



Reprinted  
March 3, 2020

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## ENGROSSED SENATE BILL No. 5

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DIGEST OF SB 5 (Updated March 2, 2020 5:21 pm - DI 55)

**Citations Affected:** IC 16-18; IC 16-21; IC 16-24.5; IC 27-1; IC 27-4; IC 27-8; IC 27-13.

**Synopsis:** Health provider contracts. Requires hospitals, ambulatory outpatient surgical centers, and urgent care facilities to post certain information on their Internet web sites about health care services they provide, including the weighted average negotiated charges for the services. Provides that an insurer that issues a group health insurance  
(Continued next page)

**Effective:** Upon passage; July 1, 2020; January 1, 2021.

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**Charbonneau, Ruckelshaus, Stoops,  
Glick, Randolph Lonnie M**  
(HOUSE SPONSORS — SCHAIBLEY, BARRETT, KIRCHHOFER,  
SHACKLEFORD)

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January 9, 2020, read first time and referred to Committee on Health and Provider Services.

January 23, 2020, reported favorably — Do Pass.

January 30, 2020, read second time, amended, ordered engrossed.

January 31, 2020, engrossed.

February 3, 2020, read third time, passed. Yeas 47, nays 0.

HOUSE ACTION

February 10, 2020, read first time and referred to Committee on Public Health.

February 27, 2020, amended, reported — Do Pass.

March 2, 2020, read second time, amended, ordered engrossed.

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ES 5—LS 6887/DI 104



Digest Continued

policy or a health maintenance organization that enters into a group health maintenance organization contract shall disclose to the policyholder or subscriber: (1) the amount of the commission, service fee, or brokerage fee to be paid to an insurance producer for selling, soliciting, or negotiating the policy or contract; and (2) whether the commission or fee is based on a percentage of total plan premiums or a flat per member fee. Requires that this information be disclosed at the outset and upon renewal of the policy or contract. Prohibits the inclusion in a health provider contract of a provision under which a provider (an individual or entity licensed or authorized to provide health care services) would be prohibited from disclosing health care service claims data to an employer providing the coverage. States that the inclusion of such a provision in a health care provider contract is an unfair or deceptive act or practice in the business of insurance. Requires the department of insurance to submit a request for information and a request for proposals concerning the establishment and operation of an all payer claims data base, which will receive and contain information on claims paid by insurers, health maintenance organizations, pharmacy benefit managers, and other payers. Provides that a fully credentialed provider shall be reimbursed by an insurer or health maintenance organization for eligible services provided at an in-network hospital if certain conditions are met.



Reprinted  
March 3, 2020

Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 5

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

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

1 SECTION 1. IC 16-18-2-362.1 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2020]: **Sec. 362.1. "Urgent care facility", for**  
4 **purposes of IC 16-24.5-1, has the meaning set forth in**  
5 **IC 16-24.5-1-1.**

6 SECTION 2. IC 16-21-17 IS ADDED TO THE INDIANA CODE  
7 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
8 JULY 1, 2020]:

9 **Chapter 17. Health Care Pricing Information**

10 **Sec. 1. (a) Not later than March 31, 2021, a hospital and an**  
11 **ambulatory outpatient surgical center shall post on the Internet**  
12 **web site of the hospital or ambulatory outpatient surgical center**  
13 **pricing and other information specified in this chapter for the**  
14 **following:**

15 **(1) For as many of the seventy (70) shoppable services**  
16 **specified in the final rule of the Centers for Medicare and**  
17 **Medicaid Services published in 84 FR 65524 that are provided**

ES 5—LS 6887/DI 104



1 by the hospital or ambulatory outpatient surgical center.

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

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

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

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

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

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

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

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

22 Sec. 2. (a) The information displayed on the Internet web site  
23 must be in an easy to read, understandable format, and include the  
24 negotiated charge as described in section 1 of this chapter for each  
25 service by provider type.

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

29 SECTION 3. IC 16-24.5 IS ADDED TO THE INDIANA CODE AS  
30 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
31 2020]:

32 **ARTICLE 24.5. OTHER HEALTH CARE FACILITIES**

33 **Chapter 1. Urgent Care Facilities**

34 Sec. 1. (a) As used in this chapter, "urgent care facility" means  
35 a freestanding health care facility that offers episodic, walk-in care  
36 for the treatment of acute, but not life-threatening, health  
37 conditions.

38 (b) The term does not include an emergency department of a  
39 hospital or a nonprofit or government operated health clinic.

40 Sec. 2. (a) Not later than March 31, 2021, an urgent care facility  
41 shall post on the Internet web site of the urgent care facility pricing  
42 and other information specified in this chapter for the fifteen (15)



1 most common services that are provided by the urgent care  
2 facility.

3 (b) The following information, to the extent applicable, must be  
4 included on the Internet web site by an urgent care facility for the  
5 fifteen (15) most common services described in subsection (a):

6 (1) The number of times each service is provided by the  
7 urgent care facility.

8 (2) A description of the service.

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

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

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

16 (C) Self-pay without charitable assistance from the urgent  
17 care facility.

18 (D) Self-pay with charitable assistance from the urgent  
19 care facility.

20 Sec. 3. (a) The information displayed on the Internet web site  
21 must be in an easy to read, understandable format, and include the  
22 negotiated charge as described in section 2 of this chapter for each  
23 service by provider type.

