

HOUSE BILL No. 1405

DIGEST OF INTRODUCED BILL

Citations Affected: IC 12-15; IC 16-39-1-1; IC 27-1-15.7.

Synopsis: Insurance matters. Requires the office of the secretary of family and social services to apply before December 31, 2021, for a Medicaid state plan amendment to effectuate the federal long term care insurance partnership program (program). Provides that the state's current long term care insurance program applies to policies entered into, issued, or renewed before July 1, 2022. Defines "qualified long term care insurance policy". Provides administrative, reporting, and continuing education requirements for the program. Requires a provider to provide the health records requested by a patient within 30 days after the date the written request is made. Allows the state department of health to impose a fine against a provider not to exceed \$5,000 for not complying with the requirements to provide the patient's health records. Provides that if a resident insurance producer completed more than 24 hours of credit in continuing education courses before the effective date of the producer's last license renewal, not more than 12 of the excess hours of credit for those continuing education courses may apply toward satisfaction of the continuing education requirement for the producer's next license renewal, subject to the following restrictions: (1) The credit must be for a continuing education course that the producer completed not more than 120 days before the effective date of the producer's last license renewal. (2) The credit cannot be for completing a continuing education course on the subject of ethics or long term care insurance. Requires the insurance commissioner to adopt rules to implement these requirements.

Effective: July 1, 2021.

Carbaugh

January 14, 2021, read first time and referred to Committee on Financial Institutions and Insurance.



First Regular Session of the 122nd General Assembly (2021)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

HOUSE BILL No. 1405

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 12-15-1.3-22 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2021]: **Sec. 22. (a) Before December 31, 2021,**
4 **the office must apply to the United States Department of Health**
5 **and Human Services for a state plan amendment that establishes**
6 **the long term care partnership program as described in**
7 **IC 12-15-39.8.**

8 (b) **If the office receives approval for the state plan amendment**
9 **applied for under this section, the office shall comply with**
10 **IC 12-15-39.8.**

11 SECTION 2. IC 12-15-39.6-0.5 IS ADDED TO THE INDIANA
12 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 2021]: **Sec. 0.5. (a) This chapter applies to**
14 **qualified long term care policies entered into, issued, or renewed**
15 **before July 1, 2022.**

16 (b) **Notwithstanding IC 12-15-39.8, the asset disregard under**
17 **section 10 of this chapter applies to any qualified long term care**



1 **policy to which this chapter applies.**

2 SECTION 3. IC 12-15-39.8 IS ADDED TO THE INDIANA CODE
3 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2021]:

5 **Chapter 39.8. Long Term Care Insurance Partnership Program**

6 **Sec. 1. This chapter applies to qualified long term care**
7 **insurance policies that are entered into, issued, or renewed after**
8 **June 30, 2022.**

9 **Sec. 2. As used in this chapter, "program" means the Indiana**
10 **long term care insurance partnership program established by**
11 **section 4(a) of this chapter.**

12 **Sec. 3. As used in this chapter, "qualified long term care**
13 **insurance policy" means an insurance policy that meets the**
14 **following requirements:**

15 (1) **The policy covers an individual who was a resident of the**
16 **state when the coverage first became effective under the**
17 **policy.**

18 (2) **The policy was not issued before the effective date of the**
19 **state plan amendment applied for under IC 12-15-1.3-22.**

20 (3) **The policy meets the definition of a qualified long term**
21 **care insurance contract under 26 U.S.C. 7702B.**

22 (4) **The policy meets the model regulations and requirements**
23 **of the model act of the National Association of Insurance**
24 **Commissioners provided in 42 U.S.C. 1396p(b)(5).**

25 (5) **The policy includes inflation protection as follows:**

26 (A) **If the policy is sold to an individual who was less than**
27 **sixty-one (61) years of age as of the date of purchase, the**
28 **policy must provide compound inflation protection.**

29 (B) **If the policy is sold to an individual who was at least**
30 **sixty-one (61) years of age but less than seventy-six (76)**
31 **years of age as of the date of purchase, the policy must**
32 **provide some level of inflation protection.**

33 (C) **If the policy is sold to an individual who is at least**
34 **seventy-six (76) years of age, the policy may, but is not**
35 **required to, provide some level of inflation protection.**

36 (6) **The department of insurance certifies that the policy meets**
37 **the requirements of subdivisions (3), (4), and (5).**

