

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WITHDRAWN	Noes _____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

# HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that Engrossed Senate Bill 269 be amended to read as follows:

- 1 Page 2, between lines 32 and 33, begin a new paragraph and insert:
- 2 "SECTION 2. IC 27-4-1-4, AS AMENDED BY P.L.131-2007,
- 3 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 UPON PASSAGE]: Sec. 4. (a) The following are hereby defined as
- 5 unfair methods of competition and unfair and deceptive acts and
- 6 practices in the business of insurance:
- 7 (1) Making, issuing, circulating, or causing to be made, issued, or
- 8 circulated, any estimate, illustration, circular, or statement:
- 9 (A) misrepresenting the terms of any policy issued or to be
- 10 issued or the benefits or advantages promised thereby or the
- 11 dividends or share of the surplus to be received thereon;
- 12 (B) making any false or misleading statement as to the
- 13 dividends or share of surplus previously paid on similar
- 14 policies;
- 15 (C) making any misleading representation or any
- 16 misrepresentation as to the financial condition of any insurer,
- 17 or as to the legal reserve system upon which any life insurer
- 18 operates;
- 19 (D) using any name or title of any policy or class of policies
- 20 misrepresenting the true nature thereof; or
- 21 (E) making any misrepresentation to any policyholder insured
- 22 in any company for the purpose of inducing or tending to
- 23 induce such policyholder to lapse, forfeit, or surrender the
- 24 policyholder's insurance.

- 1 (2) Making, publishing, disseminating, circulating, or placing  
2 before the public, or causing, directly or indirectly, to be made,  
3 published, disseminated, circulated, or placed before the public,  
4 in a newspaper, magazine, or other publication, or in the form of  
5 a notice, circular, pamphlet, letter, or poster, or over any radio or  
6 television station, or in any other way, an advertisement,  
7 announcement, or statement containing any assertion,  
8 representation, or statement with respect to any person in the  
9 conduct of the person's insurance business, which is untrue,  
10 deceptive, or misleading.
- 11 (3) Making, publishing, disseminating, or circulating, directly or  
12 indirectly, or aiding, abetting, or encouraging the making,  
13 publishing, disseminating, or circulating of any oral or written  
14 statement or any pamphlet, circular, article, or literature which is  
15 false, or maliciously critical of or derogatory to the financial  
16 condition of an insurer, and which is calculated to injure any  
17 person engaged in the business of insurance.
- 18 (4) Entering into any agreement to commit, or individually or by  
19 a concerted action committing any act of boycott, coercion, or  
20 intimidation resulting or tending to result in unreasonable  
21 restraint of, or a monopoly in, the business of insurance.
- 22 (5) Filing with any supervisory or other public official, or making,  
23 publishing, disseminating, circulating, or delivering to any person,  
24 or placing before the public, or causing directly or indirectly, to  
25 be made, published, disseminated, circulated, delivered to any  
26 person, or placed before the public, any false statement of  
27 financial condition of an insurer with intent to deceive. Making  
28 any false entry in any book, report, or statement of any insurer  
29 with intent to deceive any agent or examiner lawfully appointed  
30 to examine into its condition or into any of its affairs, or any  
31 public official to which such insurer is required by law to report,  
32 or which has authority by law to examine into its condition or into  
33 any of its affairs, or, with like intent, willfully omitting to make a  
34 true entry of any material fact pertaining to the business of such  
35 insurer in any book, report, or statement of such insurer.
- 36 (6) Issuing or delivering or permitting agents, officers, or  
37 employees to issue or deliver, agency company stock or other  
38 capital stock, or benefit certificates or shares in any common law  
39 corporation, or securities or any special or advisory board  
40 contracts or other contracts of any kind promising returns and  
41 profits as an inducement to insurance.
- 42 (7) Making or permitting any of the following:
- 43 (A) Unfair discrimination between individuals of the same  
44 class and equal expectation of life in the rates or assessments  
45 charged for any contract of life insurance or of life annuity or  
46 in the dividends or other benefits payable thereon, or in any

1 other of the terms and conditions of such contract; however, in  
2 determining the class, consideration may be given to the  
3 nature of the risk, plan of insurance, the actual or expected  
4 expense of conducting the business, or any other relevant  
5 factor.