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

26 SECTION 4. IC 27-1-15.6-13.5 IS ADDED TO THE INDIANA  
27 CODE AS A NEW SECTION TO READ AS FOLLOWS  
28 [EFFECTIVE JULY 1, 2020]: Sec. 13.5. (a) This section applies only  
29 to the following:

30 (1) A group policy of accident and sickness insurance, as  
31 defined in IC 27-8-5-1. However, this section does not apply  
32 to the types of insurance and coverage described in  
33 IC 27-8-5-2.5(a).

34 (2) A group health maintenance organization contract entered  
35 into under IC 27-13.

36 (b) Except as provided in subsection (e), an insurer that issues  
37 an insurance policy or a health maintenance organization that  
38 enters into a health maintenance organization contract shall  
39 disclose to the policyholder or subscriber in a separate written  
40 notification:

41 (1) any commission, service fee, or brokerage fee that has  
42 been or will be paid to an insurance producer for selling,



1           soliciting, or negotiating the policy or contract; and  
 2           (2) whether the amount disclosed under subdivision (1) is  
 3           based on a percentage of total plan premiums or a flat per  
 4           member fee.

5           (c) An insurer or health maintenance organization shall provide  
 6           a copy of the written notification described in subsection (b) to the  
 7           policyholder or subscriber:

8           (1) when the insurance policy is issued or the contract is  
 9           entered into; and

10          (2) each time the insurance policy or contract is renewed.

11          (d) Each copy of a written notification described in subsection  
 12          (b) must include a signature line on which the policyholder may  
 13          sign to acknowledge receiving the written notification.

14          (e) This section does not require the disclosure to the  
 15          policyholder of a commission, service fee, or brokerage fee in  
 16          connection with the issuance of an insurance policy if a federal law  
 17          or regulation requires disclosure of the commission, service fee, or  
 18          brokerage fee to the policyholder.

19          SECTION 5. IC 27-1-37-7 IS ADDED TO THE INDIANA CODE  
 20          AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 21          1, 2020]: Sec. 7. (a) This section applies to health provider contracts  
 22          beginning July 1, 2020.

23          (b) A health provider contract, including a contract with a  
 24          pharmacy benefit manager or a health facility, may not contain a  
 25          provision that prohibits the disclosure of health care service claims  
 26          data to employers providing the coverage. However, any disclosure  
 27          of claims data must comply with health privacy laws, including the  
 28          federal Health Insurance Portability and Accountability Act  
 29          (HIPAA) (P.L. 104-191).

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

32          SECTION 6. IC 27-1-44.5 IS ADDED TO THE INDIANA CODE  
 33          AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 34          UPON PASSAGE]:

35          **Chapter 44.5. All Payer Claims Data Base**

36          Sec. 1. As used in this chapter, "data base" refers to the all  
 37          payer claims data base created under this chapter.

38          Sec. 2. As used in this chapter, "health payer" includes the  
 39          following:

40          (1) Medicare.

41          (2) Medicaid or a managed care organization (as defined in  
 42          IC 12-7-2-126.9) that has contracted with Medicaid to provide



- 1 services to a Medicaid recipient.
- 2 (3) An insurer that issues a policy of accident and sickness
- 3 insurance (as defined in IC 27-8-5-1).
- 4 (4) A health maintenance organization (as defined in
- 5 IC 27-13-1-19).
- 6 (5) A pharmacy benefit manager (as defined in
- 7 IC 27-1-24.8-3).
- 8 (6) A third party administrator.
- 9 (7) An insurer (as defined in IC 27-1-26-1), excluding insurers
- 10 of life insurance.
- 11 (8) Any other person identified by the commissioner for
- 12 participation in the data base described in this chapter.
- 13 Sec. 3. (a) Before July 1, 2020, the department shall issue a
- 14 request for information in compliance with IC 5-23-4.5 concerning
- 15 the creation, operation, and maintenance of a data base.
- 16 (b) The request for information must include the following
- 17 questions:
- 18 (1) How the person would collect all relevant claims data for
- 19 the data base from a health payer in a manner that would
- 20 minimize technical barriers for a health payer to submit a
- 21 claim.
- 22 (2) How the person would promote and encourage self-funded
- 23 plans to voluntarily submit claims data for inclusion in the
- 24 data base.
- 25 (3) What funding sources the person would seek to offset costs
- 26 to implement and maintain the data base.
- 27 (4) How the person would make data from the data base
- 28 available, including what sufficient fee would need to be
- 29 assessed, to researchers, companies, and other interested
- 30 parties in analyzing the data.
- 31 (5) How the person would ensure the following:
- 32 (A) That data is submitted and released in a machine
- 33 readable format.
- 34 (B) That the data from the data base is used in an ethical
- 35 manner.
- 36 (C) That the data is not personally identifiable and is
- 37 properly secured and maintained, and that the person
- 38 complies with federal and state health care privacy laws.
- 39 (6) How the person would establish a public web portal for
- 40 individuals to quickly and easily compare prices for the full
- 41 spectrum of medical billing codes as well as check quality
- 42 ratings of providers.



