

HOUSE BILL No. 1421

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-6; IC 5-10-8-7; IC 16-20; IC 16-21-17-1; IC 16-22-8-30; IC 27-1-37.

Synopsis: Various health care matters. Requires the attorney general to review mergers, acquisitions, and other transactions concerning hospitals, hospital systems, and investors of hedge funds and public equity funds. Authorizes the attorney general to approve or deny the merger, acquisition, or transaction and allows for a waiver under certain circumstances. Specifies that the state employee health plan statute does not prohibit the state personnel department from directly contracting with health care providers for health care services for state employees. Allows a hospital to comply with posting requirements concerning pricing of information by complying with the federal Centers for Medicare and Medicaid Services final rule in effect on January 1, 2021, or as specified in the statute. Requires reporting by December 31 of each odd-numbered year from hospitals and hospital systems concerning activities of physician groups owned by the hospitals. Prohibits health provider contracts from including specified provisions. Sets requirements for the director of the division of public health for a health and hospital corporation and certain health officers.

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

Schaibley

January 14, 2021, read first time and referred to Committee on Public Health.



First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

HOUSE BILL No. 1421

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 4-6-3-3, AS AMENDED BY P.L.137-2007,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2021]: Sec. 3. If the attorney general has reasonable cause to
4 believe that a person may be in possession, custody, or control of
5 documentary material, or may have knowledge of a fact that is relevant
6 to an investigation conducted to determine if a person is or has been
7 engaged in a violation of IC 4-6-9, IC 4-6-10, IC 13-14-10,
8 IC 13-14-12, IC 13-24-2, IC 13-30-4, IC 13-30-5, IC 13-30-8,
9 IC 23-7-8, IC 24-1-2, IC 24-5-0.5, IC 24-5-7, IC 24-5-8, IC 24-9,
10 IC 25-1-7, **IC 27-1-37-8**, IC 32-34-1, or any other statute enforced by
11 the attorney general or is or has been engaged in a criminal violation
12 of IC 13, only the attorney general may issue in writing, and cause to
13 be served upon the person or the person's representative or agent, an
14 investigative demand that requires that the person served do any
15 combination of the following:
16 (1) Produce the documentary material for inspection and copying
17 or reproduction.



1 (2) Answer under oath and in writing written interrogatories.

2 (3) Appear and testify under oath before the attorney general or
3 the attorney general's duly authorized representative.

4 SECTION 2. IC 4-6-9.5 IS ADDED TO THE INDIANA CODE AS
5 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
6 1, 2021]:

7 **Chapter 9.5. Review of Health Care Mergers, Acquisitions, and**
8 **Transactions**

9 **Sec. 1. As used in this chapter, "affiliate" means any person**
10 **who, directly or indirectly through one (1) or more intermediaries,**
11 **controls, is controlled by, or is under common control with, the**
12 **person to whom affiliation is attributed.**

13 **Sec. 2. As used in this chapter, "captive professional entity"**
14 **means a professional corporation, limited liability company, or**
15 **other entity formed to render professional services in which a**
16 **beneficial owner is a physician licensed under IC 25-22.5 and**
17 **employed by or otherwise designated by a hospital or hospital**
18 **system.**

19 **Sec. 3. As used in this chapter, "hedge fund" means a pool of**
20 **funds by investors, including a pool of funds managed or controlled**
21 **by private limited partnerships, if those investors or the**
22 **management of the pool or private limited partnership employ**
23 **investment strategies of any kind to earn a return on the pool of**
24 **funds.**

25 **Sec. 4. As used in this chapter, "hospital" has the meaning set**
26 **forth in IC 16-18-2-179(a).**

27 **Sec. 5. As used in this chapter, "hospital system" means:**

28 (1) a parent corporation of at least one (1) hospital and any
29 entity affiliated with the parent corporation through
30 ownership, governance, or membership; or

31 (2) a hospital and any entity affiliated with the hospital
32 through ownership, governance, or membership.

33 **Sec. 6. As used in this chapter, "material change" means any of**
34 **the following:**

35 (1) The merger, consolidation, or other affiliation of a
36 physician group practice with a hospital, hospital system,
37 captive professional entity, medical foundation, or other
38 entity organized or controlled by a hospital or hospital
39 system.

