

PROPOSED AMENDMENT

HB 1327 # 6

DIGEST

Health and insurance matters. Requires: (1) hospitals to report ownership information to the department of health; (2) physician group practices to report ownership information to the professional licensing agency; and (3) insurers, third party administrators, and pharmacy benefit managers to report ownership information to the department of insurance. Requires the department of health to post the ownership information on the department of health's website. Provides that the reported ownership information must include information concerning a person or entity that has an ownership interest of at least 5%, an interest as a private equity partner, and, if applicable, certain identification numbers. Requires an annual report of violations assessed and penalties waived to be submitted to the legislative council. Requires the department of health, professional licensing agency, and department of insurance to issue a notice or bulletin to provide notice of the reporting requirements. Removes the definition of "group purchasing organization" and amends the definition of "contract holder" for purposes of provisions regarding pharmacy benefit managers. Provides that an audit may be conducted at least two times in a calendar year. Changes the time frame for information to be provided in an audit from not later than 15 business days to not later than 20 business days after the information is requested. Amends provisions concerning the type of information required to be disclosed in an audit. Amends provisions prohibiting the imposition of certain conditions or restrictions on an audit. Removes provision that prohibits a third party administrator, health plan, or pharmacy benefit manager from charging a fee if a plan sponsor opts out of an additional offered service. Provides that any claims data provided in relation to the ownership of claims data provision must be provided in accordance with the federal Health Insurance Portability and Accountability Act (HIPAA).

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- 1 Page 1, line 5, delete "IC 16-19-18-7," and insert "**IC 16-19-18-5**,"
2 Page 1, line 5, after "IC 16-21-6-3," insert "**IC 25-22.5-18-5**,
3 **IC 27-1-4.5-7**,"
4 Page 2, delete lines 15 through 30, begin a new paragraph and
5 insert:
6 "SECTION 3. IC 16-18-2-282.3 IS ADDED TO THE INDIANA
7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
8 [EFFECTIVE UPON PASSAGE]: **Sec. 282.3. "Physician group**
9 **practice", for purposes of IC 16-19-18, has the meaning set forth**
10 **in IC 16-19-18-2.**
11 Page 2, line 34, delete "or Controlling Interest" and insert
12 "**Information**".
13 Page 2, delete lines 37 through 42.
14 Delete page 3.

1 Page 4, delete lines 1 through 3, begin a new paragraph and insert:

2 "Sec. 2. As used in this chapter, "physician group practice"
3 means a physician practice that:

- 4 (1) has at least one (1) physical location in Indiana; and
5 (2) includes as practitioners two (2) or more physicians
6 licensed under IC 25-22.5, regardless of the ownership
7 structure of the practice.

8 Sec. 3. (a) Before July 1, 2024, and each July 1 thereafter, each
9 hospital that does business in Indiana shall file with the state
10 department a report that includes the following information:

- 11 (1) The name of each person or entity that has:
12 (A) an ownership interest of at least five percent (5%);
13 (B) a controlling interest; or
14 (C) an interest as a private equity partner;
15 in the hospital.
16 (2) The business address of each person or entity identified
17 under subdivision (1). The business address must include a:
18 (A) building number;
19 (B) street name;
20 (C) city name;
21 (D) zip code; and
22 (E) country name.

23 The business address may not include a post office box
24 number.

25 (3) The business website, if applicable, of each person or
26 entity identified under subdivision (1).

27 (4) Any of the following identification numbers, if applicable,
28 for a person or entity identified under subdivision (1):

- 29 (A) National provider identifier (NPI).
30 (B) Taxpayer identification number (TIN).
31 (C) Employer identification number (EIN).
32 (D) CMS certification number (CCN).
33 (E) National Association of Insurance Commissioners
34 (NAIC) identification number.
35 (F) A personal identification number associated with a
36 license issued by the department of insurance.

37 A report provided under this section may not include the
38 Social Security number of any individual.

39 (b) The state department may not charge a fee for a report
40 submitted under this section.

