10 years. Sets forth requirements that a hospital or a health carrier must meet in order to employ a physician. Exempts certain specialties from the requirements. Provides that a bill for health care services provided by a provider in an office setting: (1) must not be submitted on an institutional provider form; and (2) must be submitted on an individual provider form. Provides that an insurer, health maintenance organization, employer, or other person responsible for the payment of the cost of health care services provided by a provider in an office setting is not required to accept a bill for the health care services that is submitted on an institutional provider form. Prohibits certain nonprofit hospitals from entering into physician noncompete agreements. Specifies provisions that may not be included in a health provider contract. Beginning in 2025, requires a nonprofit hospital operating in Indiana to annually submit to the department of insurance (department): (1) a certified statement of, and supporting documentation to demonstrate: (A) the average price charged by the hospital for each health care service provided to patients; and (B) the hospital's total patient service revenue generated from all health care services provided by the hospital; and (2) the federal Medicare reimbursement rate for the health care service; in the preceding
(Continued next page)

Effective: July 1, 2023; January 1, 2025.

Schaibley, Lehman

January 12, 2023, read first time and referred to Committee on Public Health.



Digest Continued

calendar year. Provides that, if a nonprofit hospital charged amounts for health care services that exceeded 260% of the federal Medicare reimbursement rate, the department shall assess a penalty against the hospital. Specifies the calculation of the penalty amount. Provides that a nonprofit hospital that is assessed a penalty may petition the department for reconsideration of the assessment determination based on a clerical, mathematical, or typographical error in the information submitted. Provides that revenue collected from the penalty shall be deposited in the state general fund and may be used to pay the state's share of the cost of Medicaid services provided under the federal Medicaid program.



Introduced

First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

HOUSE BILL No. 1004



A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-3.1-40 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2023]:
4 **Chapter 40. Physician Practice Ownership Tax Credit**
5 **Sec. 1. This chapter applies to taxable years beginning after**
6 **December 31, 2024.**
7 **Sec. 2. As used in this chapter, "physician" means an individual**
8 **who is licensed to practice medicine in Indiana under IC 25-22.5.**
9 **Sec. 3. As used in this chapter, "state income tax liability"**
10 **means the taxpayer's total tax liability that is incurred under**
11 **IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax), as**
12 **computed after the application of the credits that, under**
13 **IC 6-3.1-1-2, are to be applied before the credit provided by this**
14 **chapter.**
15 **Sec. 4. As used in this chapter, "taxpayer" means a physician**



1 who:

2 (1) has an ownership interest in a corporation, limited liability
3 company, partnership, or other legal entity organized to
4 provide health care services as a physician owned entity;

5 (2) is not employed by a health system (as defined in
6 IC 16-18-2-168.5); and

7 (3) has any state income tax liability.

8 Sec. 5. If a taxpayer has an ownership interest in a physician
9 owned medical practice described in section 4(1) of this chapter
10 that:

11 (1) is established as a legal entity under Indiana law after
12 December 31, 2024;

13 (2) opens and begins to provide health care services to
14 patients in a particular taxable year beginning after
15 December 31, 2024; and

16 (3) has billed for health care services described in subdivision
17 (2) for at least six (6) months of that taxable year;

18 the taxpayer may, subject to section 6 of this chapter, claim a
19 credit against the taxpayer's state income tax liability. Subject to
20 section 7 of this chapter, the amount of the credit allowed under
21 this chapter for a particular taxable year is ten thousand dollars
22 (\$10,000).

23 Sec. 6. A taxpayer may claim a tax credit under this chapter for
24 the taxable year described in section 5 of this chapter and the two
25 (2) immediately following taxable years.