40 (2) The acquisition of all or substantially all of the capital
41 stock, membership interest, or other equity interest of a
42 physician group practice by a hospital, hospital system,



- 1 captive professional entity, medical foundation, or other
 2 entity organized or controlled by a hospital or hospital
 3 system.
- 4 (3) The employment of all or substantially all of the physicians
 5 of a physician group practice by a hospital, hospital system,
 6 captive professional entity, medical foundation, or other
 7 entity organized by, controlled by, or otherwise affiliated with
 8 the hospital or hospital system.
- 9 (4) The acquisition of one (1) or more insolvent physician
 10 group practices by a hospital, hospital system, captive
 11 professional entity, medical foundation, or other entity
 12 organized by, controlled by, or otherwise affiliated with a
 13 hospital or hospital system.
- 14 **Sec. 7. (a) As used in this chapter, "physician group practice"**
 15 **means at least two (2) physicians licensed under IC 25-22.5 that**
 16 **have legally organized in a partnership, professional corporation,**
 17 **limited liability company formed to render services, medical**
 18 **foundation, not-for-profit corporation, faculty practice plan, or**
 19 **other similar entity:**
- 20 (1) in which each physician who is a member of the group
 21 provides substantially the full range of services that the
 22 physician routinely provides, including:
- 23 (A) medical care;
 24 (B) consultations;
 25 (C) diagnoses; or
 26 (D) treatment;
- 27 through the joint use of shared office space, facilities,
 28 equipment, or personnel;
- 29 (2) for which substantially all of the services of the physicians
 30 who are members of the group are provided through the
 31 group and are billed in the name of the group practice, and
 32 amounts received are treated as receipts of the group; and
- 33 (3) in which the overhead expenses of, and the income from,
 34 the group are distributed according to methods previously
 35 determined by members of the group.
- 36 (b) The term includes an entity that substantially meets the
 37 definition under subsection (a) except that its shareholders,
 38 partners, or owners of the group practice include single-physician
 39 professional corporations, limited liability companies formed to
 40 render professional services, or other entities in which beneficial
 41 owners are individual physicians.
- 42 **Sec. 8. As used in this chapter, "public equity fund" means a**



1 fund in which an investor engages in the raising or returning of
2 capital and that invests, develops, or disposes of specified assets.

3 Sec. 9. (a) Except as provided in section 11 of this chapter,
4 before the approval or finalization of an action described in this
5 section, the attorney general shall review any of the following
6 transactions and accompanying documents filed under section 10
7 of this chapter not later than forty-five (45) days from the filing,
8 concerning a hospital, hospital system, or an investor of a hedge
9 fund or public equity fund that is a party to any of the following:

10 (1) A merger.

11 (2) An acquisition.

12 (3) A transaction that results in a material change to the
13 business or corporate structure of a physician group practice.

14 The attorney general shall establish the procedure for a person to
15 file the documents with the attorney general.

16 (b) The attorney general may issue a civil investigative demand
17 to obtain information from a party of, or pertaining to, a
18 transaction described in subsection (a).

19 (c) If the attorney general determines that the merger,
20 acquisition, or transaction would not result in substantially less
21 competition in a primary service area, has a substantial likelihood
22 of anti-competitive effects, or tends to create a monopoly, the
23 attorney general shall approve the merger, acquisition, or
24 transaction and notify the parties in writing of the approval.

25 (d) If the attorney general determines through a review of the
26 documentation that the merger, acquisition, or transaction would
27 substantially lessen competition in a primary service area, has a
28 substantial likelihood of anti-competitive effects, or tends to create
29 a monopoly in a geographic primary service area, the attorney
30 general shall deny the acquisition, merger, or transaction and
31 provide written notice to the parties of the denial and reason for
32 the denial.

33 (e) A determination by the attorney general under this section
34 is a final appealable order.

35 Sec. 10. (a) At the time that a person files documentation of:

36 (1) a merger or acquisition with the secretary of state under
37 IC 23-0.6-2-5 concerning a merger or acquisition involving a
38 hospital, hospital system, or investor of a hedge fund or public
39 equity fund as a party to a merger or acquisition; or

40 (2) a transaction that results in a material change to the
41 business or corporate structure of a physician group practice;

42 the person shall also file written notice of the filing to the attorney



1 general in a manner prescribed by the attorney general.