1 **Sec. 4. (a) The state department shall cooperate with the Indiana**
 2 **professional licensing agency and the department of insurance to**
 3 **develop and implement a plan to:**

4 **(1) collect the information described in section 3 of this**
 5 **chapter, IC 25-22.5-18-3, and IC 27-1-4.5-5; and**

6 **(2) make the information publicly available as set forth in this**
 7 **section.**

8 **(b) Before December 1 of each year, the state department shall**
 9 **publicly post the information:**

10 **(1) collected under section 3 of this chapter; and**

11 **(2) received from the:**

12 **(A) Indiana professional licensing agency under**
 13 **IC 25-22.5-18-4; or**

14 **(B) department of insurance under IC 27-1-4.5-6;**

15 **on the state department's website.**

16 **Sec. 5. (a) The state department may assess a hospital that**
 17 **violates section 3 of this chapter a fine of one thousand dollars**
 18 **(\$1,000) per day for which the report is past due."**

19 Page 4, between lines 5 and 6, begin a new paragraph and insert:

20 **"(c) The state department may waive a fine assessed under this**
 21 **section."**

22 Page 4, line 6, delete "(c)" and insert "(d)".

23 Page 4, line 7, delete "5" and insert "3".

24 Page 4, delete lines 9 through 40, begin a new paragraph and insert:

25 **"Sec. 6. (a) Before December 1 of each year, the state**
 26 **department shall submit to the legislative council an annual report**
 27 **of the:**

28 **(1) violations assessed; and**

29 **(2) fines waived;**

30 **under section 5 of this chapter in the previous calendar year.**

31 **(b) A report described in this section must be submitted in an**
 32 **electronic format under IC 5-14-6.**

33 **Sec. 7. (a) Before July 1, 2024, the state department shall issue**
 34 **a notice or bulletin on at least two (2) occasions to notify hospitals**
 35 **of the reporting requirements set forth in this chapter.**

36 **(b) A notice or bulletin issued under this section must be posted**
 37 **on the state department's website in a manner that is easily**
 38 **accessible to hospitals.**

39 SECTION 5. IC 25-22.5-18 IS ADDED TO THE INDIANA CODE
 40 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE

1 UPON PASSAGE]:

2 **Chapter 18. Disclosure of Ownership Information**

3 **Sec. 1. As used in this chapter, "controlling" has the meaning set**
4 **forth in IC 23-1-43-8.**

5 **Sec. 2. As used in this chapter, "physician group practice"**
6 **means a physician practice that:**

- 7 (1) has at least one (1) physical location in Indiana; and
8 (2) includes as practitioners two (2) or more physicians
9 licensed under this article, regardless of the ownership
10 structure of the practice.

11 **Sec. 3. (a) Before July 1, 2024, and each July 1 thereafter, each**
12 **physician group practice that does business in Indiana shall file**
13 **with the agency a report that includes the following information:**

- 14 (1) The name of each person or entity that has:
15 (A) an ownership interest of at least five percent (5%);
16 (B) a controlling interest; or
17 (C) an interest as a private equity partner;
18 in the physician group practice.
19 (2) The business address of each person or entity identified
20 under subdivision (1). The business address must include a:
21 (A) building number;
22 (B) street name;
23 (C) city name;
24 (D) zip code; and
25 (E) country name.
26 The business address may not include a post office box
27 number.
28 (3) The business website, if applicable, of each person or
29 entity identified under subdivision (1).
30 (4) Any of the following identification numbers, if applicable,
31 for a person or entity identified under subdivision (1):
32 (A) National provider identifier (NPI).
33 (B) Taxpayer identification number (TIN).
34 (C) Employer identification number (EIN).
35 (D) CMS certification number (CCN).
36 (E) National Association of Insurance Commissioners
37 (NAIC) identification number.
38 (F) A personal identification number associated with a
39 license issued by the department of insurance.

40 **A report provided under this section may not include the**

1 **Social Security number of any individual.**

2 **(b) The agency may not charge a fee for a report submitted**
3 **under this section.**

4 **Sec. 4. (a) The agency shall cooperate with the Indiana**
5 **department of health and the department of insurance to develop**
6 **and implement a plan to:**

7 **(1) collect the information described in section 3 of this**
8 **chapter, IC 16-19-18-3, and IC 27-1-4.5-5; and**

9 **(2) make the information publicly available as set forth in**
10 **IC 16-19-18-4.**

11 **(b) Before September 1 of each year, the agency shall provide**
12 **the information collected under section 3 of this chapter to the**
13 **Indiana department of health.**