26 Sec. 7. (a) If the amount of the credit allowed under section 5 of
27 this chapter for a taxpayer in a taxable year exceeds the taxpayer's
28 state income tax liability for that taxable year, the taxpayer may
29 carry the excess credit over for a period not to exceed the
30 taxpayer's following ten (10) taxable years. The amount of the
31 credit carryover from a taxable year must be reduced to the extent
32 that the carryover is used by the taxpayer to obtain a credit under
33 this chapter for any subsequent taxable year. A taxpayer is not
34 entitled to a carryback or a refund of any unused credit amount.

35 (b) A taxpayer may not assign any part of a credit to which the
36 taxpayer is entitled under this chapter.

37 Sec. 8. To obtain a credit under this chapter, a taxpayer must
38 claim the credit on the taxpayer's annual state income tax return
39 in the manner prescribed by the department. The taxpayer shall
40 submit to the department all information that the department
41 determines is necessary to verify the taxpayer's eligibility for the
42 credit provided by this chapter.



1 SECTION 2. IC 16-18-2-163.6 IS ADDED TO THE INDIANA
 2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 3 [EFFECTIVE JULY 1, 2023]: **Sec. 163.6. "Health care services", for**
 4 **purposes of IC 16-51-1, has the meaning set forth in IC 16-51-1-1.**

5 SECTION 3. IC 16-18-2-167.8 IS ADDED TO THE INDIANA
 6 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 7 [EFFECTIVE JULY 1, 2023]: **Sec. 167.8. "Health maintenance**
 8 **organization", for purposes of IC 16-51-1, has the meaning set**
 9 **forth in IC 16-51-1-2.**

10 SECTION 4. IC 16-18-2-188.2 IS ADDED TO THE INDIANA
 11 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 12 [EFFECTIVE JULY 1, 2023]: **Sec. 188.2. "Individual provider**
 13 **form", for purposes of IC 16-51-1, has the meaning set forth in**
 14 **IC 16-51-1-3.**

15 SECTION 5. IC 16-18-2-190.7 IS ADDED TO THE INDIANA
 16 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 17 [EFFECTIVE JULY 1, 2023]: **Sec. 190.7. "Institutional provider",**
 18 **for purposes of IC 16-51-1, has the meaning set forth in**
 19 **IC 16-51-1-4.**

20 SECTION 6. IC 16-18-2-190.8 IS ADDED TO THE INDIANA
 21 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 22 [EFFECTIVE JULY 1, 2023]: **Sec. 190.8. "Institutional provider**
 23 **form", for purposes of IC 16-51-1, has the meaning set forth in**
 24 **IC 16-51-1-5.**

25 SECTION 7. IC 16-18-2-190.9 IS ADDED TO THE INDIANA
 26 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 27 [EFFECTIVE JULY 1, 2023]: **Sec. 190.9. "Insurer", for purposes of**
 28 **IC 16-51-1, has the meaning set forth in IC 16-51-1-6.**

29 SECTION 8. IC 16-18-2-254.7 IS ADDED TO THE INDIANA
 30 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 31 [EFFECTIVE JULY 1, 2023]: **Sec. 254.7. "Office setting", for**
 32 **purposes of IC 16-51-1, has the meaning set forth in IC 16-51-1-7.**

33 SECTION 9. IC 16-18-2-295, AS AMENDED BY P.L.161-2014,
 34 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2023]: Sec. 295. (a) "Provider", for purposes of IC 16-21-8,
 36 has the meaning set forth in IC 16-21-8-0.2.

37 (b) "Provider", for purposes of IC 16-38-5, IC 16-39 (except for
 38 IC 16-39-7), and IC 16-41-1 through IC 16-41-9, means any of the
 39 following:

- 40 (1) An individual (other than an individual who is an employee or
 41 a contractor of a hospital, a facility, or an agency described in
 42 subdivision (2) or (3)) who is licensed, registered, or certified as