6 (B) Unfair discrimination between individuals of the same  
7 class involving essentially the same hazards in the amount of  
8 premium, policy fees, assessments, or rates charged or made  
9 for any policy or contract of accident or health insurance or in  
10 the benefits payable thereunder, or in any of the terms or  
11 conditions of such contract, or in any other manner whatever;  
12 however, in determining the class, consideration may be given  
13 to the nature of the risk, the plan of insurance, the actual or  
14 expected expense of conducting the business, or any other  
15 relevant factor.

16 (C) Excessive or inadequate charges for premiums, policy  
17 fees, assessments, or rates, or making or permitting any unfair  
18 discrimination between persons of the same class involving  
19 essentially the same hazards, in the amount of premiums,  
20 policy fees, assessments, or rates charged or made for:

21 (i) policies or contracts of reinsurance or joint reinsurance,  
22 or abstract and title insurance;

23 (ii) policies or contracts of insurance against loss or damage  
24 to aircraft, or against liability arising out of the ownership,  
25 maintenance, or use of any aircraft, or of vessels or craft,  
26 their cargoes, marine builders' risks, marine protection and  
27 indemnity, or other risks commonly insured under marine,  
28 as distinguished from inland marine, insurance; or

29 (iii) policies or contracts of any other kind or kinds of  
30 insurance whatsoever.

31 However, nothing contained in clause (C) shall be construed to  
32 apply to any of the kinds of insurance referred to in clauses (A)  
33 and (B) nor to reinsurance in relation to such kinds of insurance.  
34 Nothing in clause (A), (B), or (C) shall be construed as making or  
35 permitting any excessive, inadequate, or unfairly discriminatory  
36 charge or rate or any charge or rate determined by the department  
37 or commissioner to meet the requirements of any other insurance  
38 rate regulatory law of this state.

39 (8) Except as otherwise expressly provided by law, knowingly  
40 permitting or offering to make or making any contract or policy  
41 of insurance of any kind or kinds whatsoever, including but not in  
42 limitation, life annuities, or agreement as to such contract or  
43 policy other than as plainly expressed in such contract or policy  
44 issued thereon, or paying or allowing, or giving or offering to pay,  
45 allow, or give, directly or indirectly, as inducement to such  
46 insurance, or annuity, any rebate of premiums payable on the

1 contract, or any special favor or advantage in the dividends,  
2 savings, or other benefits thereon, or any valuable consideration  
3 or inducement whatever not specified in the contract or policy; or  
4 giving, or selling, or purchasing or offering to give, sell, or  
5 purchase as inducement to such insurance or annuity or in  
6 connection therewith, any stocks, bonds, or other securities of any  
7 insurance company or other corporation, association, limited  
8 liability company, or partnership, or any dividends, savings, or  
9 profits accrued thereon, or anything of value whatsoever not  
10 specified in the contract. Nothing in this subdivision and  
11 subdivision (7) shall be construed as including within the  
12 definition of discrimination or rebates any of the following  
13 practices:

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

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

24 (C) Readjustment of the rate of premium for a group insurance  
25 policy based on the loss or expense experience thereunder, at  
26 the end of the first year or of any subsequent year of insurance  
27 thereunder, which may be made retroactive only for such  
28 policy year.