38 **Sec. 4. (a) The Indiana long term care insurance partnership**
39 **program is established.**

40 (b) **The office of Medicaid policy and planning and the**
41 **department of insurance shall administer the program in**
42 **accordance with Section 6021 of the federal Deficit Reduction Act**



- 1 of 2005.
- 2 **Sec. 5. Under the program, the office of Medicaid policy and**
 3 **planning must exclude and disregard an amount equal to the**
 4 **amount of benefits an individual receives under a qualified long**
 5 **term care insurance policy when determining the following:**
- 6 (1) The individual's resources for purposes of determining
 7 eligibility for Medicaid under IC 12-15-3.
- 8 (2) The amount to be recovered from the individual's estate
 9 under IC 12-15-9 if the individual is eligible for Medicaid.
- 10 **Sec. 6. (a) The department of insurance shall develop a training**
 11 **program for insurance producers who sell qualified long term care**
 12 **insurance policies that includes a certified prelicensing course and**
 13 **continuing education courses. The courses must cover, at a**
 14 **minimum, the following topics:**
- 15 (1) State and federal regulations and requirements and the
 16 relationship between qualified long term care insurance
 17 policies and other public and private coverage of long term
 18 care services, including Medicaid.
- 19 (2) Available long term care services and providers.
- 20 (3) Changes or improvements in long term care services or
 21 providers.
- 22 (4) Alternatives to the purchase of private long term care
 23 insurance.
- 24 (5) The effect of inflation on benefits and the importance of
 25 inflation protection.
- 26 (6) Consumer suitability standards and guidelines.
- 27 **(b) An insurance producer must:**
- 28 (1) complete the certified prelicensing course established
 29 under subsection (a) before the insurance producer may sell,
 30 solicit, or negotiate a qualified long term care insurance
 31 policy; and
- 32 (2) attend a continuing education course established under
 33 subsection (a) at least once every twenty-four (24) months to
 34 continue to sell, solicit, or negotiate a qualified long term care
 35 insurance policy.
- 36 **Sec. 7. An insurer that issues a qualified long term care**
 37 **insurance policy shall provide regular reports to:**
- 38 (1) the Secretary of the United States Department of Health
 39 and Human Services, as required by federal regulations; and
- 40 (2) the office of Medicaid policy and planning and the
 41 department of insurance, as required by those entities.
- 42 **Sec. 8. The secretary of family and social services and the**



1 **department of insurance may adopt rules under IC 4-22-2**
 2 **necessary to implement this chapter.**

3 SECTION 4. IC 16-39-1-1, AS AMENDED BY P.L.157-2006,
 4 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2021]: Sec. 1. (a) This section applies to all health records
 6 except mental health records, which are governed by IC 16-39-2,
 7 IC 16-39-3, and IC 16-39-4.

8 (b) This article applies to all health records, except:

9 (1) records regarding communicable diseases, which are governed
 10 by IC 16-41-8-1; or

11 (2) records regarding alcohol and other drug abuse patient
 12 records, which are governed by 42 CFR, Part 2.

13 (c) On written request and reasonable notice, a provider shall supply
 14 to a patient the health records possessed by the provider concerning the
 15 patient. Subject to 15 U.S.C. 7601 et seq. and 16 CFR Part 315,
 16 information regarding contact lenses must be given using the following
 17 guidelines:

18 (1) After the release of a patient from an initial fitting and
 19 follow-up period of not more than six (6) months, the contact lens
 20 prescription must be released to the patient at the patient's
 21 request.

22 (2) A prescription released under subdivision (1) must contain all
 23 information required to properly duplicate the contact lenses.

24 (3) A contact lens prescription must include the following:

25 (A) An expiration date of one (1) year.

26 (B) The number of refills permitted.

27 (4) Instructions for use must be consistent with:

28 (A) recommendations of the contact lens manufacturer;

29 (B) clinical practice guidelines; and

30 (C) the professional judgment of the prescribing optometrist
 31 or physician licensed under IC 25-22.5.

32 After the release of a contact lens prescription under this subsection,
 33 liability for future fittings or dispensing of contact lenses under the
 34 original prescription lies with the dispensing company or practitioner.

35 (d) On a patient's written request and reasonable notice, a provider
 36 shall furnish to the patient or the patient's designee the following:

37 (1) A copy of the patient's health record used in assessing the
 38 patient's health condition.

