



February 24, 2014

ENGROSSED

SENATE BILL No. 406

DIGEST OF SB 406 (Updated February 24, 2014 2:26 pm - DI 104)

Citations Affected: IC 5-11; IC 12-7; IC 12-8; IC 12-10; IC 12-15; IC 16-18; IC 16-19; IC 16-21; IC 16-25; IC 16-27; IC 16-28; IC 16-29; IC 16-36; IC 16-37; IC 16-38; IC 16-41; IC 16-42; noncode.

Synopsis: Health and human services matters. Makes certain procedural changes to the false claims act and Medicaid false claims act to remove inconsistencies and comply with federal law. Beginning January 1, 2015, changes asset limitations within the community and home options to institutional care for the elderly and disabled program (program) from \$500,000 to \$250,000 and specifies certain exemptions. Beginning January 1, 2015, requires annual adjustment of the asset limitation using the federal Consumer Price Index. Beginning January 1, 2015, allows a participant who is unable to perform at least one activity to participate in the program under specified circumstances. Requires the division of aging (division) and the area agencies on aging to jointly establish specified procedures. Beginning January 1, 2015, allows the division to: (1) annually redetermine program eligibility; and (2) place a lien to recoup the cost of program services that exceed \$20,000. Requires the division to exclude \$20,000 of countable assets in determining cost participation for the program.
(Continued next page)

Effective: Upon passage; July 1, 2014; January 1, 2015.

**Mishler, Charbonneau, Hershman,
Mrvan, Randolph**

(HOUSE SPONSORS — CLERE, BROWN T)

January 14, 2014, read first time and referred to Committee on Health and Provider Services.

January 23, 2014, reported favorably — Do Pass.

January 27, 2014, read second time, ordered engrossed.

January 28, 2014, engrossed.

February 3, 2014, read third time, passed. Yeas 48, nays 0.

HOUSE ACTION

February 10, 2014, read first time and referred to Committee on Public Health.

February 24, 2014, amended, reported — Do Pass.

ES 406—LS 6935/DI 106



Digest Continued

Designates the office of the secretary of family and social services as the single state agency for the administration of the Medicaid program and removes the designation from the office of Medicaid policy and planning. Repeals the law concerning the health care facility advisory council. Transfers certain duties of the council to the state department of health. Changes the amount of time from four years after birth to twelve months after birth that a birth certificate presented for filing is considered a delayed certificate of birth. Requires a diagnosis of autism at any age to be reported to the birth problems registry. (Current law provides for the reporting of an autism diagnosis made before a child's fifth birthday). Adds certain visual impairments to the definition of birth problems for purposes of reporting to the birth problems registry. Allows not more than 50% of the monies in the spinal cord and brain injury fund to be used to develop a statewide trauma system. Adds insulin to the definition of "legend drug". Provides that insulin may be sold for retail sale by a pharmacy only to an individual who possesses a prescription from certain practitioners. Requires, before September 1, 2014, the state department of health to: (1) adopt rules concerning the regulation of facilities for treatment of traumatic brain injuries; and (2) make recommendations to the legislative council and health finance commission concerning food handling law changes.

ES 406—LS 6935/DI 106



February 24, 2014

Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

ENGROSSED SENATE BILL No. 406

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

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

- 1 SECTION 1. IC 5-11-5.5-2, AS ADDED BY P.L.222-2005,
2 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2014]: Sec. 2. (a) This section does not apply to:
4 (1) a claim, record, or statement concerning income tax (IC 6-3);
5 or
6 (2) a claim, request, demand, statement, record, act, or
7 omission made or submitted after June 30, 2014, in relation to
8 the Medicaid program described in IC 12-15.
9 (b) A person who knowingly or intentionally:
10 (1) presents a false claim to the state for payment or approval;
11 (2) makes or uses a false record or statement to obtain payment or
12 approval of a false claim from the state;
13 (3) with intent to defraud the state, delivers less money or
14 property to the state than the amount recorded on the certificate
15 or receipt the person receives from the state;
16 (4) with intent to defraud the state, authorizes issuance of a