- 1 a health care professional, including the following:
- 2 (A) A physician.
- 3 (B) A psychotherapist.
- 4 (C) A dentist.
- 5 (D) A registered nurse.
- 6 (E) A licensed practical nurse.
- 7 (F) An optometrist.
- 8 (G) A podiatrist.
- 9 (H) A chiropractor.
- 10 (I) A physical therapist.
- 11 (J) A psychologist.
- 12 (K) An audiologist.
- 13 (L) A speech-language pathologist.
- 14 (M) A dietitian.
- 15 (N) An occupational therapist.
- 16 (O) A respiratory therapist.
- 17 (P) A pharmacist.
- 18 (Q) A sexual assault nurse examiner.
- 19 (2) A hospital or facility licensed under IC 16-21-2 or IC 12-25 or
- 20 described in IC 12-24-1 or IC 12-29.
- 21 (3) A health facility licensed under IC 16-28-2.
- 22 (4) A home health agency licensed under IC 16-27-1.
- 23 (5) An employer of a certified emergency medical technician, a
- 24 certified advanced emergency medical technician, or a licensed
- 25 paramedic.
- 26 (6) The state department or a local health department or an
- 27 employee, agent, designee, or contractor of the state department
- 28 or local health department.
- 29 (c) "Provider", for purposes of IC 16-39-7-1, has the meaning set
- 30 forth in IC 16-39-7-1(a).
- 31 (d) "Provider", for purposes of IC 16-48-1, has the meaning set forth
- 32 in IC 16-48-1-3.
- 33 **(e) "Provider", for purposes of IC 16-51-1, has the meaning set**
- 34 **forth in IC 16-51-1-8.**
- 35 SECTION 10. IC 16-21-18 IS ADDED TO THE INDIANA CODE
- 36 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 37 JANUARY 1, 2025]:
- 38 **Chapter 18. Hospital Employment of Physicians**
- 39 **Sec. 1. Except as provided in sections 4(2)(B) and 6 of this**
- 40 **chapter, this chapter does not apply to a licensed physician**
- 41 **providing services as the following:**
- 42 **(1) A radiologist.**



- 1 (2) An anesthesiologist.
 2 (3) A pathologist.
 3 (4) An emergency room physician.
 4 **Sec. 2. As used in this chapter, "hospital" includes the following:**
 5 (1) A hospital.
 6 (2) A hospital system.
 7 (3) An affiliate of a hospital.
 8 **Sec. 3. (a) A hospital may employ a physician only if the**
 9 **following conditions are met:**
 10 (1) The hospital does not restrict or interfere with medically
 11 appropriate diagnostic or treatment decisions.
 12 (2) The hospital does not restrict or interfere with physician
 13 referral decisions.
 14 (b) If there is a dispute concerning whether the conditions have
 15 been met under subsection (a), the hospital has the burden of
 16 proving that the hospital has met the requirements of this section.
 17 **Sec. 4. Nothing in this chapter may be construed to prohibit any**
 18 **of the following from employing a physician:**
 19 (1) Another licensed physician.
 20 (2) A group of licensed physicians, including any of the
 21 following:
 22 (A) A physician's professional corporation (as defined in
 23 IC 23-1.5-1-10).
 24 (B) A domestic nonprofit public benefit corporation (as
 25 defined in IC 23-17-2-23) that:
 26 (i) is exempt from federal income taxation under Section
 27 501(c)(3) of the Internal Revenue Code;
 28 (ii) has a purpose to engage in medical education and
 29 medical research jointly with an accredited medical
 30 school in Indiana;
 31 (iii) restricts the employed physicians to the medical
 32 faculty of the medical school; and
 33 (iv) operates as a faculty practice plan for purposes of 42
 34 U.S.C. 1395 et seq.
 35 An employee physician who specializes in radiology,
 36 pathology, anesthesiology, or emergency medicine shall
 37 also be restricted to practice as a faculty practice plan
 38 employee at the medical school.
 39 **Sec. 5. (a) A hospital affiliate that employs physicians may not**
 40 **engage in any business other than:**
 41 (1) the employment of physicians;
 42 (2) the management of physicians and health care facilities;



1 (3) the ownership of property and facilities used in the
2 provision of health care services; or

3 (4) regulatory compliance and other administrative tasks that
4 do not impact a physician's ability to make medical decisions
5 in treating a patient.