14 **Sec. 5. (a) The agency may assess a physician group practice**
15 **that:**

16 **(1) has more than five (5) physicians as practitioners in the**
17 **physician group practice; and**

18 **(2) violates section 3 of this chapter;**

19 **a fine of one thousand dollars (\$1,000) per day for which the report**
20 **is past due.**

21 **(b) The agency may assess a physician group practice that:**

22 **(1) has five (5) physicians or less as practitioners in the**
23 **physician group practice; and**

24 **(2) violates section 3 of this chapter;**

25 **a fine of one hundred dollars (\$100) per day for which the report**
26 **is past due. A fine assessed under this subsection may not exceed**
27 **ten thousand dollars (\$10,000) in a calendar year.**

28 **(c) A fine under this section shall be deposited into the payer**
29 **affordability penalty fund established by IC 12-15-1-18.5.**

30 **(d) The agency may waive a fine assessed under this section.**

31 **(e) The board may take disciplinary action against a licensee for**
32 **repeated violations of section 3 of this chapter.**

33 **Sec. 6. (a) Before December 1 of each year, the agency shall**
34 **submit to the legislative council an annual report of the:**

35 **(1) violations assessed; and**

36 **(2) fines waived;**

37 **under section 5 of this chapter in the previous calendar year.**

38 **(b) A report described in this section must be submitted in an**
39 **electronic format under IC 5-14-6.**

40 **Sec. 7. (a) Before July 1, 2024, the agency shall issue a notice or**

1 bulletin on at least two (2) occasions to notify physician group
2 practices of the reporting requirements set forth in this chapter.

3 (b) A notice or bulletin issued under this section must be posted
4 on the agency's website in a manner that is easily accessible to
5 physician group practices.

6 SECTION 6. IC 27-1-4.5 IS ADDED TO THE INDIANA CODE
7 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
8 UPON PASSAGE]:

9 **Chapter 4.5. Disclosure of Ownership Information**

10 **Sec. 1. As used in this chapter, "controlling" has the meaning set
11 forth in IC 23-1-43-8.**

12 **Sec. 2. As used in this chapter, "insurer" includes the following:**

13 (1) An insurer (as defined in IC 27-1-2-3(x)) that issues a
14 policy of accident and sickness insurance (as defined in
15 IC 27-8-5-1(a)). However, the term does not include the
16 coverages described in IC 27-8-5-2.5(a).

17 (2) A health maintenance organization (as defined in
18 IC 27-13-1-19) that provides coverage for basic health care
19 services (as defined in IC 27-13-1-4).

20 (3) A managed care organization (as defined in
21 IC 12-7-2-126.9) that provides services to a Medicaid
22 recipient.

23 (4) A prepaid health care delivery plan under IC 5-10-8-7(c)
24 that provides group health coverage for state employees.

25 **Sec. 3. As used in this chapter, "pharmacy benefit manager" has
26 the meaning set forth in IC 27-1-24.5-12.**

27 **Sec. 4. As used in this chapter, "third party administrator"
28 means an individual or entity that performs administrative services
29 for an insurer or a self-funded health benefit plan, including:**

30 (1) a self-funded health benefit plan that complies with the
31 federal Employee Retirement Income Security Act (ERISA)
32 of 1974 (29 U.S.C. 1001 et seq.); and

33 (2) a self-insurance program established under IC 5-10-8-7(b).

34 **Sec. 5. (a) Before July 1, 2024, and each July 1 thereafter, each
35 insurer, third party administrator, and pharmacy benefit manager
36 that does business in Indiana shall file with the department a
37 report that includes the following information:**

38 (1) The name of each person or entity that has:

39 (A) an ownership interest of at least five percent (5%);

