



February 11, 2021

HOUSE BILL No. 1421

DIGEST OF HB 1421 (Updated February 11, 2021 5:23 pm - DI 55)

Citations Affected: IC 4-6; IC 5-10; IC 16-21; IC 16-22; IC 27-1; noncode.

Synopsis: Various health care matters. Provides 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. Provides that an individual appointed director of the division of public health of the health and hospital corporation of Marion County must have education or experience in public health. Defines "health carrier" for purposes of the law on health provider contracts. Requires a hospital to post pricing information in compliance with the federal Hospital Price Transparency Rule of the Centers for Medicare and Medicaid Services as in effect on January 1, 2021, if: (1) the federal Hospital Price Transparency Rule is repealed; or (2) federal enforcement of the federal Hospital Price Transparency Rule is stopped. Prohibits the inclusion in a health provider contract of any provision that would: (1) prohibit the disclosure of health care service claims data for purposes of using price transparency tools, including the all payer claims data base; (2) limit the ability of a health carrier or health provider facility to disclose the allowed amount and fees of services to any insured or
(Continued next page)

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

Schaibley

January 14, 2021, read first time and referred to Committee on Public Health. Reassigned to Committee on Financial Institutions and Insurance.
February 11, 2021, amended, reported — Do Pass.

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Digest Continued

enrollee, or to the treating health provider facility or physician of the insured or enrollee; or (3) limit the ability of a health carrier or health provider facility to disclose out-of-pocket costs to an insured or an enrollee. Requires the department of insurance to issue a report to: (1) the legislative council; and (2) the interim study committees on financial institutions and insurance and public health, behavioral health, and human services; setting forth its suggestions for revising the department's administrative rules to reduce the regulatory costs incurred by employers seeking to provide health coverage for their employees through multiple employer welfare arrangements. Urges the legislative council to assign to an appropriate interim study committee the task of studying the rising cost and prices of health care services in Indiana. Requires the legislative services agency to conduct or commission a study of market concentration in the health insurance industry, the hospital industry, the professions of licensed health care practitioners, the retail pharmaceutical industry, and the pharmacy benefit manager industry.

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February 11, 2021

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.

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

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

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

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

14 (b) With the consent of the governor, the state personnel department
15 may establish self-insurance programs to provide group insurance other
16 than life or long term care insurance for state employees and retired
17 state employees. The state personnel department may contract with a
18 private agency, business firm, limited liability company, or corporation
19 for administrative services. A commission may not be paid for the
20 placement of the contract. The department may require, as part of a
21 contract for administrative services, that the provider of the
22 administrative services offer to an employee terminating state
23 employment the option to purchase, without evidence of insurability,
24 an individual policy of insurance.

25 (c) Notwithstanding subsection (a), with the consent of the
26 governor, the state personnel department may contract for health
27 services for state employees through one (1) or more prepaid health
28 care delivery plans.

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

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

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

39 (3) require that an employee's benefits under the short term
40 disability plan be subject to a thirty (30) day elimination period
41 and that benefits under the long term plan be subject to a six (6)
42 month elimination period;