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

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

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

- 1 or associations.
- 2 (F) Insurance that is provided to the purchaser or holder of an
- 3 air transportation ticket and that:
- 4 (i) insures against death or nonfatal injury that occurs during
- 5 the flight to which the ticket relates;
- 6 (ii) insures against personal injury or property damage that
- 7 occurs during travel to or from the airport in a common
- 8 carrier immediately before or after the flight;
- 9 (iii) insures against baggage loss during the flight to which
- 10 the ticket relates; or
- 11 (iv) insures against a flight cancellation to which the ticket
- 12 relates.
- 13 (14) Refusing, because of the for-profit status of a hospital or
- 14 medical facility, to make payments otherwise required to be made
- 15 under a contract or policy of insurance for charges incurred by an
- 16 insured in such a for-profit hospital or other for-profit medical
- 17 facility licensed by the state department of health.
- 18 (15) Refusing to insure an individual, refusing to continue to issue
- 19 insurance to an individual, limiting the amount, extent, or kind of
- 20 coverage available to an individual, or charging an individual a
- 21 different rate for the same coverage, solely because of that
- 22 individual's blindness or partial blindness, except where the
- 23 refusal, limitation, or rate differential is based on sound actuarial
- 24 principles or is related to actual or reasonably anticipated
- 25 experience.
- 26 (16) Committing or performing, with such frequency as to
- 27 indicate a general practice, unfair claim settlement practices (as
- 28 defined in section 4.5 of this chapter).
- 29 (17) Between policy renewal dates, unilaterally canceling an
- 30 individual's coverage under an individual or group health
- 31 insurance policy solely because of the individual's medical or
- 32 physical condition.
- 33 (18) Using a policy form or rider that would permit a cancellation
- 34 of coverage as described in subdivision (17).
- 35 (19) Violating IC 27-1-22-25, IC 27-1-22-26, or IC 27-1-22-26.1
- 36 concerning motor vehicle insurance rates.
- 37 (20) Violating IC 27-8-21-2 concerning advertisements referring
- 38 to interest rate guarantees.
- 39 (21) Violating IC 27-8-24.3 concerning insurance and health plan
- 40 coverage for victims of abuse.
- 41 (22) Violating IC 27-8-26 concerning genetic screening or testing.
- 42 (23) Violating IC 27-1-15.6-3(b) concerning licensure of
- 43 insurance producers.
- 44 (24) Violating IC 27-1-38 concerning depository institutions.
- 45 (25) Violating IC 27-8-28-17(c) or IC 27-13-10-8(c) concerning
- 46 the resolution of an appealed grievance decision.

- 1 (26) Violating IC 27-8-5-2.5(e) through IC 27-8-5-2.5(j) or  
 2 IC 27-8-5-19.2.
- 3 (27) Violating IC 27-2-21 concerning use of credit information.
- 4 (28) Violating IC 27-4-9-3 concerning recommendations to  
 5 consumers.
- 6 (29) Engaging in dishonest or predatory insurance practices in  
 7 marketing or sales of insurance to members of the United States  
 8 Armed Forces as:
- 9 (A) described in the federal Military Personnel Financial  
 10 Services Protection Act, P.L.109-290; or
- 11 (B) defined in rules adopted under subsection (b).
- 12 **(30) Violating IC 27-8-11-10, IC 27-8-11.1, or IC 27-13-15-5**  
 13 **concerning dialysis treatment.**
- 14 (b) Except with respect to federal insurance programs under  
 15 Subchapter III of Chapter 19 of Title 38 of the United States Code, the  
 16 commissioner may, consistent with the federal Military Personnel  
 17 Financial Services Protection Act (P.L.109-290), adopt rules under  
 18 IC 4-22-2 to:
- 19 (1) define; and
- 20 (2) while the members are on a United States military installation  
 21 or elsewhere in Indiana, protect members of the United States  
 22 Armed Forces from;  
 23 dishonest or predatory insurance practices.
- 24 SECTION 3. IC 27-8-11-10 IS ADDED TO THE INDIANA CODE  
 25 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
 26 UPON PASSAGE]: **Sec. 10. (a) The definitions in IC 27-8-11.1 apply**  
 27 **throughout this section.**
- 28 **(b) An agreement entered into under section 3 of this chapter**  
 29 **after April 30, 2008, must provide that in the event the insurer fails**  
 30 **to pay, as specified by the agreement, for health care services**  
 31 **rendered at a network dialysis facility, the insured is not liable for**  
 32 **any sums owed by the insurer.**
- 33 SECTION 4. IC 27-8-11.1 IS ADDED TO THE INDIANA CODE  
 34 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 35 UPON PASSAGE]:
- 36 **Chapter 11.1. Dialysis Treatment**
- 37 **Sec. 1. Except as provided in this chapter, the definitions in**  
 38 **IC 27-8-11-1 apply throughout this chapter.**
- 39 **Sec. 2. As used in this chapter, "dialysis facility" means an**  
 40 **outpatient facility in Indiana at which a dialysis treatment**  
 41 **provider renders dialysis treatment.**
- 42 **Sec. 3. As used in this chapter, "insured" refers only to an**  
 43 **insured who requires dialysis treatment.**
- 44 **Sec. 4. As used in this chapter, "insurer" includes the following:**
- 45 (1) **An administrator licensed under IC 27-1-25.**
- 46 (2) **An agent of an insurer.**