2 (b) The written notice required by subsection (a)(2) must
3 include at least the following:

4 (1) Identification of each party to the transaction.

5 (2) Description of the material change to the business or
6 corporate structure of the physician group practice as of the
7 date of the notice filing, including the following:

8 (A) A description of the nature of the proposed
9 relationship among the parties to the proposed transaction.

10 (B) The names and specialties of each physician that is a
11 member of the physician group practice that is the subject
12 of the proposed transaction and who will practice medicine
13 with the resulting physician group practice, hospital,
14 hospital system, captive professional entity, medical
15 foundation, or other entity organized by, controlled by, or
16 otherwise an affiliate of the hospital or hospital system
17 following the effective date of the transaction.

18 (C) The names of the business entities that are to provide
19 services following the effective date of the transaction.

20 (D) The address for each location where the services are to
21 be provided.

22 (E) A description of the services to be provided at each
23 location.

24 (F) The primary service area to be served by each location.

25 (c) The person shall provide, upon request of the attorney
26 general, any additional information or documentation requested
27 that is relevant to the filing and the review required by the
28 attorney general under this chapter.

29 Sec. 11. (a) As used in this section, "rural area" means a
30 primary service area with a population density of fewer than two
31 hundred (200) persons per square mile and no population center
32 that exceeds forty thousand (40,000) people within the area.

33 (b) A hospital, hospital system, or investor of a hedge fund or
34 private equity fund located in a rural area may request in writing
35 a waiver from the attorney general of the review required in
36 section 9 of this chapter.

37 (c) The attorney general may grant a waiver requested under
38 this section if either of the following conditions exist:

39 (1) The change of control or acquisition would directly benefit
40 consumers of health care services in rural areas by improving
41 or maintaining the access or availability of those services.

42 (2) The change of control or acquisition is needed to improve



1 or maintain the health, safety, and well being of consumers of
2 health care services in rural areas.

3 **(d) The attorney general may adopt rules under IC 4-22-2**
4 **concerning the process or requesting a waiver and otherwise**
5 **implementing this section.**

6 **(e) A hospital, hospital system, or an investor granted a waiver**
7 **under this section must still submit the documentation required by**
8 **section 10 of this chapter.**

9 **Sec. 12. (a) Not later than December 31 of each odd-numbered**
10 **year, a hospital or hospital system shall file with the attorney**
11 **general and the governor a written report describing the activities**
12 **of the physician group practices owned by, or an affiliate of, the**
13 **hospital or hospital system.**

14 **(b) The report under subsection (a) must include the following:**

15 **(1) A description of the nature of the relationship between the**
16 **hospital or hospital system and the physician group practice.**

17 **(2) The names and specialties of each physician practicing**
18 **medicine with the physician group practice.**

19 **(3) The names of the business entities that provide services as**
20 **part of the physician group practice and the address of each**
21 **location where the services are provided.**

22 **(4) A description of the services provided at each location.**

23 **(5) The primary service area served by each location.**

24 SECTION 3. IC 5-10-8-7, AS AMENDED BY P.L.217-2017,
25 SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 JULY 1, 2021]: Sec. 7. (a) The state, excluding state educational
27 institutions, may not purchase or maintain a policy of group insurance,
28 except:

29 (1) life insurance for the state's employees;

30 (2) long term care insurance under a long term care insurance
31 policy (as defined in IC 27-8-12-5), for the state's employees; or

32 (3) an insurance policy that provides coverage that supplements
33 coverage provided under a United States military health care plan.

34 (b) With the consent of the governor, the state personnel department
35 may establish self-insurance programs to provide group insurance other
36 than life or long term care insurance for state employees and retired
37 state employees. The state personnel department may contract with a
38 private agency, business firm, limited liability company, or corporation
39 for administrative services. A commission may not be paid for the
40 placement of the contract. The department may require, as part of a
41 contract for administrative services, that the provider of the
42 administrative services offer to an employee terminating state



1 employment the option to purchase, without evidence of insurability,
2 an individual policy of insurance.

3 (c) Notwithstanding subsection (a), with the consent of the
4 governor, the state personnel department may contract for health
5 services for state employees through one (1) or more prepaid health
6 care delivery plans.