- 1 (4) prohibit the termination of an employee who is eligible for
 2 benefits under the plan;
- 3 (5) provide, after a seven (7) day elimination period, eighty
 4 percent (80%) of base biweekly wages for an employee disabled
 5 by injuries resulting from tortious acts, as distinguished from
 6 passive negligence, that occur within the employee's scope of
 7 state employment;
- 8 (6) provide that an employee's benefits under the plan may be
 9 reduced, dollar for dollar, if the employee derives income from:
- 10 (A) Social Security;
- 11 (B) the public employees' retirement fund;
- 12 (C) the Indiana state teachers' retirement fund;
- 13 (D) pension disability;
- 14 (E) worker's compensation;
- 15 (F) benefits provided from another employer's group plan; or
- 16 (G) remuneration for employment entered into after the
 17 disability was incurred.
- 18 (The department of state revenue and the department of workforce
 19 development shall cooperate with the state personnel department
 20 to confirm that an employee has disclosed complete and accurate
 21 information necessary to administer this subdivision.);
- 22 (7) provide that an employee will not receive benefits under the
 23 plan for a disability resulting from causes specified in the rules;
 24 and
- 25 (8) provide that, if an employee refuses to:
- 26 (A) accept work assignments appropriate to the employee's
 27 medical condition;
- 28 (B) submit information necessary for claim administration; or
- 29 (C) submit to examinations by designated physicians;
 30 the employee forfeits benefits under the plan.
- 31 (e) This section does not affect insurance for retirees under
 32 IC 5-10.3 or IC 5-10.4.
- 33 (f) The state may pay part of the cost of self-insurance or prepaid
 34 health care delivery plans for its employees.
- 35 (g) A state agency may not provide any insurance benefits to its
 36 employees that are not generally available to other state employees,
 37 unless specifically authorized by law.
- 38 (h) The state may pay a part of the cost of group medical and life
 39 coverage for its employees.
- 40 (i) To carry out the purposes of this section, a trust fund may be
 41 established. The trust fund established under this subsection is
 42 considered a trust fund for purposes of IC 4-9.1-1-7. Money may not be



1 transferred, assigned, or otherwise removed from the trust fund
 2 established under this subsection by the state board of finance, the
 3 budget agency, or any other state agency. Money in a trust fund
 4 established under this subsection does not revert to the state general
 5 fund at the end of any state fiscal year. The trust fund established under
 6 this subsection consists of appropriations, revenues, or transfers to the
 7 trust fund under IC 4-12-1. Contributions to the trust fund are
 8 irrevocable. The trust fund must be limited to providing prefunding of
 9 annual required contributions and to cover OPEB liability for covered
 10 individuals. Funds may be used only for these purposes and not to
 11 increase benefits or reduce premiums. The trust fund shall be
 12 established to comply with and be administered in a manner that
 13 satisfies the Internal Revenue Code requirements concerning a trust
 14 fund for prefunding annual required contributions and for covering
 15 OPEB liability for covered individuals. All assets in the trust fund
 16 established under this subsection:

17 (1) are dedicated exclusively to providing benefits to covered
 18 individuals and their beneficiaries according to the terms of the
 19 health plan; and

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

22 The trust fund established under this subsection shall be administered
 23 by the state personnel department. The expenses of administering the
 24 trust fund shall be paid from money in the trust fund. Notwithstanding
 25 IC 5-13, the treasurer of state shall invest the money in the trust fund
 26 not currently needed to meet the obligations of the trust fund in the
 27 same manner as money may be invested by the public employees'
 28 retirement fund under IC 5-10.3-5. However, the trustee may not invest
 29 the money in the trust in equity securities. The trustee shall also comply
 30 with the prudent investor rule set forth in IC 30-4-3.5. The trustee may
 31 contract with investment management professionals, investment
 32 advisors, and legal counsel to assist in the investment of the trust and
 33 may pay the state expenses incurred under those contracts from the
 34 trust. Interest that accrues from these investments shall be deposited in
 35 the trust fund.

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

39 SECTION 3. IC 16-21-17-0.5, AS ADDED BY P.L.93-2020,
 40 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 MARCH 1, 2021 (RETROACTIVE)]: Sec. 0.5. As used in this chapter,
 42 "weighted average negotiated charge" means the amount determined



1 in STEP SIX of the following formula with respect to a particular
2 procedure:

3 STEP ONE: For each insurer with whom ~~the hospital or~~ an
4 ambulatory outpatient surgical center negotiates a charge for a
5 particular procedure, determine the percentage of the ~~hospital's~~
6 ~~patients or the~~ ambulatory outpatient surgical center's patients
7 insured by the insurer in the previous calendar year rounded to a
8 whole percentage.