1           **Sec. 5. As used in this chapter, "network" refers to a group of**  
 2 **providers, each of which has:**

- 3           **(1) individually; or**  
 4           **(2) as a member of a group;**

5 **entered into an agreement with a particular insurer under**  
 6 **IC 27-8-11-3.**

7           **Sec. 6. As used in this chapter, "network dialysis facility" means**  
 8 **a dialysis facility that has entered into an agreement with a**  
 9 **particular insurer under IC 27-8-11-3.**

10           **Sec. 7. As used in this chapter, "out of network dialysis facility"**  
 11 **means a dialysis facility that has not entered into an agreement**  
 12 **with a particular insurer under IC 27-8-11-3.**

13           **Sec. 8. As used in this chapter, "policy of accident and sickness**  
 14 **insurance" has the meaning set forth in IC 27-8-5-1. The term does**  
 15 **not include the following:**

- 16           **(1) Accident-only, credit, dental, vision, Medicare supplement,**  
 17 **long term care, or disability income insurance.**  
 18           **(2) Coverage issued as a supplement to liability insurance.**  
 19           **(3) Worker's compensation or similar insurance.**  
 20           **(4) Automobile medical payment insurance.**  
 21           **(5) A specified disease policy issued as an individual policy.**  
 22           **(6) A limited benefit health insurance policy issued as an**  
 23 **individual policy.**  
 24           **(7) A short term insurance plan that:**  
 25           **(A) may not be renewed; and**  
 26           **(B) has a duration of not more than six (6) months.**  
 27           **(8) A policy that provides a stipulated daily, weekly, or**  
 28 **monthly payment to an insured during hospital confinement,**  
 29 **without regard to the actual expense of the confinement.**

30           **Sec. 9. To the extent that IC 27-8-11-4.5 (c) and**  
 31 **IC 27-8-11-4.5(d) conflict with the requirements of this chapter,**  
 32 **IC 27-8-11-4.5(c) and IC 27-8-11-4.5(d) do not apply with respect**  
 33 **to the requirements of this chapter.**

34           **Sec. 10. A policy of accident and sickness insurance must**  
 35 **provide coverage for dialysis treatment regardless of whether an**  
 36 **insured obtains dialysis treatment from a network dialysis facility**  
 37 **or an out of network dialysis facility.**

38           **Sec. 11. An insurer that uses a network shall establish a**  
 39 **payment rate for a health care service rendered by a dialysis**  
 40 **treatment provider at an out of network dialysis facility:**

- 41           **(1) in consultation with the dialysis treatment provider; and**  
 42           **(2) based on the following:**  
 43           **(A) The type of health care service rendered.**  
 44           **(B) The fees usually charged by the dialysis treatment**  
 45 **provider.**  
 46           **(C) The prevailing rate paid to a dialysis treatment**  
 47 **provider by insurers in the same geographic area during**



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the preceding twelve (12) months.

**Sec. 12. In establishing a payment rate under section 11 of this chapter, an insurer shall:**

- (1) not consider Medicaid and Medicare payment rates; and**
- (2) establish the payment rate at an amount equal to not less than the greater of the following payment rates paid by the insurer during the previous twelve (12) months:**
  - (A) The highest payment rate paid to the dialysis treatment provider for health care services rendered at a network dialysis facility.**
  - (B) The highest payment rate paid to the dialysis treatment provider for health care services rendered at an out of network dialysis facility.**
  - (C) The highest payment rate paid to any dialysis treatment provider for health care services rendered at a network dialysis facility.**