- 1           **(7) What threshold should be set for health payers to submit**  
 2           **data for the data base.**  
 3           **(8) How the person would work with other states and relevant**  
 4           **stakeholders to either:**  
 5               **(A) use a data language that is already available; or**  
 6               **(B) facilitate the establishment of a common data language**  
 7               **to be used by states for the data.**  
 8           **(9) Whether any changes to state law would increase the**  
 9           **functionality and effectiveness of the data base and**  
 10           **recommendations of the statutes and necessary changes.**  
 11           **(10) Any other questions the department determines are**  
 12           **relevant to the implementation of a robust and transparent**  
 13           **data base.**
- 14           **(c) The department shall set the deadline for submissions of the**  
 15           **request for information under this section that may be not later**  
 16           **than November 30, 2020.**
- 17           **Sec. 4. (a) After May 30, 2021, the department shall issue a**  
 18           **request for an entity that is not a state agency or political**  
 19           **subdivision to create, operate, and maintain the data base under**  
 20           **this chapter. In addition to the requirements of IC 5-22-9, the**  
 21           **request for proposals must include the considerations contained in**  
 22           **the request for information under section 3 of this chapter.**
- 23           **(b) The request for proposals must state that the data base's**  
 24           **purpose is to facilitate the following:**  
 25               **(1) Identifying health care needs and informing health care**  
 26               **policy.**  
 27               **(2) Comparing costs between various treatment settings and**  
 28               **approaches.**  
 29               **(3) Providing information to consumers and purchasers of**  
 30               **health care.**  
 31               **(4) Improving the quality and affordability of patient health**  
 32               **care and health care coverage.**
- 33           **(c) The department shall publish the department's decision**  
 34           **concerning the submissions not later than November 30, 2021, on**  
 35           **the department's Internet web site.**
- 36           **(d) If the department accepts a submission for the request for**  
 37           **proposals, the department shall enter into a contract with the**  
 38           **person to act as administrator of the data base and develop the**  
 39           **data base.**
- 40           **(e) The administrator shall ensure that the data base is secure**  
 41           **and compliant with the federal Health Insurance Portability and**  
 42           **Accountability Act (HIPAA).**





1       **Sec. 5. (a) A health payer shall begin submitting the required**  
 2 **data in a format specified by the administrator of the data base not**  
 3 **later than three (3) months from the first day the department**  
 4 **declares the data base to be fully operational.**

5       **(b) An employer may opt-in to share claims data with the data**  
 6 **base.**

7       SECTION 7. IC 27-4-1-4, AS AMENDED BY P.L.124-2018,  
 8 SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 9 JULY 1, 2020]: Sec. 4. (a) The following are hereby defined as unfair  
 10 methods of competition and unfair and deceptive acts and practices in  
 11 the business of insurance:

12       (1) Making, issuing, circulating, or causing to be made, issued, or  
 13       circulated, any estimate, illustration, circular, or statement:

14       (A) misrepresenting the terms of any policy issued or to be  
 15       issued or the benefits or advantages promised thereby or the  
 16       dividends or share of the surplus to be received thereon;

17       (B) making any false or misleading statement as to the  
 18       dividends or share of surplus previously paid on similar  
 19       policies;

20       (C) making any misleading representation or any  
 21       misrepresentation as to the financial condition of any insurer,  
 22       or as to the legal reserve system upon which any life insurer  
 23       operates;

24       (D) using any name or title of any policy or class of policies  
 25       misrepresenting the true nature thereof; or

26       (E) making any misrepresentation to any policyholder insured  
 27       in any company for the purpose of inducing or tending to  
 28       induce such policyholder to lapse, forfeit, or surrender the  
 29       policyholder's insurance.

30       (2) Making, publishing, disseminating, circulating, or placing  
 31       before the public, or causing, directly or indirectly, to be made,  
 32       published, disseminated, circulated, or placed before the public,  
 33       in a newspaper, magazine, or other publication, or in the form of  
 34       a notice, circular, pamphlet, letter, or poster, or over any radio or  
 35       television station, or in any other way, an advertisement,  
 36       announcement, or statement containing any assertion,  
 37       representation, or statement with respect to any person in the  
 38       conduct of the person's insurance business, which is untrue,  
 39       deceptive, or misleading.

40       (3) Making, publishing, disseminating, or circulating, directly or  
 41       indirectly, or aiding, abetting, or encouraging the making,  
 42       publishing, disseminating, or circulating of any oral or written



- 1 statement or any pamphlet, circular, article, or literature which is  
2 false, or maliciously critical of or derogatory to the financial  
3 condition of an insurer, and which is calculated to injure any  
4 person engaged in the business of insurance.
- 5 (4) Entering into any agreement to commit, or individually or by  
6 a concerted action committing any act of boycott, coercion, or  
7 intimidation resulting or tending to result in unreasonable  
8 restraint of, or a monopoly in, the business of insurance.
- 9 (5) Filing with any supervisory or other public official, or making,  
10 publishing, disseminating, circulating, or delivering to any person,  
11 or placing before the public, or causing directly or indirectly, to  
12 be made, published, disseminated, circulated, delivered to any  
13 person, or placed before the public, any false statement of  
14 financial condition of an insurer with intent to deceive. Making  
15 any false entry in any book, report, or statement of any insurer  
16 with intent to deceive any agent or examiner lawfully appointed  
17 to examine into its condition or into any of its affairs, or any  
18 public official to which such insurer is required by law to report,  
19 or which has authority by law to examine into its condition or into  
20 any of its affairs, or, with like intent, willfully omitting to make a  
21 true entry of any material fact pertaining to the business of such  
22 insurer in any book, report, or statement of such insurer.
- 23 (6) Issuing or delivering or permitting agents, officers, or  
24 employees to issue or deliver, agency company stock or other  
25 capital stock, or benefit certificates or shares in any common law  
26 corporation, or securities or any special or advisory board  
27 contracts or other contracts of any kind promising returns and  
28 profits as an inducement to insurance.
- 29 (7) Making or permitting any of the following:
- 30 (A) Unfair discrimination between individuals of the same  
31 class and equal expectation of life in the rates or assessments  
32 charged for any contract of life insurance or of life annuity or  
33 in the dividends or other benefits payable thereon, or in any  
34 other of the terms and conditions of such contract. However,  
35 in determining the class, consideration may be given to the  
36 nature of the risk, plan of insurance, the actual or expected  
37 expense of conducting the business, or any other relevant  
38 factor.
- 39 (B) Unfair discrimination between individuals of the same  
40 class involving essentially the same hazards in the amount of  
41 premium, policy fees, assessments, or rates charged or made  
42 for any policy or contract of accident or health insurance or in