9 STEP TWO: Multiply each percentage determined under STEP
10 ONE by one hundred (100) and express the results as whole
11 numbers so that the sum of the percentage points determined
12 under STEP ONE is one hundred (100).

13 STEP THREE: For a particular procedure, determine the amount
14 of the negotiated charge for the procedure for each insurer
15 described in STEP ONE.

16 STEP FOUR: For each insurer described in STEP ONE, multiply
17 the STEP THREE amount determined for a particular procedure
18 by the result determined under STEP TWO for that insurer.

19 STEP FIVE: For a particular procedure, determine the sum of the
20 amounts determined under STEP FOUR for all of the insurers
21 described in STEP ONE with respect to that procedure.

22 STEP SIX: For a particular procedure, determine the quotient of:

23 (A) the sum determined under STEP FIVE for that procedure;
24 divided by

25 (B) one hundred (100).

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

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

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

41 (b) The following information, to the extent applicable, must be
42 included on the Internet web site by a ~~hospital and~~ an ambulatory

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1 outpatient surgical center for the shoppable and common services
2 described in subsection (a):

3 (1) A description of the shoppable and common service.

4 (2) The weighted average negotiated charge per service per
5 provider type for each of the following categories:

6 (A) Any nongovernment sponsored health benefit plan or
7 insurance plan provided by a health carrier in which the
8 provider is in the network.

9 (B) Medicare, including fee for service and Medicare
10 Advantage.

11 (C) Self-pay without charitable assistance from the ~~hospital~~ or
12 ambulatory outpatient surgical center.

13 (D) Self-pay with charitable assistance from the ~~hospital~~ or
14 ambulatory outpatient surgical center.

15 (E) Medicaid, including fee for service and risk based
16 managed care.

17 **(c) If:**

18 **(1) the federal Hospital Price Transparency Rule is repealed;**

19 **or**

20 **(2) federal enforcement of the federal Hospital Price**
21 **Transparency Rule is stopped;**

22 **the state health commissioner shall notify the legislative council of**
23 **the occurrence referred to in subdivision (1) or (2) in an electronic**
24 **format under IC 5-14-6.**

25 **(d) This subsection takes effect when the legislative council**
26 **receives a notification from the state health commissioner under**
27 **subsection (c). A hospital shall post pricing information in**
28 **compliance with the federal Hospital Price Transparency Rule of**
29 **the federal Centers for Medicare and Medicaid Services as**
30 **published at 84 FR 65524 and in effect on January 1, 2021.**

31 SECTION 5. IC 16-22-8-30, AS AMENDED BY P.L.184-2005,
32 SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 JULY 1, 2021]: Sec. 30. The board shall appoint a director of the
34 division of public health to serve for a term of four (4) years unless
35 sooner removed for cause. The director is eligible for reappointment.
36 The director must:

37 **(1) hold a license to practice medicine in Indiana; 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 SECTION 6. IC 27-1-37-0.2 IS ADDED TO THE INDIANA CODE
 2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 3 1, 2021]: **Sec. 0.2. As used in this chapter, "affiliate" means any**
 4 **person who, directly or indirectly through one (1) or more**
 5 **intermediaries, controls, is controlled by, or is under common**
 6 **control with, the person to whom affiliation is attributed.**

7 SECTION 7. IC 27-1-37-1.5 IS ADDED TO THE INDIANA CODE
 8 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 9 1, 2021]: **Sec. 1.5. (a) As used in this chapter, "health carrier"**
 10 **means an entity:**

11 (1) that is subject to IC 27 and the administrative rules
 12 adopted under IC 27; 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 SECTION 8. IC 27-1-37-3 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 3. As used in this**
 41 **chapter, "health provider contract" means an agreement with a provider**
 42 **or a health provider facility relating to terms and conditions of**



1 reimbursement for health care services provided to an individual under:

- 2 (1) an employee welfare benefit plan (as defined in 29 U.S.C.
3 1002 et seq.);
4 (2) a policy of accident and sickness insurance (as defined in
5 IC 27-8-5-1);
6 (3) a contract with a health maintenance organization;
7 (4) a self-insurance program established under IC 5-10-8-7(b); or
8 (5) a prepaid health care delivery plan entered into under
9 IC 5-10-8-7(c).