39 (2) At the option of the patient, the pertinent part of the patient's
 40 health record relating to a specific condition, as requested by the
 41 patient.

42 (e) **Subject to section 5 of this chapter, a request made provider**



1 **shall provide the health records requested** under this section **is valid**
 2 **for sixty (60) within thirty (30)** days after the date the **written** request
 3 is made.

4 **(f) In addition to any action taken under IC 16-19-3-18, the state**
 5 **department may impose a fine against a provider not to exceed five**
 6 **thousand dollars (\$5,000) for not complying with the requirements**
 7 **of this section.**

8 SECTION 5. IC 27-1-15.7-2, AS AMENDED BY P.L.148-2017,
 9 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2021]: Sec. 2. (a) Except as provided in subsection (b), to
 11 renew a license issued under IC 27-1-15.6, a resident insurance
 12 producer must complete at least twenty-four (24) hours of credit in
 13 continuing education courses, not more than four (4) hours of which
 14 may be in courses concerning one (1) or a combination of the
 15 following:

- 16 (1) Sales promotion.
- 17 (2) Sales technique.
- 18 (3) Motivation.
- 19 (4) Psychology.
- 20 (5) Time management.

21 If the insurance producer has a qualification described in
 22 IC 27-1-15.6-7(a)(1), IC 27-1-15.6-7(a)(2), or IC 27-1-15.6-7(a)(5), for
 23 a license renewal that occurs after June 30, 2014, at least three (3) of
 24 the hours of credit required by this subsection must be related to ethical
 25 practices in the marketing and sale of life, health, or annuity insurance
 26 products. An attorney in good standing who is admitted to the practice
 27 of law in Indiana and holds a license issued under IC 27-1-15.6 may
 28 complete all or any number of hours of continuing education required
 29 by this subsection by completing an equivalent number of hours in
 30 continuing legal education courses that are related to the business of
 31 insurance.

32 (b) Except as provided in subsection (c), to renew a license issued
 33 under IC 27-1-15.6, a limited lines producer with a title qualification
 34 under IC 27-1-15.6-7(a)(8) must complete at least seven (7) hours of
 35 credit in continuing education courses related to the business of title
 36 insurance with at least one (1) hour of instruction in a structured setting
 37 or comparable self-study in each of the following:

- 38 (1) Ethical practices in the marketing and selling of title
 39 insurance.
- 40 (2) Title insurance underwriting.
- 41 (3) Escrow issues.
- 42 (4) Principles of the federal Real Estate Settlement Procedures



- 1 Act (12 U.S.C. 2608).
 2 An attorney in good standing who is admitted to the practice of law in
 3 Indiana and holds a license issued under IC 27-1-15.6 with a title
 4 qualification under IC 27-1-15.6-7(a)(8) may complete all or any
 5 number of hours of continuing education required by this subsection by
 6 completing an equivalent number of hours in continuing legal
 7 education courses related to the business of title insurance or any
 8 aspect of real property law.
- 9 (c) The following insurance producers are not required to complete
 10 continuing education courses to renew a license under this chapter:
- 11 (1) A limited lines producer who is licensed without examination
 12 under IC 27-1-15.6-18(1).
 - 13 (2) A limited line credit insurance producer.
 - 14 (3) A nonresident limited lines producer with a title qualification:
 15 (A) whose home state requires continuing education for a title
 16 qualification; and
 17 (B) who has met the continuing education requirements
 18 described in clause (A).
- 19 (d) **Except as provided in section 2.2 of this chapter**, to satisfy the
 20 requirements of subsection (a) or (b), a licensee may use only those
 21 credit hours earned in continuing education courses completed by the
 22 licensee:
- 23 (1) after the effective date of the licensee's last renewal of a
 24 license under this chapter; or
 - 25 (2) if the licensee is renewing a license for the first time, after the
 26 date on which the licensee was issued the license under this
 27 chapter.
- 28 (e) If an insurance producer receives qualification for a license in
 29 more than one (1) line of authority under IC 27-1-15.6, the insurance
 30 producer may not be required to complete a total of more than
 31 twenty-four (24) hours of credit in continuing education courses to
 32 renew the license.
- 33 (f) Except as provided in subsection (g), a licensee may receive
 34 credit only for completing the following continuing education courses:
- 35 (1) Continuing education courses that have been approved by the
 36 commissioner under section 4 of this chapter.
 - 37 (2) Continuing education courses that are required for the licensee
 38 under IC 27-19-4-14.
- 39 (g) A licensee who teaches a course approved by the commissioner
 40 under section 4 of this chapter shall receive continuing education credit
 41 for teaching the course.
- 42 (h) When a licensee renews a license issued under this chapter, the