ES 406—LS 6935/DI 106



1 receipt without knowing that the information on the receipt is
 2 true;
 3 (5) receives public property as a pledge of an obligation on a debt
 4 from an employee who is not lawfully authorized to sell or pledge
 5 the property;
 6 (6) makes or uses a false record or statement to avoid an
 7 obligation to pay or transmit property to the state;
 8 (7) conspires with another person to perform an act described in
 9 subdivisions (1) through (6); or
 10 (8) causes or induces another person to perform an act described
 11 in subdivisions (1) through (6);
 12 is, except as provided in subsection (c), liable to the state for a civil
 13 penalty of at least five thousand dollars (\$5,000) and for up to three (3)
 14 times the amount of damages sustained by the state. In addition, a
 15 person who violates this section is liable to the state for the costs of a
 16 civil action brought to recover a penalty or damages.

17 (c) If the factfinder determines that the person who violated this
 18 section:

19 (1) furnished state officials with all information known to the
 20 person about the violation not later than thirty (30) days after the
 21 date on which the person obtained the information;
 22 (2) fully cooperated with the investigation of the violation; and
 23 (3) did not have knowledge of the existence of an investigation,
 24 a criminal prosecution, a civil action, or an administrative action
 25 concerning the violation at the time the person provided
 26 information to state officials;

27 the person is liable for a penalty of not less than two (2) times the
 28 amount of damages that the state sustained because of the violation. A
 29 person who violates this section is also liable to the state for the costs
 30 of a civil action brought to recover a penalty or damages.

31 SECTION 2. IC 5-11-5.7-1, AS ADDED BY P.L.197-2013,
 32 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2014]: Sec. 1. (a) This chapter applies only to claims,
 34 requests, demands, statements, records, acts, and omissions made or
 35 submitted in relation to the Medicaid program described in IC 12-15.
 36 **Sections 3 through 18 of this chapter apply to claims, requests,**
 37 **demands, statements, records, acts, and omissions made or**
 38 **submitted in relation to the Medicaid program described in**
 39 **IC 12-15 in violation of IC 5-11-5.5-2 or IC 5-11-5.7-2.**

40 (b) The following definitions apply throughout this chapter:

41 (1) "Claim" means a request or demand for money or property,
 42 whether under a contract or otherwise, and whether or not the



- 1 state has title to the money or property, that:
 2 (A) is presented to an officer, employee, or agent of the state;
 3 or
 4 (B) is made to a contractor, grantee, or other recipient, if the
 5 money or property is to be spent or used on the state's behalf
 6 or to advance a state program or interest, and if the state:
 7 (i) provides or has provided any part of the money or
 8 property that is requested or demanded; or
 9 (ii) will reimburse the contractor, grantee, or other recipient
 10 for any part of the money or property that is requested or
 11 demanded.
- 12 (2) ~~"Documentary material"~~ **"Document"**, **"electronically**
 13 **stored information"**, or **"tangible thing"** ~~includes:~~ **means:**
 14 (A) the original or a copy of a book, record, report,
 15 memorandum, paper, communication, tabulation, chart, or
 16 other document; **a writing, a drawing, a graph, a chart, a**
 17 **photograph, a sound recording, or an image;**
 18 (B) **other data or** a data compilation stored in **any medium**
 19 **from which information can be obtained either directly or**
 20 **accessible through computer or other information retrieval**
 21 **systems; together with instructions and all other materials**
 22 **necessary to use or interpret the data compilations; after**
 23 **translation by the responding party into a reasonably**
 24 **usable form; and**
 25 **(C) any tangible thing; and**
 26 ~~(D)~~ **(D)** a product of discovery.
- 27 (3) "Investigation" means an inquiry conducted by an investigator
 28 to ascertain whether a person is or has been engaged in a violation
 29 of this chapter.
- 30 (4) "Knowing", "knowingly", or "known" means that a person,
 31 regarding information:
 32 (A) has actual knowledge of the information;
 33 (B) acts in deliberate ignorance of the truth or falsity of the
 34 information; or
 35 (C) acts in reckless disregard of the truth or falsity of the
 36 information;
 37 and requires no proof of specific intent to defraud.
- 38 (5) "Material" means having a natural tendency to influence, or be
 39 capable of influencing, the payment or receipt of money or
 40 property.
- 41 (6) "Obligation" means an established duty, whether or not the
 42 duty is fixed, arising from:



- 1 (A) an express or implied contractual relationship;
 2 (B) a grantor-grantee relationship;
 3 (C) a licensor-licensee relationship;
 4 (D) a fee-based or similar relationship;
 5 (E) a statute;
 6 (F) a rule or regulation; or
 7 (G) the retention of an overpayment.
- 8 (7) "Person" includes a natural person, a corporation, a firm, an
 9 association, an organization, a partnership, a limited liability
 10 company, a business, or a trust.
- 11 (8) "Product of discovery" means the original or duplicate of:
 12 (A) a deposition;
 13 (B) an interrogatory;
 14 (C) a document;
 15 (D) a thing;
 16 (E) a result of the inspection of land or other property; or
 17 (F) an examination or admission;
 18 that is obtained by any method of discovery in a judicial or an
 19 administrative proceeding of an adversarial nature. The term
 20 includes a digest, an analysis, a selection, a compilation, a
 21 derivation, an index, or another method of accessing an item
 22 listed in this subdivision. **The term also includes electronically**
 23 **stored information.**
- 24 (9) "State" means Indiana or any agency of state government. The
 25 term does not include a political subdivision.
- 26 SECTION 3. IC 5-11-5.7-2, AS ADDED BY P.L.197-2013,
 27 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2014]: Sec. 2. (a) ~~This section does not apply to a claim;~~
 29 ~~record; or statement concerning income tax (IC 6-3):~~
- 30 (b) (a) A person who:
 31 (1) knowingly presents, or causes to be presented, a false or
 32 fraudulent claim for payment or approval;
 33 (2) knowingly makes, uses, or causes to be made or used, a false
 34 record or statement that is material to a false or fraudulent claim;
 35 (3) has possession, custody, or control of property or money used,
 36 or to be used, by the state, and knowingly delivers, or causes to be
 37 delivered, less than all of the money or property;
 38 (4) is authorized to make or deliver a document certifying receipt
 39 of property used, or to be used, by the state and, with intent to
 40 defraud the state, authorizes issuance of a receipt without
 41 knowing that the information on the receipt is true;
 42 (5) knowingly buys or receives, as a pledge of an obligation or



1 debt, public property from an employee who is not lawfully
2 authorized to sell or pledge the property;

3 (6) knowingly:

4 (A) makes, uses, or causes to be made or used, a false record
5 or statement concerning an obligation to pay or transmit
6 money or property to the state; or

7 (B) conceals or knowingly and improperly avoids or decreases
8 an obligation to pay or transmit money or property to the state;

9 (7) conspires with another person to perform an act described in
10 subdivisions (1) through (6); or

11 (8) causes or induces another person to perform an act described
12 in subdivisions (1) through (6);

13 is, except as provided in subsection ~~(c)~~ (b), liable to the state for a civil
14 penalty of at least five thousand five hundred dollars (\$5,500) and not
15 more than eleven thousand dollars (\$11,000), as adjusted by the federal
16 Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note,
17 Public Law 101-410), and for up to three (3) times the amount of
18 damages sustained by the state. In addition, a person who violates this
19 section is liable to the state for the costs of a civil action brought to
20 recover a penalty or damages.

21 ~~(c)~~ (b) If the factfinder determines that the person who violated this
22 section:

23 (1) furnished state officials with all information known to the
24 person about the violation not later than thirty (30) days after the
25 date on which the person obtained the information;

26 (2) fully cooperated with the investigation of the violation; and

27 (3) did not have knowledge of the existence of an investigation,
28 a criminal prosecution, a civil action, or an administrative action
29 concerning the violation at the time the person provided
30 information to state officials;

31 the person is liable for a penalty of not less than two (2) times the
32 amount of damages that the state sustained because of the violation. A
33 person who violates this section is also liable to the state for the costs
34 of a civil action brought to recover a penalty or damages.