10 SECTION 9. IC 27-1-37-3.2 IS ADDED TO THE INDIANA CODE
11 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
12 1, 2021]: **Sec. 3.2. (a) As used in this chapter, "health provider
13 facility" means any of the following:**

- 14 (1) **A hospital, as defined in IC 16-18-2-179(a).**
15 (2) **A hospital system.**
16 (3) **An affiliate of a hospital or hospital system.**

17 SECTION 10. IC 27-1-37-3.5 IS ADDED TO THE INDIANA
18 CODE AS A NEW SECTION TO READ AS FOLLOWS
19 [EFFECTIVE JULY 1, 2021]: **Sec. 3.5. As used in this chapter,
20 "hospital system" means:**

- 21 (1) **a parent corporation of at least one (1) hospital and any
22 entity affiliated with the parent corporation through
23 ownership, governance, or membership; or**
24 (2) **a hospital and any entity affiliated with the hospital
25 through ownership, governance, or membership.**

26 SECTION 11. IC 27-1-37-7, AS AMENDED BY P.L.93-2020,
27 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
28 JULY 1, 2021]: **Sec. 7. (a) This section applies to health provider
29 contracts entered into or renewed after June 30, 2020.**

30 (b) A health provider contract, including a contract with a pharmacy
31 benefit manager or a health facility, may not contain a provision that
32 prohibits the disclosure of health care service claims data to:

- 33 (1) employers providing the coverage; or
34 (2) **beginning July 1, 2021, another person for purposes of
35 using price transparency tools, including for use in the all
36 payer claims data base established by IC 27-1-44.5.**

37 However, any disclosure of claims data must comply with health
38 privacy laws, including the federal Health Insurance Portability and
39 Accountability Act (HIPAA) (P.L. 104-191).

40 (c) A violation of this section constitutes an unfair or deceptive act
41 or practice in the business of insurance under IC 27-4-1-4.

42 SECTION 12. IC 27-1-37-8 IS ADDED TO THE INDIANA CODE



1 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
2 1, 2021]: **Sec. 8. (a) This section applies to a health provider
3 contract entered into, amended, or renewed after June 30, 2021.**

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

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

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

16 **(c) Any provision of a health provider contract that includes a
17 provision described in subsection (b) in violation of this section is
18 severable and the provision in violation is null and void. The
19 remaining provisions of the health provider contract, excluding the
20 provision in violation of this section, remain in effect and are
21 enforceable.**

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

25 **SECTION 13. [EFFECTIVE UPON PASSAGE] (a) Before
26 September 1, 2021, the department of insurance shall issue a report
27 to:**

28 **(1) the legislative council; and**

29 **(2) the interim study committees on:**

30 **(A) financial institutions and insurance; and**

31 **(B) public health, behavioral health, and human services;
32 established by IC 2-5-1.3-4;**

33 **setting forth suggestions for revising the rules adopted under
34 IC 27-1-34-9 to reduce the regulatory costs incurred by employers
35 seeking to provide health coverage for their employees through
36 multiple employer welfare arrangements. The report must be
37 submitted in an electronic format under IC 5-14-6.**

38 **(b) This SECTION expires January 1, 2022.**

39 **SECTION 14. [EFFECTIVE UPON PASSAGE] (a) The legislative
40 council is urged to assign to an appropriate interim study
41 committee the task of studying the rising cost and prices of health
42 care services in Indiana. An interim study committee assigned a**



