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| PREVAILED | Roll Call No. _____ |
| FAILED | Ayes _____ |
| WITHDRAWN | Noes _____ |
| RULED OUT OF ORDER | |

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1405 be amended to read as follows:

- 1 Page 11, between lines 4 and 5, begin a new paragraph and insert:
- 2 "SECTION 11. IC 27-1-24.5-16.5 IS ADDED TO THE INDIANA
- 3 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 4 [EFFECTIVE JULY 1, 2021]: **Sec. 16.5. As used in this chapter,**
- 5 **"spread pricing" means a model of prescription drug pricing by**
- 6 **which:**
- 7 **(1) a pharmacy benefit manager charges a plan sponsor a**
- 8 **contracted price for a prescription drug; and**
- 9 **(2) that contracted price differs from the amount the**
- 10 **pharmacy benefit manager directly or indirectly pays:**
- 11 **(A) a pharmacy or pharmacist for the prescription drug;**
- 12 **or**
- 13 **(B) for pharmacist services related to the prescription**
- 14 **drug.**
- 15 SECTION 12. IC 27-1-24.5-19, AS AMENDED BY THE
- 16 TECHNICAL CORRECTIONS BILL OF THE 2021 GENERAL
- 17 ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 18 JULY 1, 2021]: Sec. 19. (a) A pharmacy benefit manager shall provide
- 19 equal access and incentives to all pharmacies within the pharmacy
- 20 benefit **manager's** network.
- 21 (b) A pharmacy benefit manager may not do any of the following:

- 1 (1) Condition participation in any network on accreditation,
- 2 credentialing, or licensing of a pharmacy, ~~provider that~~, other than
- 3 a license or permit required by the Indiana board of pharmacy or
- 4 other state or federal regulatory authority for the services
- 5 provided by the pharmacy. However, nothing in this subdivision
- 6 precludes the department from providing credentialing or
- 7 accreditation standards for pharmacies.
- 8 (2) Discriminate against any pharmacy. ~~provider.~~
- 9 (3) Directly or indirectly retroactively deny a claim or aggregate
- 10 of claims after the claim or aggregate of claims has been
- 11 adjudicated, unless any of the following apply:
- 12 (A) The original claim was submitted fraudulently.
- 13 (B) The original claim payment was incorrect because the
- 14 pharmacy or pharmacist had already been paid for the drug.
- 15 (C) The pharmacist services were not properly rendered by the
- 16 pharmacy or pharmacist.
- 17 (4) Reduce, directly or indirectly, payment to a pharmacy for
- 18 pharmacist services to an effective rate of reimbursement,
- 19 including permitting an insurer or plan sponsor to make such a
- 20 reduction.
- 21 (5) Reimburse a pharmacy that is affiliated with the pharmacy
- 22 benefit manager, other than solely being included in the pharmacy
- 23 benefit manager's network, at a greater reimbursement rate than
- 24 other pharmacies in the same network.
- 25 **(6) Engage in spread pricing.**
- 26 **(7) Violate IC 27-8-11-12(f).**
- 27 **(8) Violate IC 27-13-15-6(f).**

28 A violation of this subsection by a pharmacy benefit manager
 29 constitutes an unfair or deceptive act or practice in the business of
 30 insurance under IC 27-4-1-4.

31 SECTION 13. IC 27-1-24.5-19.6 IS ADDED TO THE INDIANA
 32 CODE AS A NEW SECTION TO READ AS FOLLOWS
 33 [EFFECTIVE JULY 1, 2021]: **Sec. 19.6. A pharmacy benefit**
 34 **manager:**

- 35 **(1) owes a fiduciary duty to;**
- 36 **(2) shall act in the best interest of;**
- 37 **(3) shall not act in any manner contrary to the interests of;**
- 38 **and**
- 39 **(4) shall not advance its own interests over the interests of;**
- 40 **a health plan, state agency, insurer, managed care organization, or**
- 41 **other third party payor for which it performs one (1) or more of**
- 42 **the actions described in section 12(a) of this chapter."**

43 Page 23, between lines 18 and 19, begin a new line block indented
 44 and insert:

45 **"(37) Violating section 19(b) of this chapter concerning**
 46 **pharmacy benefit managers."**

- 1 Renumber all SECTIONS consecutively.
(Reference is to HB 1405 as printed February 9, 2021.)

Representative Austin