**Sec. 13. An insurer may not do any of the following at any time after an insured elects coverage under a policy of accident and sickness insurance:**

- (1) Restrict benefits or increase costs to the insured in relation to dialysis treatment, including the insured's out-of-pocket expenses.**
- (2) Change coverage or benefits in any way that would affect dialysis treatment provided at an out of network dialysis facility.**

**Sec. 14. An insurer shall not do the following:**

- (1) Make changes in coverage under a policy of accident and sickness in an attempt to cause an insured to elect Medicare as the insured's primary coverage.**
- (2) Require an insured, as a condition of coverage, to travel more than fifteen (15) miles or for longer than thirty (30) minutes from the insured's home to obtain dialysis treatment, regardless of whether the insured chooses to receive dialysis treatment at a network dialysis facility or an out of network dialysis facility.**

**Sec. 15. An insurer shall do the following:**

- (1) Make all claim payments for health care services provided by a dialysis treatment provider payable only to the dialysis treatment provider and not to the insured, regardless of whether the health care services are rendered in a network dialysis facility or an out of network dialysis facility.**
- (2) File with the department, not later than December 31 of each year, an annual evaluation of the following:**
  - (A) Whether the insurer's network of all dialysis treatment providers is sufficient to provide health care services to insureds covered under a policy of accident and sickness insurance issued by the insurer.**

1           **(B) A detailed analysis of whether the requirements of**  
 2           **section 14(2) of this chapter are reflected in the actual**  
 3           **distance and travel time required for insureds to obtain**  
 4           **dialysis treatment.**

5           **(3) Maintain a network that at all times includes not less than**  
 6           **fifty percent (50%) of the dialysis facilities in the geographic**  
 7           **area in which health care services are provided by the**  
 8           **network.**

9           **Sec. 16. The commissioner shall, not more than thirty (30) days**  
 10          **after receiving a filing under section 15(2) of this chapter, approve**  
 11          **the filing or make recommendations for changes to the network.**

12          **Sec. 17. The department may adopt rules under IC 4-22-2 to**  
 13          **implement this section."**

14          Page 4, between lines 10 and 11, begin a new paragraph and insert:  
 15          "SECTION 6. IC 27-13-1-11.5 IS ADDED TO THE INDIANA  
 16          CODE AS A NEW SECTION TO READ AS FOLLOWS  
 17          [EFFECTIVE UPON PASSAGE]: **Sec. 11.5. "Dialysis facility"**  
 18          **means an outpatient facility in Indiana at which a dialysis**  
 19          **treatment provider renders dialysis treatment."**

20          Page 5, between lines 8 and 9, begin a new paragraph and insert:  
 21          "SECTION 8. IC 27-13-15-5 IS ADDED TO THE INDIANA CODE  
 22          AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
 23          UPON PASSAGE]: **Sec. 5. (a) Notwithstanding IC 27-13-1-12, as**  
 24          **used in this section, "enrollee" refers only to an enrollee who**  
 25          **requires dialysis treatment.**

26          **(b) As used in this section, "health maintenance organization"**  
 27          **includes the following:**

- 28               **(1) A limited service health maintenance organization.**  
 29               **(2) An agent of a health maintenance organization or a limited**  
 30               **service health maintenance organization.**

31          **(c) To the extent that IC 27-13-15-1(b) and IC 27-13-15-1(c)**  
 32          **conflict with the requirements of this section, IC 27-13-15-1(b) and**  
 33          **IC 27-13-15-1(c) do not apply with respect to the requirements of**  
 34          **this section.**

35          **(d) An individual contract or a group contract must provide**  
 36          **coverage for dialysis treatment regardless of whether the dialysis**  
 37          **facility from which an enrollee obtains dialysis treatment is a**  
 38          **participating provider.**

39          **(e) A health maintenance organization shall establish a payment**  
 40          **rate for a health care service rendered by a dialysis treatment**  
 41          **provider at a dialysis facility that is not a participating provider:**

- 42               **(1) in consultation with the dialysis treatment provider; and**  
 43               **(2) based on the following:**