1 the benefits payable thereunder, or in any of the terms or  
2 conditions of such contract, or in any other manner whatever.  
3 However, in determining the class, consideration may be given  
4 to the nature of the risk, the plan of insurance, the actual or  
5 expected expense of conducting the business, or any other  
6 relevant factor.

7 (C) Excessive or inadequate charges for premiums, policy  
8 fees, assessments, or rates, or making or permitting any unfair  
9 discrimination between persons of the same class involving  
10 essentially the same hazards, in the amount of premiums,  
11 policy fees, assessments, or rates charged or made for:

12 (i) policies or contracts of reinsurance or joint reinsurance,  
13 or abstract and title insurance;

14 (ii) policies or contracts of insurance against loss or damage  
15 to aircraft, or against liability arising out of the ownership,  
16 maintenance, or use of any aircraft, or of vessels or craft,  
17 their cargoes, marine builders' risks, marine protection and  
18 indemnity, or other risks commonly insured under marine,  
19 as distinguished from inland marine, insurance; or

20 (iii) policies or contracts of any other kind or kinds of  
21 insurance whatsoever.

22 However, nothing contained in clause (C) shall be construed to  
23 apply to any of the kinds of insurance referred to in clauses (A)  
24 and (B) nor to reinsurance in relation to such kinds of insurance.  
25 Nothing in clause (A), (B), or (C) shall be construed as making or  
26 permitting any excessive, inadequate, or unfairly discriminatory  
27 charge or rate or any charge or rate determined by the department  
28 or commissioner to meet the requirements of any other insurance  
29 rate regulatory law of this state.

30 (8) Except as otherwise expressly provided by law, knowingly  
31 permitting or offering to make or making any contract or policy  
32 of insurance of any kind or kinds whatsoever, including but not in  
33 limitation, life annuities, or agreement as to such contract or  
34 policy other than as plainly expressed in such contract or policy  
35 issued thereon, or paying or allowing, or giving or offering to pay,  
36 allow, or give, directly or indirectly, as inducement to such  
37 insurance, or annuity, any rebate of premiums payable on the  
38 contract, or any special favor or advantage in the dividends,  
39 savings, or other benefits thereon, or any valuable consideration  
40 or inducement whatever not specified in the contract or policy; or  
41 giving, or selling, or purchasing or offering to give, sell, or  
42 purchase as inducement to such insurance or annuity or in



1 connection therewith, any stocks, bonds, or other securities of any  
2 insurance company or other corporation, association, limited  
3 liability company, or partnership, or any dividends, savings, or  
4 profits accrued thereon, or anything of value whatsoever not  
5 specified in the contract. Nothing in this subdivision and  
6 subdivision (7) shall be construed as including within the  
7 definition of discrimination or rebates any of the following  
8 practices:

9 (A) Paying bonuses to policyholders or otherwise abating their  
10 premiums in whole or in part out of surplus accumulated from  
11 nonparticipating insurance, so long as any such bonuses or  
12 abatement of premiums are fair and equitable to policyholders  
13 and for the best interests of the company and its policyholders.

14 (B) In the case of life insurance policies issued on the  
15 industrial debit plan, making allowance to policyholders who  
16 have continuously for a specified period made premium  
17 payments directly to an office of the insurer in an amount  
18 which fairly represents the saving in collection expense.

19 (C) Readjustment of the rate of premium for a group insurance  
20 policy based on the loss or expense experience thereunder, at  
21 the end of the first year or of any subsequent year of insurance  
22 thereunder, which may be made retroactive only for such  
23 policy year.

24 (D) Paying by an insurer or insurance producer thereof duly  
25 licensed as such under the laws of this state of money,  
26 commission, or brokerage, or giving or allowing by an insurer  
27 or such licensed insurance producer thereof anything of value,  
28 for or on account of the solicitation or negotiation of policies  
29 or other contracts of any kind or kinds, to a broker, an  
30 insurance producer, or a solicitor duly licensed under the laws  
31 of this state, but such broker, insurance producer, or solicitor  
32 receiving such consideration shall not pay, give, or allow  
33 credit for such consideration as received in whole or in part,  
34 directly or indirectly, to the insured by way of rebate.

35 (9) Requiring, as a condition precedent to loaning money upon the  
36 security of a mortgage upon real property, that the owner of the  
37 property to whom the money is to be loaned negotiate any policy  
38 of insurance covering such real property through a particular  
39 insurance producer or broker or brokers. However, this  
40 subdivision shall not prevent the exercise by any lender of the  
41 lender's right to approve or disapprove of the insurance company  
42 selected by the borrower to underwrite the insurance.