1 study under this SECTION shall consider:
2 (1) how legislation enacted by the general assembly in recent
3 sessions enhancing the transparency of the pricing of health
4 care services has affected the marketplace; and
5 (2) additional steps that should be taken to lower health care
6 prices, including market-driven solutions.
7 (b) This SECTION expires January 1, 2022.
8 SECTION 15. [EFFECTIVE UPON PASSAGE] (a) The legislative
9 services agency shall perform or commission the performance of
10 a study of market concentration in Indiana in the following:
11 (1) The health insurance industry.
12 (2) The hospital industry.
13 (3) The professions of licensed health care practitioners.
14 (4) The retail pharmaceutical industry.
15 (5) The pharmacy benefit manager industry.
16 (b) Before September 1, 2021, the legislative services agency
17 shall present the findings of the study conducted under subsection
18 (a) in an electronic format under IC 5-14-6 to the following:
19 (1) The combined interim study committees on:
20 (A) financial institutions and insurance; and
21 (B) public health, behavioral health, and human services;
22 established by IC 2-5-1.3-4.
23 (2) The legislative council.
24 (3) The office of the governor.
25 (c) This SECTION expires January 1, 2022.
26 SECTION 16. An emergency is declared for this act.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Financial Institutions and Insurance, to which was referred House Bill 1421, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, delete lines 4 through 42.

Delete pages 3 through 5.

Page 6, delete lines 1 through 23.

Page 9, delete lines 17 through 42.

Delete page 10.

Page 11, delete lines 1 through 20, begin a new paragraph and insert:

"SECTION 3. IC 16-21-17-0.5, AS ADDED BY P.L.93-2020, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2021 (RETROACTIVE)]: Sec. 0.5. As used in this chapter, "weighted average negotiated charge" means the amount determined in STEP SIX of the following formula with respect to a particular procedure:

STEP ONE: For each insurer with whom ~~the hospital or~~ an ambulatory outpatient surgical center negotiates a charge for a particular procedure, determine the percentage of the ~~hospital's patients or the~~ ambulatory outpatient surgical center's patients insured by the insurer in the previous calendar year rounded to a whole percentage.

STEP TWO: Multiply each percentage determined under STEP ONE by one hundred (100) and express the results as whole numbers so that the sum of the percentage points determined under STEP ONE is one hundred (100).

STEP THREE: For a particular procedure, determine the amount of the negotiated charge for the procedure for each insurer described in STEP ONE.

STEP FOUR: For each insurer described in STEP ONE, multiply the STEP THREE amount determined for a particular procedure by the result determined under STEP TWO for that insurer.

STEP FIVE: For a particular procedure, determine the sum of the amounts determined under STEP FOUR for all of the insurers described in STEP ONE with respect to that procedure.

STEP SIX: For a particular procedure, determine the quotient of:
 (A) the sum determined under STEP FIVE for that procedure;
 divided by
 (B) one hundred (100).



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

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

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

(b) The following information, to the extent applicable, must be included on the Internet web site by a ~~hospital and~~ an ambulatory outpatient surgical center for the shoppable and common services described in subsection (a):

(1) A description of the shoppable and common service.

(2) The weighted average negotiated charge per service per provider type for each of the following categories:

(A) Any nongovernment sponsored health benefit plan or insurance plan provided by a health carrier in which the provider is in the network.

(B) Medicare, including fee for service and Medicare Advantage.

(C) Self-pay without charitable assistance from the ~~hospital or~~ ambulatory outpatient surgical center.

(D) Self-pay with charitable assistance from the ~~hospital or~~ ambulatory outpatient surgical center.

(E) Medicaid, including fee for service and risk based managed care.

(c) If:

(1) the federal Hospital Price Transparency Rule is repealed;

or

(2) federal enforcement of the federal Hospital Price Transparency Rule is stopped;

the state health commissioner shall notify the legislative council of the occurrence referred to in subdivision (1) or (2) in an electronic format under IC 5-14-6.