- 44                   **(A) The type of health care service rendered.**  
 45                   **(B) The fees usually charged by the dialysis treatment**  
 46                   **provider.**  
 47                   **(C) The prevailing rate paid to a dialysis treatment**

- 1 provider by health maintenance organizations in the same  
 2 geographic area during the preceding twelve (12) months.
- 3 **(f) In establishing a payment rate under subsection (e), a health**  
 4 **maintenance organization shall:**
- 5 **(1) not consider Medicaid and Medicare payment rates; and**  
 6 **(2) establish the payment rate at an amount equal to not less**  
 7 **than the greater of the following payment rates paid by the**  
 8 **health maintenance organization during the previous twelve**  
 9 **(12) months:**
- 10 **(A) The highest payment rate paid to the dialysis treatment**  
 11 **provider for health care services rendered at a dialysis**  
 12 **facility that is a participating provider.**
- 13 **(B) The highest payment rate paid to the dialysis treatment**  
 14 **provider for health care services rendered at a dialysis**  
 15 **facility that is not a participating provider.**
- 16 **(C) The highest payment rate paid to any dialysis**  
 17 **treatment provider for health care services rendered at a**  
 18 **dialysis facility that is a participating provider.**
- 19 **(g) A health maintenance organization may not do any of the**  
 20 **following at any time after an enrollee elects coverage under an**  
 21 **individual contract or a group contract:**
- 22 **(1) Restrict benefits or increase costs to the enrollee in**  
 23 **relation to dialysis treatment, including the enrollee's**  
 24 **out-of-pocket expenses.**
- 25 **(2) Change coverage or benefits in any way that would affect**  
 26 **dialysis treatment rendered at a dialysis facility that is not a**  
 27 **participating provider.**
- 28 **(h) A health maintenance organization shall not do the**  
 29 **following:**
- 30 **(1) Make changes in coverage under an individual contract or**  
 31 **a group contract in an attempt to cause an enrollee to elect**  
 32 **Medicare as the enrollee's primary coverage.**
- 33 **(2) Require an enrollee, as a condition of coverage, to travel**  
 34 **more than fifteen (15) miles or for longer than thirty (30)**  
 35 **minutes from the enrollee's home to obtain dialysis treatment,**  
 36 **regardless of whether the enrollee chooses to receive dialysis**  
 37 **treatment at a dialysis facility that is a participating provider**  
 38 **or a dialysis facility that is not a participating provider.**
- 39 **(i) A health maintenance organization shall do the following:**
- 40 **(1) Make all claim payments for health care services provided**  
 41 **by a dialysis treatment provider payable only to the dialysis**  
 42 **treatment provider and not to the enrollee, regardless of**  
 43 **whether the health care services are provided in a dialysis**  
 44 **facility that is a participating provider or a dialysis facility**  
 45 **that is not a participating provider.**
- 46 **(2) File with the department, not later than December 31 of**  
 47 **each year, an annual evaluation of the following:**

- 1           **(A) Whether the health maintenance organization's**
- 2           **network of all dialysis treatment providers is sufficient to**
- 3           **provide health care services to enrollees covered under an**
- 4           **individual contract or a group contract entered into by the**
- 5           **health maintenance organization.**
- 6           **(B) A detailed analysis of whether the requirements of**
- 7           **subsection (h)(2) are reflected in the actual distance and**
- 8           **travel time required for enrollees to obtain dialysis**
- 9           **treatment.**
- 10          **(3) Maintain a participating provider network that at all times**
- 11          **includes not less than fifty percent (50%) of the dialysis**
- 12          **facilities in the health maintenance organization's service**
- 13          **area.**
- 14          **(j) The commissioner shall, not more than thirty (30) days after**
- 15          **receiving a filing under subsection (i)(2), approve the filing or**
- 16          **make recommendations for changes to the network.**
- 17          **(k) The department may adopt rules under IC 4-22-2 to**
- 18          **implement this section."**
- 19          Page 5, after line 18, begin a new paragraph and insert:
- 20          "SECTION 10. **An emergency is declared for this act.**".
- 21          Renumber all SECTIONS consecutively.
- (Reference is to ESB 269 as printed February 12, 2008.)

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Representative Fry