6 (b) If there is a dispute concerning whether the conditions have
7 been met under subsection (a), the hospital affiliate has the burden
8 of proving that the hospital affiliate has met the requirements of
9 this section.

10 (c) A hospital affiliate that violates this section may be
11 sanctioned by the state department under this article. The hospital
12 with which the hospital affiliate is associated and that has control
13 of the hospital affiliate is also subject to penalties and sanctions by
14 the state department under this article.

15 Sec. 6. A hospital may not employ any physician to provide
16 medical services provided by:

- 17 (1) a radiologist;
- 18 (2) an anesthesiologist;
- 19 (3) a pathologist; or
- 20 (4) an emergency room physician;

21 except that a hospital may employ a physician to provide
22 emergency services if the physician also provides other medical
23 services.

24 SECTION 11. IC 16-51 IS ADDED TO THE INDIANA CODE AS
25 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
26 2023]:

27 **ARTICLE 51. HEALTH CARE REQUIREMENTS**

28 **Chapter 1. Health Care Billing**

29 Sec. 1. (a) As used in this chapter, "health care services" means
30 health care related services or products rendered or sold by a
31 provider within the scope of the provider's license or legal
32 authorization.

33 (b) The term includes hospital, medical, surgical, dental, vision,
34 and pharmaceutical services or products.

35 Sec. 2. As used in this chapter, "health maintenance
36 organization" has the meaning set forth in IC 27-13-1-19.

37 Sec. 3. (a) As used in this chapter, "individual provider form"
38 means a medical claim form that:

- 39 (1) is accepted by the federal Centers for Medicare and
40 Medicaid Services for use by individual providers or groups
41 of providers; and
- 42 (2) includes a claim field for disclosure of the site at which the



- 1 health care services to which the form relates were provided.
 2 (b) The term includes the following:
 3 (1) The CMS-1500 form.
 4 (2) The HCFA-1500 form.
- 5 Sec. 4. (a) As used in this chapter, "institutional provider"
 6 means any of the following:
 7 (1) A hospital.
 8 (2) A skilled nursing facility.
 9 (3) An end stage renal disease provider.
 10 (4) A home health agency.
 11 (5) A hospice organization.
 12 (6) An outpatient physical therapy, occupational therapy, or
 13 speech-language pathology service provider.
 14 (7) A comprehensive outpatient rehabilitation facility.
 15 (8) A community mental health center.
 16 (9) A federally qualified health center.
 17 (10) A histocompatibility laboratory.
 18 (11) An Indian health service facility.
 19 (12) An organ procurement organization.
 20 (13) A religious nonmedical health care institution.
 21 (14) A rural health clinic.
- 22 (b) The term does not include the following:
 23 (1) A critical access hospital.
 24 (2) A nonprofit hospital that is owned by a county.
- 25 Sec. 5. (a) As used in this chapter, "institutional provider form"
 26 means a medical claim form that:
 27 (1) is accepted by the federal Centers for Medicare and
 28 Medicaid Services for use by institutional providers; and
 29 (2) does not include a claim field for disclosure of the site at
 30 which the health care services to which the form relates were
 31 provided.
- 32 (b) The term includes the following:
 33 (1) The 8371 Institutional form.
 34 (2) The CMS-1450 form.
 35 (3) The UB-04 form.
- 36 Sec. 6. As used in this chapter, "insurer" has the meaning set
 37 forth in IC 27-8-11-1(e).
- 38 Sec. 7. As used in this chapter, "office setting" means a location,
 39 whether or not physically located within the facility of an
 40 institutional provider, where a provider routinely provides health
 41 examinations and diagnosis and treatment of illness or injury on an
 42 ambulatory basis.