- 1 licensee must submit:
- 2 (1) a continuing education statement that:
- 3 (A) is in a format authorized by the commissioner;
- 4 (B) is signed by the licensee under oath; and
- 5 (C) lists the continuing education courses completed by the
- 6 licensee to satisfy the continuing education requirements of
- 7 this section; and
- 8 (2) any other information required by the commissioner.
- 9 (i) A continuing education statement submitted under subsection (h)
- 10 may be reviewed and audited by the department.
- 11 (j) A licensee shall retain a copy of the original certificate of
- 12 completion received by the licensee for completion of a continuing
- 13 education course.
- 14 (k) A licensee who completes a continuing education course that:
- 15 (1) is approved by the commissioner under section 4 of this
- 16 chapter;
- 17 (2) is held in a classroom setting; and
- 18 (3) concerns ethics;
- 19 shall receive continuing education credit not to exceed four (4) hours
- 20 in a renewal period.
- 21 SECTION 6. IC 27-1-15.7-2.2 IS ADDED TO THE INDIANA
- 22 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 23 [EFFECTIVE JULY 1, 2021]: **Sec. 2.2. (a) This section applies to the**
- 24 **renewal of a license under this chapter after December 31, 2021.**
- 25 **(b) If a resident insurance producer completed more than**
- 26 **twenty-four (24) hours of credit in continuing education courses**
- 27 **before the effective date of the producer's last renewal under this**
- 28 **chapter of a license issued under IC 27-1-15.6, the producer,**
- 29 **instead of completing twenty-four (24) hours of credit in continuing**
- 30 **education courses after the effective date of the producer's last**
- 31 **license renewal as otherwise required under section 2(d) of this**
- 32 **chapter, may satisfy the continuing education requirement of**
- 33 **section 2 of this chapter for the producer's next license renewal**
- 34 **through a combination of:**
- 35 **(1) credit for continuing education courses completed by the**
- 36 **producer before the effective date of the producer's last**
- 37 **license renewal; and**
- 38 **(2) credit for continuing education courses completed by the**
- 39 **producer after the effective date of the producer's last license**
- 40 **renewal.**
- 41 **(c) To apply toward satisfaction of the continuing education**
- 42 **requirement for a producer's next license renewal under**



1 subsection (b)(1), credit for a continuing education course
 2 completed by the producer before the effective date of the
 3 producer's last license renewal must not have applied toward
 4 satisfaction of the continuing education requirement for the
 5 producer's last license renewal.

6 (d) A producer satisfies the continuing education requirement
 7 of section 2 of this chapter under subsection (b) for the producer's
 8 next license renewal if the sum of:

9 (1) the credit hours applied toward the requirement under
 10 subsection (b)(1); plus

11 (2) the credit hours applied toward the requirement under
 12 subsection (b)(2);

13 is twenty-four (24).

14 (e) Not more than twelve (12) hours of credit in continuing
 15 education courses completed by a producer before the effective
 16 date of the producer's last license renewal may be applied toward
 17 satisfying the continuing education requirement of section 2 of this
 18 chapter for the producer's next license renewal under subsection
 19 (b)(1).

20 (f) The credit for a producer's completion of a continuing
 21 education course may not be applied toward satisfying the
 22 continuing education requirement of section 2 of this chapter
 23 under subsection (b)(1) unless the producer completed the
 24 continuing education course not more than one hundred twenty
 25 (120) days before the effective date of the producer's last license
 26 renewal.

27 (g) Credit for a producer's completion of a continuing education
 28 course on the subject of:

29 (1) ethics; or

30 (2) long term care insurance;

31 before the effective date of the producer's last license renewal may
 32 not be applied toward satisfying the continuing education
 33 requirement of section 2 of this chapter for the producer's next
 34 license renewal under subsection (b)(1).

35 (h) The credit for a producer's completion of a continuing
 36 education course, whether applied toward the continuing education
 37 requirement of section 2 of this chapter under subsection (b)(1),
 38 subsection (b)(2), or section 2(d) of this chapter, may be applied
 39 toward the requirement only once.

40 (i) The commissioner shall adopt rules under IC 4-22-2 to
 41 implement this section.

