

# SENATE MOTION

**MADAM PRESIDENT:**

**I move** that Engrossed House Bill 1071 be amended to read as follows:

- 1           Page 1, between the enacting clause and line 1, begin a new  
2 paragraph and insert:  
3           "SECTION 1. IC 4-13-16.5-1, AS AMENDED BY P.L.114-2010,  
4 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
5 JULY 1, 2011]: Sec. 1. (a) The definitions in this section apply  
6 throughout this chapter.  
7           (b) "Commission" refers to the governor's commission on minority  
8 and women's business enterprises established under section 2 of this  
9 chapter.  
10          (c) "Commissioner" refers to the deputy commissioner for minority  
11 and women's business enterprises of the department.  
12          (d) "Contract" means any contract awarded by a state agency or,  
13 as set forth in section 2(f)(11) of this chapter, awarded by a recipient  
14 of state grant funds, for construction projects or the procurement of  
15 goods or services, including professional services. For purposes of this  
16 subsection, "goods or services" may not include the following when  
17 determining the total value of contracts for state agencies:  
18           (1) Utilities.  
19           (2) Health care services (as defined in ~~IC 27-8-11-1(c)~~;  
20 **IC 27-8-11-1**).  
21           (3) Rent paid for real property or payments constituting the price  
22 of an interest in real property as a result of a real estate  
23 transaction.  
24          (e) "Contractor" means a person or entity that:  
25           (1) contracts with a state agency; or  
26           (2) as set forth in section 2(f)(11) of this chapter:  
27                (A) is a recipient of state grant funds; and

- 1 (B) enters into a contract:
- 2 (i) with a person or entity other than a state agency;
- 3 and
- 4 (ii) that is paid for in whole or in part with the state
- 5 grant funds.
- 6 (f) "Department" refers to the Indiana department of
- 7 administration established by IC 4-13-1-2.
- 8 (g) "Minority business enterprise" or "minority business" means
- 9 an individual, partnership, corporation, limited liability company, or
- 10 joint venture of any kind that is owned and controlled by one (1) or
- 11 more persons who are:
- 12 (1) United States citizens; and
- 13 (2) members of a minority group or a qualified minority
- 14 nonprofit corporation.
- 15 (h) "Qualified minority or women's nonprofit corporation" means
- 16 a corporation that:
- 17 (1) is exempt from federal income taxation under Section
- 18 501(c)(3) of the Internal Revenue Code;
- 19 (2) is headquartered in Indiana;
- 20 (3) has been in continuous existence for at least five (5) years;
- 21 (4) has a board of directors that has been in compliance with all
- 22 other requirements of this chapter for at least five (5) years;
- 23 (5) is chartered for the benefit of the minority community or
- 24 women; and
- 25 (6) provides a service that will not impede competition among
- 26 minority business enterprises or women's business enterprises at
- 27 the time a nonprofit applies for certification as a minority
- 28 business enterprise or a women's business enterprise.
- 29 (i) "Owned and controlled" means:
- 30 (1) if the business is a qualified minority nonprofit corporation,
- 31 a majority of the board of directors are minority;
- 32 (2) if the business is a qualified women's nonprofit corporation,
- 33 a majority of the members of the board of directors are women;
- 34 or
- 35 (3) if the business is a business other than a qualified minority or
- 36 women's nonprofit corporation, having:
- 37 (A) ownership of at least fifty-one percent (51%) of the
- 38 enterprise, including corporate stock of a corporation;
- 39 (B) control over the management and active in the
- 40 day-to-day operations of the business; and
- 41 (C) an interest in the capital, assets, and profits and losses
- 42 of the business proportionate to the percentage of
- 43 ownership.
- 44 (j) "Minority group" means:
- 45 (1) Blacks;
- 46 (2) American Indians;
- 47 (3) Hispanics; and
- 48 (4) Asian Americans.
- 49 (k) "Separate body corporate and politic" refers to an entity
- 50 established by the general assembly as a body corporate and politic.
- 51 (l) "State agency" refers to any authority, board, branch,

1 commission, committee, department, division, or other instrumentality  
2 of the executive, including the administrative, department of state  
3 government.

4 SECTION 2. IC 16-21-2-17 IS ADDED TO THE INDIANA  
5 CODE AS A NEW SECTION TO READ AS FOLLOWS  
6 [EFFECTIVE JULY 1, 2011]: **Sec. 17. (a) As used in this section,**  
7 **"facility" means an entity that is licensed under this article.**

8 **(b) As used in this section, "nonparticipating provider" means**  
9 **a provider or group of providers that is not part of a provider**  
10 **network.**

11 **(c) As used in this section, "participating provider" means a**  
12 **provider or group of providers that is part of a provider network.**

13 **(d) As used in this section, "provider network" means a group**  
14 **of two (2) or more providers that is represented by a person for**  
15 **purposes of negotiations with third parties.**