40 (B) a controlling interest; or

- 1 **(C) an interest as a private equity partner;**
 2 **in the insurer, third party administrator, or pharmacy benefit**
 3 **manager.**
 4 **(2) The business address of each person or entity identified**
 5 **under subdivision (1). The business address must include a:**
 6 **(A) building number;**
 7 **(B) street name;**
 8 **(C) city name;**
 9 **(D) zip code; and**
 10 **(E) country name.**
 11 **The business address may not include a post office box**
 12 **number.**
 13 **(3) The business website, if applicable, of each person or**
 14 **entity identified under subdivision (1).**
 15 **(4) Any of the following identification numbers, if applicable,**
 16 **for a person or entity identified under subdivision (1):**
 17 **(A) National provider identifier (NPI).**
 18 **(B) Taxpayer identification number (TIN).**
 19 **(C) Employer identification number (EIN).**
 20 **(D) CMS certification number (CCN).**
 21 **(E) National Association of Insurance Commissioners**
 22 **(NAIC) identification number.**
 23 **(F) A personal identification number associated with a**
 24 **license issued by the department of insurance.**
 25 **A report provided under this section may not include the**
 26 **Social Security number of any individual.**
 27 **(b) The department may not charge a fee for a report submitted**
 28 **under this section.**
 29 **Sec. 6. (a) The department shall cooperate with the Indiana**
 30 **department of health and the Indiana professional licensing agency**
 31 **to develop and implement a plan to:**
 32 **(1) collect the information described in section 5 of this**
 33 **chapter, IC 16-19-18-3, and IC 25-22.5-18-3; and**
 34 **(2) make the information publicly available as set forth in**
 35 **IC 16-19-18-4.**
 36 **(b) Before September 1 of each year, the department shall**
 37 **provide the information collected under section 5 of this chapter to**
 38 **the Indiana department of health.**
 39 **Sec. 7. (a) The department may assess:**
 40 **(1) an insurer;**

1 **(2) a third party administrator; or**
 2 **(3) a pharmacy benefit manager;**
 3 **that violates section 5 of this chapter a fine of one thousand dollars**
 4 **(\$1,000) per day for which the report is past due.**

5 **(b) A fine under this section shall be deposited into the payer**
 6 **affordability penalty fund established by IC 12-15-1-18.5.**

7 **(c) The department may waive a fine assessed under this section.**

8 **(d) The department may take disciplinary action against:**

9 **(1) an insurer;**

10 **(2) a third party administrator; or**

11 **(3) a pharmacy benefit manager;**

12 **that is licensed under this title for repeated violations of section 5**
 13 **of this chapter.**

14 **Sec. 8. (a) Before December 1 of each year, the department shall**
 15 **submit to the legislative council an annual report of the:**

16 **(1) violations assessed; and**

17 **(2) fines waived;**

18 **under section 7 of this chapter in the previous calendar year.**

19 **(b) A report described in this section must be submitted in an**
 20 **electronic format under IC 5-14-6.**

21 **Sec. 9. (a) Before July 1, 2024, the department shall issue a**
 22 **notice or bulletin on at least two (2) occasions to notify insurers,**
 23 **third party administrators, and pharmacy benefit managers of the**
 24 **reporting requirements set forth in this chapter.**

25 **(b) A notice or bulletin issued under this section must be posted**
 26 **on the department's website in a manner that is easily accessible to**
 27 **insurers, third party administrators, and pharmacy benefit**
 28 **managers."**

29 Page 5, line 4, delete "a health plan".

30 Page 5, line 5, delete "or".

31 Page 5, delete lines 15 through 20.

32 Page 5, line 25, reset in roman "at least".

33 Page 5, line 25, delete "up to".

34 Page 5, line 25, strike "one (1) time" and insert "**two (2) times**".

35 Page 5, line 25, reset in roman "in a calendar year,".

36 Page 5, line 25, delete "each quarter,".

37 Page 5, delete lines 28 through 42, begin a new line block indented
 38 and insert:

39 **"(1) Rebate amounts secured on prescription drugs, whether**
 40 **product specific or general rebates, that were provided by a**

1 pharmaceutical manufacturer. **The information provided under**
 2 **this subdivision must identify the prescription drugs by**
 3 **therapeutic category, and**

4 **(2) Pharmaceutical and device claims received by the**
 5 **pharmacy benefit manager on any of the following:**

6 **(A) The CMS-1500 form or its successor form.**

7 **(B) The HCFA-1500 form or its successor form.**

8 **(C) The HIPAA X12 837P electronic claims transaction for**
 9 **professional services, or its successor transaction.**

10 **(D) The HIPAA X12 837I institutional form or its**
 11 **successor form.**

12 **(E) The CMS-1450 form or its successor form.**

13 **(F) The UB-04 form or its successor form.**

14 **The forms or transaction may be modified only as necessary**
 15 **to comply with the federal Health Insurance Portability and**
 16 **Accountability Act (HIPAA) (P.L. 104-191).**