- 1 (10) Entering into any contract, combination in the form of a trust  
 2 or otherwise, or conspiracy in restraint of commerce in the  
 3 business of insurance.
- 4 (11) Monopolizing or attempting to monopolize or combining or  
 5 conspiring with any other person or persons to monopolize any  
 6 part of commerce in the business of insurance. However,  
 7 participation as a member, director, or officer in the activities of  
 8 any nonprofit organization of insurance producers or other  
 9 workers in the insurance business shall not be interpreted, in  
 10 itself, to constitute a combination in restraint of trade or as  
 11 combining to create a monopoly as provided in this subdivision  
 12 and subdivision (10). The enumeration in this chapter of specific  
 13 unfair methods of competition and unfair or deceptive acts and  
 14 practices in the business of insurance is not exclusive or  
 15 restrictive or intended to limit the powers of the commissioner or  
 16 department or of any court of review under section 8 of this  
 17 chapter.
- 18 (12) Requiring as a condition precedent to the sale of real or  
 19 personal property under any contract of sale, conditional sales  
 20 contract, or other similar instrument or upon the security of a  
 21 chattel mortgage, that the buyer of such property negotiate any  
 22 policy of insurance covering such property through a particular  
 23 insurance company, insurance producer, or broker or brokers.  
 24 However, this subdivision shall not prevent the exercise by any  
 25 seller of such property or the one making a loan thereon of the  
 26 right to approve or disapprove of the insurance company selected  
 27 by the buyer to underwrite the insurance.
- 28 (13) Issuing, offering, or participating in a plan to issue or offer,  
 29 any policy or certificate of insurance of any kind or character as  
 30 an inducement to the purchase of any property, real, personal, or  
 31 mixed, or services of any kind, where a charge to the insured is  
 32 not made for and on account of such policy or certificate of  
 33 insurance. However, this subdivision shall not apply to any of the  
 34 following:
- 35 (A) Insurance issued to credit unions or members of credit  
 36 unions in connection with the purchase of shares in such credit  
 37 unions.
- 38 (B) Insurance employed as a means of guaranteeing the  
 39 performance of goods and designed to benefit the purchasers  
 40 or users of such goods.
- 41 (C) Title insurance.
- 42 (D) Insurance written in connection with an indebtedness and



- 1 intended as a means of repaying such indebtedness in the  
 2 event of the death or disability of the insured.  
 3 (E) Insurance provided by or through motorists service clubs  
 4 or associations.  
 5 (F) Insurance that is provided to the purchaser or holder of an  
 6 air transportation ticket and that:  
 7 (i) insures against death or nonfatal injury that occurs during  
 8 the flight to which the ticket relates;  
 9 (ii) insures against personal injury or property damage that  
 10 occurs during travel to or from the airport in a common  
 11 carrier immediately before or after the flight;  
 12 (iii) insures against baggage loss during the flight to which  
 13 the ticket relates; or  
 14 (iv) insures against a flight cancellation to which the ticket  
 15 relates.  
 16 (14) Refusing, because of the for-profit status of a hospital or  
 17 medical facility, to make payments otherwise required to be made  
 18 under a contract or policy of insurance for charges incurred by an  
 19 insured in such a for-profit hospital or other for-profit medical  
 20 facility licensed by the state department of health.  
 21 (15) Refusing to insure an individual, refusing to continue to issue  
 22 insurance to an individual, limiting the amount, extent, or kind of  
 23 coverage available to an individual, or charging an individual a  
 24 different rate for the same coverage, solely because of that  
 25 individual's blindness or partial blindness, except where the  
 26 refusal, limitation, or rate differential is based on sound actuarial  
 27 principles or is related to actual or reasonably anticipated  
 28 experience.  
 29 (16) Committing or performing, with such frequency as to  
 30 indicate a general practice, unfair claim settlement practices (as  
 31 defined in section 4.5 of this chapter).  
 32 (17) Between policy renewal dates, unilaterally canceling an  
 33 individual's coverage under an individual or group health  
 34 insurance policy solely because of the individual's medical or  
 35 physical condition.  
 36 (18) Using a policy form or rider that would permit a cancellation  
 37 of coverage as described in subdivision (17).  
 38 (19) Violating IC 27-1-22-25, IC 27-1-22-26, or IC 27-1-22-26.1  
 39 concerning motor vehicle insurance rates.  
 40 (20) Violating IC 27-8-21-2 concerning advertisements referring  
 41 to interest rate guarantees.  
 42 (21) Violating IC 27-8-24.3 concerning insurance and health plan



