

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.

SENATE ENROLLED ACT No. 325

AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 16-18-2-92.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2021 (RETROACTIVE)]: **Sec. 92.3. (a) "De-identified maximum negotiated charge", for purposes of IC 16-21-17, has the meaning set forth in IC 16-21-17-0.3(a).**

(b) "De-identified minimum negotiated charge", for purposes of IC 16-21-17, has the meaning set forth in IC 16-21-17-0.3(b).

SECTION 2. IC 16-18-2-96.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2021 (RETROACTIVE)]: **Sec. 96.1. "Discounted cash price", for purposes of IC 16-21-17, has the meaning set forth in IC 16-21-17-0.3(c).**

SECTION 3. IC 16-18-2-153.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2021 (RETROACTIVE)]: **Sec. 153.8. "Gross charge", for purposes of IC 16-21-17, has the meaning set forth in IC 16-21-17-0.3(d).**

SECTION 4. IC 16-18-2-194.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2021 (RETROACTIVE)]: **Sec. 194.7. "Item or service", for purposes of IC 16-21-17, has the meaning set forth in IC 16-21-17-0.3(e).**

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SECTION 5. IC 16-18-2-272.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2021 (RETROACTIVE)]: **Sec. 272.5. "Payer-specific negotiated charge", for purposes of IC 16-21-17, has the meaning set forth in IC 16-21-17-0.3(f).**

SECTION 6. IC 16-18-2-337.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2021 (RETROACTIVE)]: **Sec. 337.5. "Standard charge", for purposes of IC 16-21-17 and IC 16-24.5-1, has the meaning set forth in IC 16-21-17-0.3(g).**

SECTION 7. IC 16-18-2-375.5 IS REPEALED [EFFECTIVE MARCH 1, 2021 (RETROACTIVE)]. **Sec. 375.5. "Weighted average negotiated charge", for purposes of IC 16-21-17 and IC 16-21-24.5, has the meaning set forth in IC 16-21-17-0.5.**

SECTION 8. IC 16-21-9-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 3.5. (a) This section does not apply to the following:**

- (1) A nonprofit critical access hospital that is not:

 - (A) part of a hospital system; or**
 - (B) an affiliate of a hospital or hospital system.****
- (2) A county hospital that is established and operated under IC 16-22.**

(b) Before December 31 of each year, a nonprofit hospital shall hold a public forum in which the nonprofit hospital, including the nonprofit hospital's board of directors, shall:

- (1) obtain feedback from the community about the nonprofit hospital's performance in the previous year;**
- (2) discuss the pricing of health services provided at the nonprofit hospital; and**
- (3) discuss the contributions made by the nonprofit hospital to the community, including uncompensated care, charitable contributions, and any other charitable assistance programs.**

(c) At least fourteen (14) days before the forum held under subsection (b), the nonprofit hospital shall post on the nonprofit hospital's Internet web site the following:

- (1) A printed notice that:

 - (A) is designed, lettered, and featured on the Internet web site so as to be conspicuous to and readable by any individual with normal vision who visits the Internet web site;**
 - (B) states the date, time, and location of the public forum to be held under subsection (b); and****



(C) states that the purpose of the public forum is to provide members of the community with an opportunity to:

- (i) comment on the nonprofit hospital's performance in the previous year;**
- (ii) discuss the pricing of health services provided at the nonprofit hospital; and**
- (iii) discuss the contributions made by the hospital to the community, including uncompensated care, charitable contributions, and any other charitable assistance programs.**

(2) The following information relating to the subjects to be discussed at the public forum held under subsection (b):

(A) The nonprofit hospital's Indiana specific income statement for the previous calendar year that is prepared according to generally accepted accounting principles.

(B) Information concerning:

- (i) the nonprofit hospital's pricing of health services in comparison to the amounts of reimbursement for the health services under the Medicare program;**
- (ii) the rationale for any pricing of health services by the nonprofit hospital that is higher than the corresponding reimbursement for the health services under the Medicare program; and**
- (iii) any increase in the nonprofit hospital's pricing of health services that occurred in the previous year.**

(d) The public forum requirement under this section may be held, either all or in part, through an interactive real time audio and video meeting that is accessible to the community through the Internet.

SECTION 9. IC 16-21-17-0.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2021 (RETROACTIVE)]: **Sec. 0.3. (a) As used in this chapter, "de-identified maximum negotiated charge" means the highest charge that an ambulatory outpatient surgical center has negotiated with any third party payer for an item or service.**

(b) As used in this chapter, "de-identified minimum negotiated charge" means the lowest charge that an ambulatory outpatient surgical center has negotiated with any third party payer for an item or service.

(c) As used in this chapter, "discounted cash price" means the charge that applies to an individual who pays cash or the cash



equivalent for an ambulatory outpatient surgical center item or service.

(d) As used in this chapter, "gross charge" means the charge for an individual item or service that is reflected on an ambulatory outpatient surgical center's chargemaster, absent any discounts.