1 **Sec. 8. As used in this chapter, "provider" means an individual**
 2 **or entity duly licensed or legally authorized to provide health care**
 3 **services.**

4 **Sec. 9. (a) A bill for health care services provided by a provider**
 5 **in an office setting:**

6 **(1) must not be submitted on an institutional provider form;**
 7 **and**

8 **(2) must be submitted on an individual provider form.**

9 **(b) An insurer, health maintenance organization, employer, or**
 10 **other person responsible for the payment of the cost of health care**
 11 **services provided by a provider in an office setting is not required**
 12 **to accept a bill for the health care services that is submitted on an**
 13 **institutional provider form.**

14 **Sec. 10. The state department shall adopt rules under IC 4-22-2**
 15 **for the enforcement of this chapter.**

16 SECTION 12. IC 25-22.5-5.5-1.5 IS ADDED TO THE INDIANA
 17 CODE AS A NEW SECTION TO READ AS FOLLOWS
 18 [EFFECTIVE JULY 1, 2023]: **Sec. 1.5. (a) As used in this section,**
 19 **"nonprofit hospital" means a hospital that is organized as a**
 20 **nonprofit corporation or a charitable trust under Indiana law or**
 21 **the laws of any other state or country and that is:**

22 **(1) eligible for tax exempt bond financing; or**

23 **(2) exempt from state or local taxes.**

24 **(b) This section does not apply to the following:**

25 **(1) A nonprofit hospital that is owned by a county.**

26 **(2) A critical access hospital that meets the criteria under 42**
 27 **CFR 485.601 et seq.**

28 **(c) Beginning July 1, 2023, a nonprofit hospital may not enter**
 29 **into, amend, or renew a physician noncompete agreement with a**
 30 **physician.**

31 SECTION 13. IC 27-1-37-8, AS ADDED BY P.L.198-2021,
 32 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2023]: **Sec. 8. (a) This section applies to a health provider**
 34 **contract entered into, amended, or renewed after June 30, 2021.**

35 **(b) A health provider contract, including a contract with a pharmacy**
 36 **benefit manager, may not contain a provision that does any of the**
 37 **following:**

38 **(1) Limits the ability of either the health carrier or the health**
 39 **provider facility to disclose the allowed amount and fees of**
 40 **services to any insured (as defined in IC 27-8-5.8-3) or enrollee**
 41 **(as defined in IC 27-13-1-12), or to the treating health provider**
 42 **facility or physician of the insured or enrollee.**



1 (2) Limits the ability of either the health carrier or the health
 2 provider facility to disclose out-of-pocket costs to an insured (as
 3 defined in IC 27-8-5.8-3) or an enrollee (as defined in
 4 IC 27-13-1-12).

5 **(3) Limits the ability of the health carrier to introduce or**
 6 **modify a select network plan or tiered network plan by**
 7 **granting the provider a guaranteed right of participation.**

8 **(4) Requires the health carrier to place all members of a**
 9 **provider group practice in the same tier of a tiered network**
 10 **plan.**

11 **(5) Requires the health carrier to include all members of a**
 12 **provider group in a select network plan on an all-or-nothing**
 13 **basis.**

14 **(6) Requires a provider to participate in a new select network**
 15 **or tiered network plan that the carrier introduces without**
 16 **granting the provider the right to opt out of the new plan at**
 17 **least sixty (60) days before the new plan is submitted to the**
 18 **commissioner for approval.**

19 **(7) Limits the ability of either the health carrier or the**
 20 **provider to disclose the allowed amount and fees of services**
 21 **to any insured (as defined in IC 27-8-5.8-3) or enrollee (as**
 22 **defined in IC 27-13-1-12), or the treating provider of the**
 23 **insured or enrollee.**

24 **(8) Limits the ability of either the health carrier or the**
 25 **provider to disclose out-of-pocket costs to an insured (as**
 26 **defined in IC 27-8-5.8-3) or an enrollee (as defined in**
 27 **IC 27-13-1-12).**

28 **(9) Results or intends to result in anticompetitive effects.**

29 (c) Any provision of a health provider contract that includes a
 30 provision described in subsection (b) in violation of this section is
 31 severable and the provision in violation is null and void. The remaining
 32 provisions of the health provider contract, excluding the provision in
 33 violation of this section, remain in effect and are enforceable.