16 **(e) A facility shall provide to patients for nonemergency health**  
17 **care services, before admission or when a patient is initially treated**  
18 **at the facility, a conspicuous written disclosure that informs the**  
19 **patient that if:**

20 **(1) the facility is a participating provider; and**

21 **(2) a nonparticipating provider renders a health care service**  
22 **to the patient at the facility;**

23 **the patient may be billed for any amount unpaid by the patient's**  
24 **health plan.**

25 **(f) A violation of this chapter by a facility is grounds for**  
26 **disciplinary action under this article."**

27 Page 3, after line 13, begin a new paragraph and insert:

28 "SECTION 4. IC 27-8-11-1, AS AMENDED BY P.L.26-2005,  
29 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
30 JULY 1, 2011]: **Sec. 1. (a) The definitions in this section apply**  
31 **throughout this chapter.**

32 **(b) "Balance bill" means a noncontracted provider's charge to**  
33 **an insured of the difference between:**

34 **(1) the noncontracted provider's fee for a health care service**  
35 **rendered to the insured; and**

36 **(2) the sum of:**

37 **(A) the payments made by the insurer to the**  
38 **noncontracted provider; plus**

39 **(B) the insured's cost sharing amounts;**

40 **for the health care service under the terms of the insured's**  
41 **policy.**

42 ~~(b)~~ **(c) "Credentialing" means a process through which an insurer**  
43 **makes a determination:**

44 **(1) based on criteria established by the insurer; and**

45 **(2) concerning whether a provider is eligible to:**

46 **(A) provide health care services to an insured; and**

47 **(B) receive reimbursement for the health care services;**

48 **under an agreement entered into between the provider and the**  
49 **insurer under section 3 of this chapter.**

50 **(d) "Contracted provider" means a provider that has entered**

1 **into an agreement with an insurer under section 3 of this chapter.**

2 **(e) "Facility" means an entity that is licensed under IC 16-21.**

3 **(f) "Facility based provider" means an individual provider:**

4 **(1) to whom a facility has granted clinical privileges; and**

5 **(2) who renders health care services to patients who are**  
6 **treated at the facility.**

7 **The term includes a group of individual providers.**

8 ~~(c)~~ **(g) "Health care services":**

9 (1) means health care related services or products rendered or  
10 sold by a provider within the scope of the provider's license or  
11 legal authorization; and

12 (2) includes hospital, medical, surgical, dental, vision, and  
13 pharmaceutical services or products.

14 ~~(d)~~ **(h) "Insured" means an individual entitled to reimbursement**  
15 **for expenses of health care services under a policy issued or**  
16 **administered by an insurer.**

17 ~~(e)~~ **(i) "Insurer" means an insurance company authorized in this**  
18 **state to issue policies that provide reimbursement for expenses of**  
19 **health care services.**

20 **(j) "Noncontracted provider" means a provider that has not**  
21 **entered into an agreement with an insurer under section 3 of this**  
22 **chapter.**

23 ~~(f)~~ **(k) "Person" means an individual, an agency, a political**  
24 **subdivision, a partnership, a corporation, an association, or any other**  
25 **entity.**

26 ~~(g)~~ **(l) "Preferred provider plan" means an undertaking to enter into**  
27 **agreements with providers relating to terms and conditions of**  
28 **reimbursements for the health care services of insureds, members, or**  
29 **enrollees relating to the amounts to be charged to insureds, members,**  
30 **or enrollees for health care services.**

31 ~~(h)~~ **(m) "Provider" means an individual or entity duly licensed or**  
32 **legally authorized to provide health care services.**

33 **(n) "Provider network" means a group of providers that have**  
34 **entered into one (1) or more agreements with an insurer under**  
35 **section 3 of this chapter.**

36 SECTION 5. IC 27-8-11-11, AS ADDED BY P.L.144-2009,  
37 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
38 JULY 1, 2011]: Sec. 11. ~~(a)~~ **As used in this section, "noncontracted**  
39 **provider" means a provider that has not entered into an agreement with**  
40 **an insurer under section 3 of this chapter:**

41 ~~(b)~~ **After September 30, 2009, if an insurer makes a payment to an**  
42 **insured for a health care service rendered by a noncontracted provider,**  
43 **the insurer shall include with the payment instrument written notice to**  
44 **the insured that includes the following:**

45 (1) A statement specifying the claims covered by the payment  
46 instrument.

47 (2) The name and address of the provider submitting each claim.

48 (3) The amount paid by the insurer for each claim.

49 (4) Any amount of a claim that is the insured's responsibility.

50 (5) A statement in at least 24 point bold type that:

1 (A) instructs the insured to use the payment to pay the  
 2 noncontracted provider if the insured has not paid the  
 3 noncontracted provider in full;

4 (B) specifies that paying the noncontracted provider is the  
 5 insured's responsibility; and

6 (C) states that the failure to make the payment violates the  
 7 law and may result in collection proceedings or criminal  
 8 penalties.