(e) As used in this chapter, "item or service" means any item or service, including service packages, that could be provided by an ambulatory outpatient surgical center to a patient for which the ambulatory outpatient surgical center has established a standard charge. The term includes the following:

- (1) Supplies.
- (2) Procedures.
- (3) Use of the facility and other facility fees.
- (4) Services of employed physicians and non-physician practitioners, including professional charges.
- (5) Anything that an ambulatory outpatient surgical center has established as a standard charge.

(f) As used in this chapter, "payer-specific negotiated charge" means the charge that an ambulatory outpatient surgical center has negotiated with a third party payer for an item or service.

(g) As used in this chapter, "standard charge" means the regular rate established by the ambulatory outpatient surgical center for an item or service provided to a specific group of paying patients. The term includes the following:

- (1) Gross charge.
- (2) Payer-specific negotiated charge.
- (3) De-identified minimum negotiated charge.
- (4) De-identified maximum negotiated charge.
- (5) Discounted cash price.

SECTION 10. IC 16-21-17-0.5 IS REPEALED [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 11. 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 **December 31, 2021**, 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):

(A) the thirty (30) most common services that are provided by the ~~hospital or~~ ambulatory outpatient surgical center not included in subdivision (1); **or**

(B) if the ambulatory outpatient surgical center offers less than thirty (30) services not included under subdivision (1), all of the services provided by the ambulatory outpatient surgical center.

(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 standard~~ charge per **item or** 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.

SECTION 12. IC 16-21-17-2, AS ADDED BY P.L.50-2020, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2021 (RETROACTIVE)]: Sec. 2. (a) The information displayed on the Internet web site must be in an easy to read, understandable format, and include the ~~negotiated charge standard~~ **charges** as described in section 1 of this chapter for each service. ~~by provider type.~~

(b) ~~A hospital and~~ An ambulatory outpatient surgical center shall update the information on the Internet web site on an annual basis.

SECTION 13. IC 16-24.5-1-2, AS AMENDED BY P.L.93-2020, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2021 (RETROACTIVE)]: Sec. 2. (a) Not later than March 31, 2021, an urgent care facility shall post on the Internet web site of the urgent care facility pricing and other information specified in this chapter for the fifteen (15) most common services that are provided by the urgent care facility.

(b) The following information, to the extent applicable, must be included on the Internet web site by an urgent care facility for the



fifteen (15) most common services described in subsection (a):

- (1) The number of times each service is provided by the urgent care facility.
- (2) A description of the service.
- (3) The ~~weighted average negotiated standard~~ charge per item or service ~~per provider type~~ for each of the following categories:
 - (A) Any nongovernment sponsored health benefit plan or insurance 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 urgent care facility.
 - (D) Self-pay with charitable assistance from the urgent care facility.
 - (E) Medicaid, including fee for service and risk based managed care.

SECTION 14. IC 16-24.5-1-3, AS ADDED BY P.L.50-2020, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2021 (RETROACTIVE)]: Sec. 3. (a) The information displayed on the Internet web site must be in an easy to read, understandable format, and include the ~~negotiated charge standard~~ **charges** as described in section 2 of this chapter for each service. ~~by provider type:~~

(b) An urgent care facility shall update the information on the Internet web site on an annual basis.

SECTION 15. IC 27-2-26 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]:

Chapter 26. Public Forums by Health Carriers

Sec. 1. As used in this chapter, "health carrier" means the following entities:

- (1) An insurer, as defined in IC 27-1-2-3(x), that issues a policy of accident and sickness insurance, as defined in IC 27-8-5-1(a).
- (2) A health maintenance organization, as defined in IC 27-13-1-19.
- (3) A state employee health plan offered under IC 5-10-8.
- (4) A short term insurance plan (as defined by IC 27-8-5.9-3).

Sec. 2. (a) Before December 31 of each year, a health carrier shall hold a public forum in which the health carrier shall:

- (1) obtain feedback from the community about the health



carrier's performance in the previous year; and
 (2) discuss the premiums (as defined in IC 27-1-2-3(w)) charged by the health carrier.

(b) The public forum required under subsection (a) may be held, either all or in part, through an interactive real time audio and video meeting that is accessible to the community through the Internet.

Sec. 3. At least fourteen (14) days before the public forum required by this chapter is held, the health carrier shall post on the health carrier's Internet web site the following:

(1) A printed notice that:

(A) is designed, lettered, and featured on the Internet web site in a manner that is conspicuous to and readable by any individual with normal vision who visits the Internet web site;

(B) states the date, time, and location of the public forum; and

(C) states that the purpose of the public forum is to provide members of the community with an opportunity to:

(i) comment on the health carrier's performance in the previous year; and

(ii) discuss the premiums (as defined in IC 27-1-2-3(w)) charged by the health carrier.

(2) The following information concerning the subjects to be discussed at the public forum:

(A) The health carrier's Indiana based profits, if the health carrier is publicly traded.

(B) The premiums (as defined in IC 27-1-2-3(w)) charged by the health carrier.

(C) The health carrier's strategy to lower health care costs.

(D) Any increase in the health carrier's premiums, on average statewide, that occurred in the previous year for each health carrier.

(E) Annual audited financial reports, if required under IC 27-1-3.5-6 and if the health carrier is publicly traded.

SECTION 16. An emergency is declared for this act.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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