- 1 coverage for victims of abuse.
- 2 (22) Violating IC 27-8-26 concerning genetic screening or testing.
- 3 (23) Violating IC 27-1-15.6-3(b) concerning licensure of
- 4 insurance producers.
- 5 (24) Violating IC 27-1-38 concerning depository institutions.
- 6 (25) Violating IC 27-8-28-17(c) or IC 27-13-10-8(c) concerning
- 7 the resolution of an appealed grievance decision.
- 8 (26) Violating IC 27-8-5-2.5(e) through IC 27-8-5-2.5(j) (expired
- 9 July 1, 2007, and removed) or IC 27-8-5-19.2 (expired July 1,
- 10 2007, and repealed).
- 11 (27) Violating IC 27-2-21 concerning use of credit information.
- 12 (28) Violating IC 27-4-9-3 concerning recommendations to
- 13 consumers.
- 14 (29) Engaging in dishonest or predatory insurance practices in
- 15 marketing or sales of insurance to members of the United States
- 16 Armed Forces as:
- 17 (A) described in the federal Military Personnel Financial
- 18 Services Protection Act, P.L.109-290; or
- 19 (B) defined in rules adopted under subsection (b).
- 20 (30) Violating IC 27-8-19.8-20.1 concerning stranger originated
- 21 life insurance.
- 22 (31) Violating IC 27-2-22 concerning retained asset accounts.
- 23 (32) Violating IC 27-8-5-29 concerning health plans offered
- 24 through a health benefit exchange (as defined in IC 27-19-2-8).
- 25 (33) Violating a requirement of the federal Patient Protection and
- 26 Affordable Care Act (P.L. 111-148), as amended by the federal
- 27 Health Care and Education Reconciliation Act of 2010 (P.L.
- 28 111-152), that is enforceable by the state.
- 29 (34) After June 30, 2015, violating IC 27-2-23 concerning
- 30 unclaimed life insurance, annuity, or retained asset account
- 31 benefits.
- 32 (35) Willfully violating IC 27-1-12-46 concerning a life insurance
- 33 policy or certificate described in IC 27-1-12-46(a).
- 34 **(36) Violating IC 27-1-37-7 concerning prohibiting the**
- 35 **disclosure of health care service claims data.**
- 36 (b) Except with respect to federal insurance programs under
- 37 Subchapter III of Chapter 19 of Title 38 of the United States Code, the
- 38 commissioner may, consistent with the federal Military Personnel
- 39 Financial Services Protection Act (10 U.S.C. 992 note), adopt rules
- 40 under IC 4-22-2 to:
- 41 (1) define; and
- 42 (2) while the members are on a United States military installation



1 or elsewhere in Indiana, protect members of the United States  
 2 Armed Forces from;  
 3 dishonest or predatory insurance practices.

4 SECTION 8. IC 27-8-11-13 IS ADDED TO THE INDIANA CODE  
 5 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE  
 6 JANUARY 1, 2021]: **Sec. 13. (a) A fully credentialed provider shall  
 7 be reimbursed for eligible services provided at any in-network  
 8 hospital if the following conditions are met:**

9 **(1) The provider submits the documentation required by the  
 10 insurer to be loaded under the provider group or hospital.**

11 **(2) The provider, provider group, or hospital is a network  
 12 provider with the insurer.**

13 **(3) The services are provided in accordance with all terms and  
 14 conditions of the provider's, group provider's, or hospital's  
 15 agreement or contract with the insurer.**

16 **(4) Prior authorization is obtained in accordance with  
 17 IC 27-1-37.5 when required by the insurer for an eligible  
 18 service.**

19 **(b) The insurer shall reimburse the provider or hospital for  
 20 services described in subsection (a) at the rates determined by the  
 21 contract between the provider and the insurer.**

22 **(c) An insurer is not required to credential a provider. However,  
 23 if:**

24 **(1) a provider is employed by a hospital that is part of the  
 25 hospital's network that is covered by the insurer; and**

26 **(2) the provider meets the insurer's credentialing  
 27 requirements;**

28 **the insurer shall reimburse the provider for any reimbursable  
 29 services from the date that the provider was employed by the  
 30 hospital.**

31 SECTION 9. IC 27-13-43-4 IS ADDED TO THE INDIANA CODE  
 32 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE  
 33 JANUARY 1, 2021]: **Sec. 4. (a) A fully credentialed provider shall  
 34 be reimbursed for eligible services provided at any in-network  
 35 hospital if the following conditions are met:**

36 **(1) The provider submits the documentation required by the  
 37 health maintenance organization to be loaded under the  
 38 provider group or hospital.**

39 **(2) The provider, provider group, or hospital is a network  
 40 provider with the health maintenance organization.**

41 **(3) The services are provided in accordance with all terms and  
 42 conditions of the provider's, group provider's, or hospital's**





1           agreement or contract with the health maintenance  
2           organization.  
3           (4) Prior authorization is obtained in accordance with  
4           IC 27-1-37.5 when required by the health maintenance  
5           organization for an eligible service.  
6           (b) The health maintenance organization shall reimburse the  
7           provider or hospital for services described in subsection (a) at the  
8           rates determined by the contract between the provider and the  
9           health maintenance organization.  
10          (c) A health maintenance organization is not required to  
11          credential a provider. However, if:  
12           (1) a provider is employed by a hospital that is part of the  
13           hospital's network that is covered by the health maintenance  
14           organization; and  
15           (2) the provider meets the health maintenance organization's  
16           credentialing requirements;  
17          the health maintenance organization shall reimburse the provider  
18          for any reimbursable services from the date that the provider was  
19          employed by the hospital.  
20          SECTION 10. An emergency is declared for this act.



COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 5, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 05 as introduced.)

CHARBONNEAU, Chairperson

Committee Vote: Yeas 11, Nays 0

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SENATE MOTION

Madam President: I move that Senate Bill 5 be amended to read as follows:

Page 1, line 6, delete "a provider from disclosing the pricing for health care" and insert "**the disclosure of health care service claims data to employers providing the coverage. However, any disclosure of claims data must comply with health privacy laws, including the federal Health Insurance Portability and Accountability Act (HIPAA) (P.L. 104-191).**".

Page 1, delete line 7.

Page 1, line 8, delete "by the issuer of a health provider".

Page 1, line 9, delete "contract".

Page 8, line 21, delete "provisions" and insert "**the disclosure of health care service claims data.**".

Page 8, delete lines 22 through 23.

(Reference is to SB 5 as printed January 24, 2020.)

