

**PATIENT ACCESS REFORM**

2012 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Melvin R. Brown**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill renames the Integrated Health System Fair Practices Act as the Health System Fair Practices Act and prohibits a hospital from using discounts to restrict patient access to other health care facilities.

**Highlighted Provisions:**

This bill:

- ▶ renames the chapter as Health System Fair Practices Act;
- ▶ amends definitions;
- ▶ regulates the use of hospital discounts as a mechanism to control competition from other health care facilities; and
- ▶ provides a remedy for a violation of the chapter.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**13-5b-101**, as enacted by Laws of Utah 2007, Chapter 172

**13-5b-102**, as enacted by Laws of Utah 2007, Chapter 172

**13-5b-103**, as enacted by Laws of Utah 2007, Chapter 172



28 ENACTS:

29 **13-5b-104**, Utah Code Annotated 1953



31 *Be it enacted by the Legislature of the state of Utah:*

32 Section 1. Section **13-5b-101** is amended to read:

33 **CHAPTER 5b. HEALTH SYSTEM FAIR PRACTICES ACT**

34 **13-5b-101. Title.**

35 This chapter is known as the "[~~Integrated~~] Health System Fair Practices Act."

36 Section 2. Section **13-5b-102** is amended to read:

37 **13-5b-102. Definitions.**

38 For purposes of this chapter:

39 (1) "Affiliate" means an organization that directly or indirectly through one or more  
40 intermediaries controls, is controlled by, or is under common control with another  
41 organization.

42 (2) "Competing facility" means a health care facility that offers one or more of the  
43 health care services that a hospital also offers within the insurer's same geographic services  
44 area as defined in Section 31A-3-103.

45 (3) "Health care facility" means:

46 (a) an "ambulatory surgical facility" as defined in Section 26-21-2;

47 (b) a "specialty hospital" as defined in Section 26-21-2;

48 (c) an "end stage renal disease facility" as defined in Section 26-21-2; or

49 (d) a medical imaging center.

50 (4) "Health insurer" means:

51 (a) an entity licensed under Title 31A, Insurance Code, to sell health care insurance as  
52 defined in Section 31A-1-301; and

53 (b) an entity that is not licensed under Title 31A, Insurance Code that offers to provide  
54 a health care benefit or payment of incurred health care expenses.

55 (5) "Hospital" means a general acute care hospital as defined in Section 26-21-2.

56 [~~2~~] (6) "Integrated health system" means an organization that directly, or through an  
57 affiliate or subsidiary:

58 (a) owns and operates one or more hospitals in the state; and

59 (b) offers health insurance to residents of the state.  
60 [~~(3)~~] (7) "Subsidiary" means an affiliate controlled:

- 61 (a) by a specified person;
- 62 (b) directly or indirectly; and
- 63 (c) through one or more intermediaries.

64 Section 3. Section **13-5b-103** is amended to read:

65 **13-5b-103. Contract negotiation standards -- Health facility discounts to insurers.**

66 (1) An integrated health system shall prohibit any employee or independent contractor  
67 of any division, subsidiary, or affiliate engaged in the business of health insurance from  
68 negotiating contracts on behalf of the integrated health care system's health care facilities,  
69 subject to licensing under Title 26, Chapter 21, Health Care Facility Licensing and Inspection  
70 Act, with any other licensed health insurer in the state.

71 (2) An integrated health system shall prohibit the disclosure of contract pricing terms  
72 between the integrated health care system's health care facilities and other health insurers with  
73 the integrated health care system's divisions, subsidiaries, or affiliates which are engaged in the  
74 business of health insurance.

75 (3) (a) Except as provided in Subsections (3)(b) and (c), and beginning with a contract  
76 negotiated with a health care insurer on or after May 8, 2012, a hospital may not offer to  
77 provide a service for the enrollees of a health care insurer at a discount that is different from  
78 the discount it offers to any other health care insurer with whom it contracts.

79 (b) If a health care insurer includes a competing facility on its provider panel, a  
80 hospital may offer the insurer a different discount only for the particular services that are  
81 offered by both the hospital and the competing facility. The hospital may not offer a discount  
82 different from Subsection (3)(a) for the services that are not offered at a competing facility.

83 (c) Subsections (3)(a) and (b) do not prohibit a hospital from offering a different  
84 discount to different health insurers when that discount is based on the volume of patients the  
85 insurer may bring to the hospital for a service which the competing facility does not provide.

86 Section 4. Section **13-5b-104** is enacted to read:

87 **13-5b-104. Injunctive relief -- Damages.**

88 Any person or the state may maintain an action to enjoin a continuance of any act in  
89 violation of this chapter, and, if injured by the act, for the recovery of damages. If the court

90 finds that the defendant is violating or has violated any of the provisions of this chapter, the  
91 court shall enjoin the defendant from a continuance of the violation. It is not necessary that  
92 actual damages to the plaintiff be alleged or proved. In addition to injunctive relief, the  
93 plaintiff is entitled to recover from the defendant three times the amount of the actual damages  
94 sustained or \$2,000, whichever is greater, plus court costs, and attorney fees.

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**Legislative Review Note**  
as of 2-1-12 12:56 PM

**Office of Legislative Research and General Counsel**