9 SECTION 6. IC 27-8-11-12 IS ADDED TO THE INDIANA  
 10 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 11 [EFFECTIVE JULY 1, 2011]: **Sec. 12. (a) An insurer that uses a  
 12 provider network shall provide notice to insureds of the following:**

13 **(1) A facility based provider or other provider may not be a  
 14 contracted provider.**

15 **(2) A noncontracted provider may charge the insured a  
 16 balance bill for amounts not paid under the insured's policy.**

17 **(b) The notice required by subsection (a) must be provided in  
 18 writing to each insured as follows:**

19 **(1) Be included in any materials sent to the insured in  
 20 conjunction with issuance or renewal of the insured's policy.**

21 **(2) Be included in an explanation of payment summary, or  
 22 another document describing policy benefits, that is provided  
 23 to the insured.**

24 **(3) Be conspicuously displayed on a policy related Internet  
 25 web site that an insured is reasonably expected to access.**

26 **(c) A policy must clearly identify facility based providers who  
 27 are contracted providers. A facility based provider identified under  
 28 this subsection must be identified in a separate and conspicuous  
 29 manner in any provider network directory or Internet web site  
 30 directory.**

31 **(d) With any explanation of benefits that:**

32 **(1) is sent to an insured; and**

33 **(2) contains a remark code indicating that a payment has  
 34 been made to a noncontracted provider at the policy's  
 35 allowable or usual and customary amount;**

36 **the insurer must include the telephone number for the department  
 37 of insurance consumer protection division for complaints  
 38 regarding the payment.**

39 **(e) A violation of this chapter by an insurer is an unfair and  
 40 deceptive act in the business of insurance under IC 27-4-1-4.**

41 SECTION 7. IC 27-13-36-5.5 IS ADDED TO THE INDIANA  
 42 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 43 [EFFECTIVE JULY 1, 2011]: **Sec. 5.5. (a) This section does not  
 44 apply to health care services rendered as described in section 5 of  
 45 this chapter.**

46 **(b) As used in this section, "balance bill" means a  
 47 nonparticipating provider's charge to an enrollee of the difference  
 48 between:**

49 **(1) the nonparticipating provider's fee for a health care  
 50 service rendered to the enrollee; and**

- 1           **(2) the sum of:**  
 2               **(A) the payments made to the nonparticipating provider**  
 3               **by the health maintenance organization; plus**  
 4               **(B) the enrollee's cost sharing amounts;**  
 5           **for the health care service under the terms of the enrollee's**  
 6           **individual contract or group contract.**  
 7           **(c) As used in this section, "facility" means an entity that is**  
 8           **licensed under IC 16-21.**  
 9           **(d) As used in this section, "facility based provider" means an**  
 10           **individual provider:**  
 11               **(1) to whom a facility has granted clinical privileges; and**  
 12               **(2) who renders health care services to patients who are**  
 13               **treated at the facility.**  
 14           **The term includes a group of individual providers.**  
 15           **(e) A health maintenance organization shall provide notice to**  
 16           **enrollees of the following:**  
 17               **(1) A facility based provider or other provider may not be a**  
 18               **participating provider.**  
 19               **(2) A provider who is not a participating provider may**  
 20               **charge the enrollee a balance bill for amounts not paid under**  
 21               **the enrollee's individual contract or group contract.**  
 22           **(f) The notice required by subsection (e) must be provided in**  
 23           **writing to each enrollee as follows:**  
 24               **(1) Be included in any materials sent to the enrollee in**  
 25               **conjunction with issuance or renewal of the enrollee's**  
 26               **individual contract or group contract.**  
 27               **(2) Be included in an explanation of payment summary, or**  
 28               **another document describing individual contract or group**  
 29               **contract benefits, that is provided to the enrollee.**  
 30               **(3) Be conspicuously displayed on an individual contract**  
 31               **related or group contract related Internet web site that an**  
 32               **enrollee is reasonably expected to access.**  
 33           **(g) An individual contract or a group contract must clearly**  
 34           **identify facility based providers who are participating providers.**  
 35           **A facility based provider identified under this subsection must be**  
 36           **identified in a separate and conspicuous manner in any**  
 37           **participating provider directory or Internet web site directory.**  
 38           **(h) With any explanation of benefits that:**  
 39               **(1) is sent to an enrollee; and**  
 40               **(2) contains a remark code indicating that a payment has**  
 41               **been made to a nonparticipating provider at the individual**  
 42               **contract's or group contract's allowable or usual and**  
 43               **customary amount;**  
 44           **the health maintenance organization must include the telephone**  
 45           **number for the department of insurance consumer protection**  
 46           **division for complaints regarding the payment.**  
 47           **(i) A violation of this chapter by a health maintenance**  
 48           **organization is an unfair and deceptive act in the business of**  
 49           **insurance under IC 27-4-1-4."**  
 50           Renumber all SECTIONS consecutively.

(Reference is to EHB 1071 as printed April 15, 2011.)

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Senator LANANE