CHARBONNEAU

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Senate Bill 5, 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 1, between line 1 and the enacting clause, begin a new

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paragraph and insert:

"SECTION 1. IC 16-18-2-362.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 362.1. "Urgent care facility", for purposes of IC 16-24.5-1, has the meaning set forth in IC 16-24.5-1-1.**

SECTION 2. IC 16-21-17 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]:

**Chapter 17. Health Care Pricing Information**

**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 45 CFR 180 (as published August 9, 2019, and as subsequently amended) 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 prices paid 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.**

**Sec. 2. (a) The information displayed on the Internet web site must be in an easy to read, understandable format, and include the prices 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 3. IC 16-24.5 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]:

**ARTICLE 24.5. OTHER HEALTH CARE FACILITIES**

**Chapter 1. Urgent Care Facilities**

**Sec. 1. (a)** As used in this chapter, "urgent care facility" means a freestanding health care facility that offers episodic, walk-in care for the treatment of acute, but not life-threatening, health conditions.

(b) The term does not include an emergency department of a hospital or a nonprofit or government operated health clinic.

**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 most common services described in subsection (a):

- (1) The number of services provided for the code.
- (2) A description of the service.
- (3) The weighted average prices paid per 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.

**Sec. 3. (a)** The information displayed on the Internet web site must be in an easy to read, understandable format, and include the prices 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 4. IC 27-1-15.6-13.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 13.5. (a) An insurance producer shall disclose to any prospective and current clients on a separate written notification any commission, service fee, brokerage fee, or other valuable consideration, including:**

- (1) whether the amount is based on a percentage of total plan premiums or a flat per member fee; and
- (2) any consideration received by the insurance producer from the insurer that is offering the insurance contract.

**(b) A copy of the written notification required under this section must be signed by the client.**

**(c) An insurance producer has a fiduciary responsibility to the client under this section."**

Page 1, line 5, after "contract" insert ", including a contract with a pharmacy benefit manager or a health facility,".

Page 1, line 7, after "employers" insert ", including individual employers or public employers participating in a multiple employer welfare arrangement under IC 27-1-34 or IC 5-10-8-5,".

Page 1, between lines 12 and 13, begin a new paragraph and insert: "SECTION 6. IC 27-1-45 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

**Chapter 45. All Payer Claims Data Base**

**Sec. 1. As used in this chapter, "data base" refers to the all payer claims data base created under this chapter.**

**Sec. 2. As used in this chapter, "health payer" includes the following:**

- (1) Medicare.
- (2) Medicaid or a managed care organization (as defined in IC 12-7-2-126.9) that has contracted with Medicaid to provide services to a Medicaid recipient.
- (3) An insurer that issues a policy of accident and sickness insurance (as defined in IC 27-8-5-1).
- (4) A health maintenance organization (as defined in IC 27-13-1-19).
- (5) A pharmacy benefit manager (as defined in IC 27-1-24.8-3).
- (6) A third party administrator.
- (7) An insurer (as defined in IC 27-1-26-1), excluding insurers of life insurance.
- (8) Any other person identified by the commissioner for



participation in the data base described in this chapter.

**Sec. 3. (a)** Before July 1, 2020, the department shall issue a request for information in compliance with IC 5-23-4.5 concerning the creation, operation, and maintenance of a data base.

**(b)** The request for information must include the following questions:

**(1)** How the person would collect all relevant claims data for the data base from a health payer in a manner that would minimize technical barriers for a health payer to submit a claim.

**(2)** How the person would promote and encourage self-funded plans to voluntarily submit claims data for inclusion in the data base.

**(3)** What funding sources the person would seek to offset costs to implement and maintain the data base.

**(4)** How the person would make data from the data base available, including what sufficient fee would need to be assessed, to researchers, companies, and other interested parties in analyzing the data.

**(5)** How the person would ensure the following:

**(A)** That data is submitted and released in a machine readable format.

**(B)** That the data from the data base is used in an ethical manner.

**(C)** That the data is not personally identifiable and is properly secured and maintained, and that the person complies with federal and state health care privacy laws.

**(6)** How the person would establish a public web portal for individuals to quickly and easily compare prices for the full spectrum of medical billing codes as well as check quality ratings of providers.

**(7)** What threshold should be set for health payers to submit data for the data base.

**(8)** How the person would work with other states and relevant stakeholders to either:

**(A)** use a data language that is already available; or

**(B)** facilitate the establishment of a common data language to be used by states for the data.

**(9)** Whether any changes to state law would increase the functionality and effectiveness of the data base and recommendations of the statutes and necessary changes.

**(10)** Any other questions the department determines are



relevant to the implementation of a robust and transparent data base.

(c) The department shall set the deadline for submissions of the request for information under this section that may be not later than November 30, 2020.

Sec. 4. (a) After May 30, 2021, the department shall issue a request for an entity that is not a state agency or political subdivision to create, operate, and maintain the data base under this chapter. In addition to the requirements of IC 5-22-9, the request for proposals must include the considerations contained in the request for information under section 3 of this chapter.

(b) The request for proposals must state that the data base's purpose is to facilitate the following:

- (1) Identifying health care needs and informing health care policy.
- (2) Comparing costs between various treatment settings and approaches.
- (3) Providing information to consumers and purchasers of health care.
- (4) Improving the quality and affordability of patient health care and health care coverage.

(c) The department shall publish the department's decision concerning the submissions not later than November 30, 2021, on the department's Internet web site.

(d) If the department accepts a submission for the request for proposals, the department shall enter into a contract with the person to act as administrator of the data base and develop the data base.

(e) The administrator shall ensure that the data base is secure and compliant with the federal Health Insurance Portability and Accountability Act (HIPAA).