34 (d) The attorney general may issue a civil investigative demand to
 35 obtain information from a party of, or pertaining to, a health provider
 36 contract and compliance of this section.

37 SECTION 14. IC 27-2-25.5 IS ADDED TO THE INDIANA CODE
 38 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 39 JANUARY 1, 2025]:

40 **Chapter 25.5. Employment of Physicians by Health Carriers**

41 **Sec. 1. Except as provided in section 4(2)(B) of this chapter, this**
 42 **chapter does not apply to a licensed physician providing the**



1 following:

2 (1) Services as the following:

3 (A) A radiologist.

4 (B) An anesthesiologist.

5 (C) A pathologist.

6 (D) An emergency room physician.

7 (2) Services, including the review of health insurance claims,
8 that do not involve providing care to a patient.

9 Sec. 2. (a) As used in this chapter, "health carrier" means an
10 entity:

11 (1) that is subject to this title and the administrative rules
12 adopted under this title; and

13 (2) that enters into a contract to:

14 (A) provide health care services;

15 (B) deliver health care services;

16 (C) arrange for health care services; or

17 (D) pay for or reimburse any of the costs of health care
18 services.

19 (b) The term includes the following:

20 (1) An insurer, as defined in IC 27-1-2-3(x), that issues a
21 policy of accident and sickness insurance, as defined in
22 IC 27-8-5-1(a).

23 (2) A health maintenance organization, as defined in
24 IC 27-13-1-19.

25 (3) An administrator (as defined in IC 27-1-25-1(a)) that is
26 licensed under IC 27-1-25.

27 (4) A state employee health plan offered under IC 5-10-8.

28 (5) A short term insurance plan (as defined by IC 27-8-5.9-3).

29 (6) Any other entity that provides a plan of health insurance,
30 health benefits, or health care services.

31 (c) The term does not include:

32 (1) an insurer that issues a policy of accident and sickness
33 insurance;

34 (2) a limited service health maintenance organization (as
35 defined in IC 27-13-34-4); or

36 (3) an administrator;

37 that only provides coverage for, or processes claims for, dental or
38 vision care services.

39 Sec. 3. (a) A health carrier may employ a physician only if the
40 following conditions are met:

41 (1) The health carrier does not restrict or interfere with
42 medically appropriate diagnostic or treatment decisions.



1 **(2) The health carrier does not restrict or interfere with**
2 **physician referral decisions.**
3 **(b) If there is a dispute concerning whether the conditions have**
4 **been met under subsection (a), the health carrier has the burden of**
5 **proving that the health carrier has met the requirements of this**
6 **section.**
7 **Sec. 4. Nothing in this chapter may be construed to prohibit any**
8 **of the following from employing a physician:**
9 **(1) Another licensed physician.**
10 **(2) A group of licensed physicians, including any of the**
11 **following:**
12 **(A) A physician's professional corporation (as defined in**
13 **IC 23-1.5-1-10).**
14 **(B) A domestic nonprofit public benefit corporation (as**
15 **defined in IC 23-17-2-23) that:**
16 **(i) is exempt from federal income taxation under Section**
17 **501(c)(3) of the Internal Revenue Code;**
18 **(ii) has a purpose to engage in medical education and**
19 **medical research jointly with an accredited medical**
20 **school in Indiana;**
21 **(iii) restricts the employed physicians to the medical**
22 **faculty of the medical school; and**
23 **(iv) operates as a faculty practice plan for purposes of 42**
24 **U.S.C. 1395 et seq.**
25 **An employee physician who specializes in radiology,**
26 **pathology, anesthesiology, or emergency medicine shall**
27 **also be restricted to practice as a faculty practice plan**
28 **employee at the medical school.**
29 **SECTION 15. IC 27-2-28 IS ADDED TO THE INDIANA CODE**
30 **AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE**
31 **JULY 1, 2023]:**
32 **Chapter 28. Penalty for Excessive Rates for Health Care**
33 **Services**
34 **Sec. 1. This chapter applies beginning after December 31, 2024.**
35 **Sec. 2. As used in this chapter, "health care service" means a**
36 **health care service provided by a nonprofit hospital, including any**
37 **item, drug, or procedure, as referenced in the medical billing code**
38 **that applies to specific health care services, as published in the**
39 **Current Procedural Terminology code set maintained by the**
40 **American Medical Association.**
41 **Sec. 3. As used in this chapter, "nonprofit hospital" means a**
42 **nonprofit hospital (as defined in IC 16-21-9-3) licensed under this**