7 (d) The state personnel department shall adopt rules under IC 4-22-2
8 to establish long term and short term disability plans for state
9 employees (except employees who hold elected offices (as defined by
10 IC 3-5-2-17)). The plans adopted under this subsection may include
11 any provisions the department considers necessary and proper and
12 must:

13 (1) require participation in the plan by employees with six (6)
14 months of continuous, full-time service;

15 (2) require an employee to make a contribution to the plan in the
16 form of a payroll deduction;

17 (3) require that an employee's benefits under the short term
18 disability plan be subject to a thirty (30) day elimination period
19 and that benefits under the long term plan be subject to a six (6)
20 month elimination period;

21 (4) prohibit the termination of an employee who is eligible for
22 benefits under the plan;

23 (5) provide, after a seven (7) day elimination period, eighty
24 percent (80%) of base biweekly wages for an employee disabled
25 by injuries resulting from tortious acts, as distinguished from
26 passive negligence, that occur within the employee's scope of
27 state employment;

28 (6) provide that an employee's benefits under the plan may be
29 reduced, dollar for dollar, if the employee derives income from:

30 (A) Social Security;

31 (B) the public employees' retirement fund;

32 (C) the Indiana state teachers' retirement fund;

33 (D) pension disability;

34 (E) worker's compensation;

35 (F) benefits provided from another employer's group plan; or

36 (G) remuneration for employment entered into after the
37 disability was incurred.

38 (The department of state revenue and the department of workforce
39 development shall cooperate with the state personnel department
40 to confirm that an employee has disclosed complete and accurate
41 information necessary to administer this subdivision.);

42 (7) provide that an employee will not receive benefits under the



1 plan for a disability resulting from causes specified in the rules;
2 and

3 (8) provide that, if an employee refuses to:

4 (A) accept work assignments appropriate to the employee's
5 medical condition;

6 (B) submit information necessary for claim administration; or

7 (C) submit to examinations by designated physicians;

8 the employee forfeits benefits under the plan.

9 (e) This section does not affect insurance for retirees under
10 IC 5-10.3 or IC 5-10.4.

11 (f) The state may pay part of the cost of self-insurance or prepaid
12 health care delivery plans for its employees.

13 (g) A state agency may not provide any insurance benefits to its
14 employees that are not generally available to other state employees,
15 unless specifically authorized by law.

16 (h) The state may pay a part of the cost of group medical and life
17 coverage for its employees.

18 (i) To carry out the purposes of this section, a trust fund may be
19 established. The trust fund established under this subsection is
20 considered a trust fund for purposes of IC 4-9.1-1-7. Money may not be
21 transferred, assigned, or otherwise removed from the trust fund
22 established under this subsection by the state board of finance, the
23 budget agency, or any other state agency. Money in a trust fund
24 established under this subsection does not revert to the state general
25 fund at the end of any state fiscal year. The trust fund established under
26 this subsection consists of appropriations, revenues, or transfers to the
27 trust fund under IC 4-12-1. Contributions to the trust fund are
28 irrevocable. The trust fund must be limited to providing prefunding of
29 annual required contributions and to cover OPEB liability for covered
30 individuals. Funds may be used only for these purposes and not to
31 increase benefits or reduce premiums. The trust fund shall be
32 established to comply with and be administered in a manner that
33 satisfies the Internal Revenue Code requirements concerning a trust
34 fund for prefunding annual required contributions and for covering
35 OPEB liability for covered individuals. All assets in the trust fund
36 established under this subsection:

37 (1) are dedicated exclusively to providing benefits to covered
38 individuals and their beneficiaries according to the terms of the
39 health plan; and

40 (2) are exempt from levy, sale, garnishment, attachment, or other
41 legal process.

42 The trust fund established under this subsection shall be administered



1 by the state personnel department. The expenses of administering the
 2 trust fund shall be paid from money in the trust fund. Notwithstanding
 3 IC 5-13, the treasurer of state shall invest the money in the trust fund
 4 not currently needed to meet the obligations of the trust fund in the
 5 same manner as money may be invested by the public employees'
 6 retirement fund under IC 5-10.3-5. However, the trustee may not invest
 7 the money in the trust in equity securities. The trustee shall also comply
 8 with the prudent investor rule set forth in IC 30-4-3.5. The trustee may
 9 contract with investment management professionals, investment
 10 advisors, and legal counsel to assist in the investment of the trust and
 11 may pay the state expenses incurred under those contracts from the
 12 trust. Interest that accrues from these investments shall be deposited in
 13 the trust fund.