Sec. 5. (a) A health payer shall begin submitting the required data in a format specified by the administrator of the data base not later than three (3) months from the first day the department declares the data base to be fully operational.

(b) An employer may opt-in to share claims data with the data base."

Page 8, after line 34, begin a new paragraph and insert:

"SECTION 8. IC 27-8-11-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2021]: Sec. 13. (a) A fully credentialed provider shall be reimbursed for eligible services provided at any in-network



hospital if the following conditions are met:

- (1) The provider submits the documentation required by the insurer to be loaded under the provider group or hospital.
- (2) The provider, provider group, or hospital is a network provider with the insurer.
- (3) The services are provided in accordance with all terms and conditions of the provider's, group provider's, or hospital's agreement or contract with the insurer.
- (4) Prior authorization is obtained in accordance with IC 27-1-37.5 when required by the insurer for an eligible service.

(b) The insurer shall reimburse the provider or hospital for services described in subsection (a) at the rates determined by the contract between the provider and the insurer.

(c) An insurer is not required to credential a provider. However, if:

- (1) a provider is employed by a hospital that is part of the hospital's network that is covered by the insurer; and
- (2) the provider meets the insurer's credentialing requirements;

the insurer shall reimburse the provider for any reimbursable services from the date that the provider was employed by the hospital.

SECTION 9. IC 27-13-43-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2021]: Sec. 4. (a) A fully credentialed provider shall be reimbursed for eligible services provided at any in-network hospital if the following conditions are met:

- (1) The provider submits the documentation required by the health maintenance organization to be loaded under the provider group or hospital.
- (2) The provider, provider group, or hospital is a network provider with the health maintenance organization.
- (3) The services are provided in accordance with all terms and conditions of the provider's, group provider's, or hospital's agreement or contract with the health maintenance organization.
- (4) Prior authorization is obtained in accordance with IC 27-1-37.5 when required by the health maintenance organization for an eligible service.

(b) The health maintenance organization shall reimburse the provider or hospital for services described in subsection (a) at the





rates determined by the contract between the provider and the health maintenance organization.

(c) A health maintenance organization is not required to credential a provider. However, if:

(1) a provider is employed by a hospital that is part of the hospital's network that is covered by the health maintenance organization; and

(2) the provider meets the health maintenance organization's credentialing requirements;

the health maintenance organization shall reimburse the provider for any reimbursable services from the date that the provider was employed by the hospital.

SECTION 10. An emergency is declared for this act."

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 5 as reprinted January 31, 2020.)

KIRCHHOFER

Committee Vote: yeas 11, nays 0.

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#### HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 5 be amended to read as follows:

Page 1, line 16, delete "45 CFR 180 (as published August 9, 2019, and as" and insert "**the final rule of the Centers for Medicare and Medicaid Services published in 84 FR 65524**".

Page 1, line 17, delete "subsequently amended)".

Page 2, line 11, delete "prices paid" and insert "**negotiated charge**".

Page 2, line 24, delete "prices" and insert "**negotiated charge**".

Page 3, line 4, after "for the" insert "**fifteen (15)**".

Page 3, line 6, delete "services provided for the code." and insert "**times each service is provided by the urgent care facility.**".

Page 3, line 8, delete "prices paid" and insert "**negotiated charge**".

Page 3, line 21, delete "prices" and insert "**negotiated charge**".

Page 3, delete lines 25 through 38, begin a new paragraph and insert:

"SECTION 4. IC 27-1-15.6-13.5 IS ADDED TO THE INDIANA

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CODE AS A NEW SECTION TO READ AS FOLLOWS  
[EFFECTIVE JULY 1, 2020]: **Sec. 13.5. (a) This section applies only to the following:**

**(1) A group policy of accident and sickness insurance, as defined in IC 27-8-5-1. However, this section does not apply to the types of insurance and coverage described in IC 27-8-5-2.5(a).**

**(2) A group health maintenance organization contract entered into under IC 27-13.**

**(b) Except as provided in subsection (e), an insurer that issues an insurance policy or a health maintenance organization that enters into a health maintenance organization contract shall disclose to the policyholder or subscriber in a separate written notification:**

**(1) any commission, service fee, or brokerage fee that has been or will be paid to an insurance producer for selling, soliciting, or negotiating the policy or contract; and**

**(2) whether the amount disclosed under subdivision (1) is based on a percentage of total plan premiums or a flat per member fee.**

**(c) An insurer or health maintenance organization shall PROVIDE a copy of the written notification described in subsection (b) to the policyholder or subscriber:**

**(1) when the insurance policy is issued or the contract is entered into; and**

**(2) each time the insurance policy or contract is renewed.**

**(d) Each copy of a written notification described in subsection (b) must include a signature line on which the policyholder may sign to acknowledge receiving the written notification.**

**(e) This section does not require the disclosure to the policyholder of a commission, service fee, or brokerage fee in connection with the issuance of an insurance policy if a federal law or regulation requires disclosure of the commission, service fee, or brokerage fee to the policyholder."**

Page 3, line 42, delete "entered into or renewed after June 30, 2020." and insert "**beginning July 1, 2020.**"

Page 4, line 4, delete "employers, including individual employers or public" and insert "**employers**".

Page 4, delete line 5.

Page 4, line 6, delete "arrangement under IC 27-1-34 or IC 5-10-8-5,"

Page 4, line 12, delete "IC 27-1-45" and insert "IC 27-1-44.5".

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Page 4, line 15, delete "45." and insert "**44.5**".

(Reference is to ESB 5 as printed February 28, 2020.)

SCHAIBLEY