1 article. However, the term does not include a county-owned
2 hospital or a nonprofit critical access hospital.

3 **Sec. 4. Each nonprofit hospital operating in Indiana shall before**
4 **January 31 of each year, submit to the department the following**
5 **for the nonprofit hospital's immediately preceding calendar year:**

6 (1) A certified statement of, and supporting documentation to
7 demonstrate:

8 (A) the average price charged by the hospital for each
9 health care service provided to patients; and

10 (B) the hospital's total patient service revenue generated
11 from all health care services provided to patients by the
12 hospital;

13 in the preceding calendar year.

14 (2) The federal Medicare reimbursement rate for each health
15 care service provided to patients by the hospital in the
16 preceding calendar year.

17 **Sec. 5. (a) The department shall verify the documentation**
18 **submitted by a nonprofit hospital under section 4 of this chapter**
19 **and determine whether, and the extent to which, the hospital's**
20 **average price charged for a health care service for the year**
21 **exceeded two hundred sixty percent (260%) of the federal**
22 **Medicare reimbursement rate for the health care service.**

23 (b) If a nonprofit hospital charged amounts for health care
24 services that exceeded two hundred sixty percent (260%) of the
25 federal Medicare reimbursement rate for the health care service in
26 the immediately preceding calendar year, the department shall
27 assess a penalty against the hospital equal to STEP FOUR of the
28 following formula:

29 **STEP ONE: Determine the nonprofit hospital's total patient**
30 **service revenue generated from all health care services**
31 **provided to patients by the hospital in the preceding calendar**
32 **year.**

33 **STEP TWO: Determine the total number of health care**
34 **services by medical billing code that were provided to patients**
35 **by the hospital in the preceding calendar year for which the**
36 **hospital charged amounts exceeding two hundred sixty**
37 **percent (260%) of the federal Medicare reimbursement rate.**

38 **STEP THREE: Determine a percentage by multiplying:**

39 (A) the STEP TWO number; by

40 (B) one percent (1%).

41 **STEP FOUR: Determine the lesser of:**

42 (A) the STEP ONE amount multiplied by the STEP



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**THREE percentage; or
(B) the STEP ONE amount multiplied by ten percent
(10%).**

Sec. 6. A nonprofit hospital that is assessed a penalty under this chapter may petition the department for reconsideration of the penalty based on a clerical, mathematical, or typographical error in the information submitted to the department by the hospital. A petition for reconsideration must be made in the manner, form, and time prescribed by the department. The department may revise a penalty based on a hospital's request for reconsideration if and when the hospital has:

- (1) provided documentation to establish that a clerical, mathematical, or typographical error was made;**
- (2) provided documentation to demonstrate that the error has been corrected (including any adversely impacted patients or any adversely impacted payors, if any); and**
- (3) shown that reasonable measures have been instituted to ensure the error will not continue.**

Sec. 7. Revenue collected from the penalty assessed under section 5(b) of this chapter shall be deposited in the state general fund and may be used to pay the state's share of the cost of Medicaid services provided under the federal Medicaid program.

SECTION 16. An emergency is declared for this act.