14 **(j) Nothing in this section prohibits the state personnel**
 15 **department from directly contracting with health care providers**
 16 **for health care services for state employees.**

17 SECTION 4. IC 16-20-2-16 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 16. (a) Each local board
 19 of health shall appoint a health officer to serve for a term of four (4)
 20 years. The health officer must:

21 (1) be a licensed physician; **and**

22 (2) **have either:**

23 (A) **an educational degree or certificate in public health; or**

24 (B) **experience in public health matters.**

25 **The state department may adopt rules under IC 4-22-2 to specify**
 26 **the qualifications to comply with subdivision (2).**

27 (b) The appointment shall be certified by the county executive and
 28 sent to the state department. The state department shall maintain a
 29 record of the certification.

30 (c) The health officer is eligible for reappointment.

31 (d) The health officer is the executive officer of the local health
 32 department and shall serve as secretary of the local board of health.

33 SECTION 5. IC 16-20-3-9 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 9. (a) A multiple
 35 county board of health shall appoint a health officer to serve for a term
 36 of four (4) years. The health officer must:

37 (1) be a licensed physician; **and**

38 (2) **have either:**

39 (A) **an educational degree or certificate in public health; or**

40 (B) **experience in public health matters.**

41 **The state department may adopt rules under IC 4-22-2 to specify**
 42 **the qualifications to comply with subdivision (2).**



1 (b) The appointment of the health officer shall be certified by the
2 county executive of each participating county and sent to the state
3 department for the state department's records.

4 (c) The health officer is eligible for reappointment.

5 (d) The health officer is the executive officer of the multiple county
6 health department and shall serve as secretary of the multiple county
7 board of health.

8 SECTION 6. IC 16-20-4-20 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 20. (a) The board of
10 each city health department shall appoint a health officer. The
11 appointment is subject to the approval of the city legislative body.

12 (b) The health officer is the executive officer for the department and
13 shall serve as secretary of the local board.

14 (c) The health officer must meet the following conditions:

15 (1) Be a citizen of the United States.

16 (2) Be a licensed physician or be eligible for such a license.

17 **(3) Have either:**

18 **(A) an educational degree or certificate in public health; or**

19 **(B) experience in public health matters.**

20 **The state department may adopt rules under IC 4-22-2 to specify**
21 **the qualifications to comply with subdivision (3).**

22 (d) A health officer serves a term of four (4) years unless removed
23 for cause as provided in this title.

24 SECTION 7. IC 16-21-17-1, AS AMENDED BY P.L.93-2020,
25 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 MARCH 1, 2021 (RETROACTIVE)]: Sec. 1. (a) Not later than March
27 31, 2021, a hospital and an ambulatory outpatient surgical center shall
28 post on the Internet web site of the hospital or ambulatory outpatient
29 surgical center pricing and other information specified in this chapter
30 for the following:

31 (1) For as many of the seventy (70) shoppable services specified
32 in the final rule of the Centers for Medicare and Medicaid
33 Services published in 84 FR 65524 that are provided by the
34 hospital or ambulatory outpatient surgical center.

35 (2) In addition to the services specified in subdivision (1), the
36 thirty (30) most common services that are provided by the
37 hospital or ambulatory outpatient surgical center not included in
38 subdivision (1).

39 (b) **Subject to subsection (c)**, the following information, to the
40 extent applicable, must be included on the Internet web site by a
41 hospital and an ambulatory outpatient surgical center for the shoppable
42 and common services described in subsection (a):



- 1 (1) A description of the shoppable and common service.
- 2 (2) The weighted average negotiated charge per service per
- 3 provider type for each of the following categories:
- 4 (A) Any nongovernment sponsored health benefit plan or
- 5 insurance plan provided by a health carrier in which the
- 6 provider is in the network.
- 7 (B) Medicare, including fee for service and Medicare
- 8 Advantage.
- 9 (C) Self-pay without charitable assistance from the hospital or
- 10 ambulatory outpatient surgical center.
- 11 (D) Self-pay with charitable assistance from the hospital or
- 12 ambulatory outpatient surgical center.
- 13 (E) Medicaid, including fee for service and risk based
- 14 managed care.