17 **(3) Pharmaceutical and device claims payments or electronic**
 18 **funds transfer or remittance advice notices provided by the**
 19 **pharmacy benefit manager as ASC X12N 835 files or a**
 20 **successor format. The files may be modified only as necessary**
 21 **to comply with the federal Health Insurance Portability and**
 22 **Accountability Act (HIPAA) (P.L. 104-191). In the event that**
 23 **paper claims are provided, the pharmacy benefit manager**
 24 **shall convert the paper claims to the ASC X12N 835 electronic**
 25 **format or a successor format.**

26 **(4) Any other revenue and fees derived by the pharmacy benefit**
 27 **manager from the contract, including all direct and indirect**
 28 **remuneration from pharmaceutical manufacturers regardless**
 29 **of whether the remuneration is classified as a rebate, fee, or**
 30 **another term.**

31 **(b) A contract pharmacy benefit manager may not contain**
 32 **provisions that impose:**

33 **(1) unreasonable fees for:**

34 **(A) requesting an audit under this section; or**

35 **(B) selecting an auditor other than an auditor designated**
 36 **by the pharmacy benefit manager;**

37 **(2) conditions that would severely restrict a party's contract**
 38 **holder's right to conduct an audit under this subsection; section,**
 39 **including restrictions on the:**

40 **(A) time period of the audit;**

- 1 **(B) number of claims analyzed;**
 2 **(C) type of analysis conducted;**
 3 **(D) data elements used in the analysis; or**
 4 **(E) selection of an auditor as long as the auditor is a**
 5 **professional with contract auditing experience."**

6 Page 6, delete lines 1 through 22.

7 Page 7, line 8, delete "fifteen (15)" and insert "**twenty (20)**".

8 Page 7, delete lines 13 through 42.

9 Page 8, delete lines 1 through 10.

10 Page 9, between lines 3 and 4, begin a new paragraph and insert:

11 "**(c) Any claims data provided under this section must be**
 12 **provided in accordance with the federal Health Insurance**
 13 **Portability and Accountability Act (HIPAA) (P.L. 104-191)."**

14 Page 9, line 13, delete "up to one (1) time each quarter," and insert
 15 "**at least two (2) times in a calendar year,**".

16 Page 9, delete lines 19 through 33, begin a new line block indented
 17 and insert:

18 "**(2) Claims received by the third party administrator,**
 19 **managed care organization, or prepaid health care delivery**
 20 **plan on any of the following:**

21 **(A) The CMS-1500 form or its successor form.**

22 **(B) The HCFA-1500 form or its successor form.**

23 **(C) The HIPAA X12 837P electronic claims transaction for**
 24 **professional services, or its successor transaction.**

25 **(D) The HIPAA X12 837I institutional form or its**
 26 **successor form.**

27 **(E) The CMS-1450 form or its successor form.**

28 **(F) The UB-04 form or its successor form.**

29 **The forms or transaction may be modified only as necessary**
 30 **to comply with the federal Health Insurance Portability and**
 31 **Accountability Act (HIPAA) (P.L. 104-191).**

32 **(3) Claims payments, electronic funds transfer, or remittance**
 33 **advice notices provided by the third party administrator,**
 34 **managed care organization, or prepaid health care delivery**
 35 **plan as ASC X12N 835 files or a successor format. The files**
 36 **may be modified only as necessary to comply with the federal**
 37 **Health Insurance Portability and Accountability Act (HIPAA)**
 38 **(P.L. 104-191). In the event that paper claims are provided,**
 39 **the third party administrator, managed care organization, or**
 40 **prepaid health care delivery plan shall convert the paper**

1 **claims to the ASC X12N 835 electronic format or a successor**
2 **format."**

3 Page 9, line 41, delete "for an audit conducted under this section;
4 or" and insert "**for:**

- 5 **(A) requesting an audit under this section; or**
6 **(B) selecting an auditor other than an auditor designated**
7 **by the third party administrator, managed care**
8 **organization, or prepaid health care delivery plan; or"**

9 Page 10, line 6, delete "auditor." and insert "**auditor, as long as the**
10 **auditor is a professional with contract auditing experience."**

11 Page 10, line 11, delete "fifteen (15)" and insert "**twenty (20)**".

12 Renumber all SECTIONS consecutively.
 (Reference is to HB 1327 as introduced.)