(d) This subsection takes effect when the legislative council



receives a notification from the state health commissioner under subsection (c). A hospital shall post pricing information in compliance with the federal Hospital Price Transparency Rule of the federal Centers for Medicare and Medicaid Services as published at 84 FR 65524 and in effect on January 1, 2021."

Page 11, between lines 32 and 33, begin a new paragraph and insert:

"SECTION 6. IC 27-1-37-0.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 0.2. As used in this chapter, "affiliate" means any person who, directly or indirectly through one (1) or more intermediaries, controls, is controlled by, or is under common control with, the person to whom affiliation is attributed.**"

Page 12, between lines 22 and 23, begin a new paragraph and insert:

"SECTION 8. IC 27-1-37-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 3. As used in this chapter, "health provider contract" means an agreement with a provider or a health provider facility relating to terms and conditions of reimbursement for health care services provided to an individual under:**

- (1) an employee welfare benefit plan (as defined in 29 U.S.C. 1002 et seq.);
- (2) a policy of accident and sickness insurance (as defined in IC 27-8-5-1);
- (3) a contract with a health maintenance organization;
- (4) a self-insurance program established under IC 5-10-8-7(b); or
- (5) a prepaid health care delivery plan entered into under IC 5-10-8-7(c).

SECTION 9. IC 27-1-37-3.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 3.2. (a) As used in this chapter, "health provider facility" means any of the following:**

- (1) A hospital, as defined in IC 16-18-2-179(a).
- (2) A hospital system.
- (3) An affiliate of a hospital or hospital system.

SECTION 10. IC 27-1-37-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 3.5. As used in this chapter, "hospital system" means:**

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



through ownership, governance, or membership."

Page 12, delete lines 39 through 42.

Page 13, delete lines 1 through 36, begin a new paragraph and insert:

"SECTION 12. IC 27-1-37-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 8. (a) This section applies to a health provider contract entered into, amended, or renewed after June 30, 2021.**

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

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

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

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

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

SECTION 13. [EFFECTIVE UPON PASSAGE] **(a) Before September 1, 2021, the department of insurance shall issue a report to:**

(1) the legislative council; and

(2) the interim study committees on:

(A) financial institutions and insurance; and

(B) public health, behavioral health, and human services; established by IC 2-5-1.3-4;

setting forth suggestions for revising the rules adopted under IC 27-1-34-9 to reduce the regulatory costs incurred by employers seeking to provide health coverage for their employees through multiple employer welfare arrangements. The report must be submitted in an electronic format under IC 5-14-6.



(b) This SECTION expires January 1, 2022.

SECTION 14. [EFFECTIVE UPON PASSAGE] (a) The legislative council is urged to assign to an appropriate interim study committee the task of studying the rising cost and prices of health care services in Indiana. An interim study committee assigned a study under this SECTION shall consider:

- (1) how legislation enacted by the general assembly in recent sessions enhancing the transparency of the pricing of health care services has affected the marketplace; and**
- (2) additional steps that should be taken to lower health care prices, including market-driven solutions.**

(b) This SECTION expires January 1, 2022.

SECTION 15. [EFFECTIVE UPON PASSAGE] (a) The legislative services agency shall perform or commission the performance of a study of market concentration in Indiana in the following:

- (1) The health insurance industry.**
- (2) The hospital industry.**
- (3) The professions of licensed health care practitioners.**
- (4) The retail pharmaceutical industry.**
- (5) The pharmacy benefit manager industry.**

(b) Before September 1, 2021, the legislative services agency shall present the findings of the study conducted under subsection (a) in an electronic format under IC 5-14-6 to the following:

- (1) The combined interim study committees on:
(A) financial institutions and insurance; and
(B) public health, behavioral health, and human services; established by IC 2-5-1.3-4.**
- (2) The legislative council.**
- (3) The office of the governor.**

(c) This SECTION expires January 1, 2022."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1421 as introduced.)

CARBAUGH

Committee Vote: yeas 13, nays 0.

HB 1421—LS 7281/DI 104