15 **(c) A hospital complies with this section by posting the**
 16 **information by either of the following means:**

- 17 **(1) As specified in subsection (b).**
- 18 **(2) As set forth in the final rule of the federal Centers for**
- 19 **Medicare and Medicaid Services published in 84 FR 65524**
- 20 **and in effect on January 1, 2021.**

21 SECTION 8. IC 16-22-8-30, AS AMENDED BY P.L.184-2005,
 22 SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2021]: Sec. 30. The board shall appoint a director of the
 24 division of public health to serve for a term of four (4) years unless
 25 sooner removed for cause. The director is eligible for reappointment.
 26 The director must:

- 27 **(1) hold a license to practice medicine in Indiana; and**
- 28 **(2) have either:**
- 29 **(A) an educational degree or certificate in public health; or**
- 30 **(B) experience in public health matters.**

31 **The state department may adopt rules under IC 4-22-2 to specify**
 32 **the qualifications to comply with subdivision (2).**

33 SECTION 9. IC 27-1-37-1.5 IS ADDED TO THE INDIANA CODE
 34 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 35 1, 2021]: Sec. 1.5. **(a) As used in this chapter, "health carrier"**
 36 **means an entity:**

- 37 **(1) that is subject to IC 27 and the administrative rules**
- 38 **adopted under IC 27; and**
- 39 **(2) that enters into a contract to:**
- 40 **(A) provide health care services;**
- 41 **(B) deliver health care services;**
- 42 **(C) arrange for health care services; or**



- 1 **(D) pay for or reimburse any of the costs of health care**
 2 **services.**
- 3 **(b) The term includes the following:**
- 4 **(1) An insurer, as defined in IC 27-1-2-3(x), that issues a**
 5 **policy of accident and sickness insurance, as defined in**
 6 **IC 27-8-5-1(a).**
- 7 **(2) A health maintenance organization, as defined in**
 8 **IC 27-13-1-19.**
- 9 **(3) An administrator (as defined in IC 27-1-25-1(a)) that is**
 10 **licensed under IC 27-1-25.**
- 11 **(4) A state employee health plan offered under IC 5-10-8.**
- 12 **(5) A short term insurance plan (as defined by IC 27-8-5.9-3).**
- 13 **(6) Any other entity that provides a plan of health insurance,**
 14 **health benefits, or health care services.**
- 15 **(c) The term does not include:**
- 16 **(1) an insurer that issues a policy of accident and sickness**
 17 **insurance;**
- 18 **(2) a limited service health maintenance organization (as**
 19 **defined in IC 27-13-34-4); or**
- 20 **(3) an administrator;**
- 21 **that only provides coverage for, or processes claims for, dental or**
 22 **vision care services.**
- 23 SECTION 10. IC 27-1-37-7, AS AMENDED BY P.L.93-2020,
 24 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2021]: Sec. 7. (a) This section applies to health provider
 26 contracts entered into or renewed after June 30, 2020.
- 27 (b) A health provider contract, including a contract with a pharmacy
 28 benefit manager or a health facility, may not contain a provision that
 29 prohibits the disclosure of health care service claims data to:
- 30 **(1) employers providing the coverage; or**
- 31 **(2) beginning July 1, 2021, another person for purposes of**
 32 **using price transparency tools, including for use in the all**
 33 **payer claims data base established by IC 27-1-44.5.**
- 34 However, any disclosure of claims data must comply with health
 35 privacy laws, including the federal Health Insurance Portability and
 36 Accountability Act (HIPAA) (P.L. 104-191).
- 37 (c) A violation of this section constitutes an unfair or deceptive act
 38 or practice in the business of insurance under IC 27-4-1-4.
- 39 SECTION 11. IC 27-1-37-8 IS ADDED TO THE INDIANA CODE
 40 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 41 1, 2021]: **Sec. 8. (a) This section applies to a health provider**
 42 **contract entered into, amended, or renewed after June 30, 2021.**



1 **(b) A health provider contract, including a contract with a**
 2 **pharmacy benefit manager or a health facility, may not contain a**
 3 **provision that does any of the following:**

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

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

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

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

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

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

27 **(7) Results or intends to result in anti-competitive effects.**

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

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

37 **SECTION 12. An emergency is declared for this act.**