35 SECTION 4. IC 5-11-5.7-3, AS ADDED BY P.L.197-2013,
36 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
37 JULY 1, 2014]: Sec. 3. (a) The:

38 (1) attorney general; and

39 (2) inspector general;

40 have concurrent jurisdiction to investigate a violation of section 2 of
41 this chapter.

42 (b) If the attorney general discovers a violation of section 2 of this



1 chapter, the attorney general may bring a civil action under this chapter
2 against a person who may be liable for the violation.

3 (c) If the inspector general discovers a violation of section 2 of this
4 chapter, the inspector general shall certify this finding to the attorney
5 general. The attorney general may bring a civil action under this
6 chapter against a person who may be liable for the violation.

7 (d) If the attorney general or the inspector general is served by a
8 person who has filed a civil action under section 4 of this chapter, the
9 attorney general has the authority to intervene in that action as set forth
10 in section 4 of this chapter.

11 (e) If the attorney general:

12 (1) is disqualified from investigating a possible violation of
13 section 2 of this chapter;

14 (2) is disqualified from bringing a civil action concerning a
15 possible violation of section 2 of this chapter;

16 (3) is disqualified from intervening in a civil action brought under
17 section 4 of this chapter concerning a possible violation of section
18 2 of this chapter;

19 (4) elects not to bring a civil action concerning a possible
20 violation of section 2 of this chapter; or

21 (5) elects not to intervene under section 4 of this chapter;

22 the attorney general shall certify the attorney general's disqualification
23 or election to the inspector general.

24 (f) If the attorney general has certified the attorney general's
25 disqualification or election not to bring a civil action or intervene in a
26 case under subsection (e), the inspector general has authority to:

27 (1) bring a civil action concerning a possible violation of section
28 2 of this chapter; or

29 (2) intervene in a case under section 4 of this chapter.

30 (g) The attorney general shall certify to the inspector general the
31 attorney general's disqualification or election under subsection (e) in a
32 timely fashion, and in any event not later than:

33 (1) sixty (60) days after being served, if the attorney general has
34 been served by a person who has filed a civil action under section
35 4 of this chapter; or

36 (2) one hundred eighty (180) days before the expiration of the
37 statute of limitations, if the attorney general has not been served
38 by a person who has filed a civil action under section 4 of this
39 chapter.

40 (h) A civil action brought under section 4 of this chapter may be
41 filed in:

42 (1) a circuit or superior court in Marion County; or



- 1 (2) a circuit or superior court in the county in which a defendant
2 or plaintiff resides.
- 3 (†) (h) The state is not required to file a bond under this chapter.
- 4 SECTION 5. IC 5-11-5.7-4, AS ADDED BY P.L.197-2013,
5 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
6 JULY 1, 2014]: Sec. 4. (a) A person may bring a civil action for a
7 violation of section 2 of this chapter on behalf of the person and on
8 behalf of the state. The action:
- 9 (1) must be brought in the name of the state; and
10 (2) may be filed in **any court with jurisdiction. a circuit or**
11 **superior court in:**
- 12 (A) the county in which the person resides;
13 (B) the county in which a defendant resides; or
14 (C) Marion County.
- 15 (b) ~~Except as provided in section 5 of this chapter,~~ An action
16 brought under this section may be dismissed **voluntarily by the**
17 **person bringing the action** only if:
- 18 (1) **the person obtains the prior written consent of** the attorney
19 general or the inspector general, if applicable; ~~files a written~~
20 **motion to dismiss explaining why dismissal is appropriate;** and
21 (2) the court issues an order:
- 22 (A) granting the motion; and
23 (B) explaining the court's reasons for granting the motion.
- 24 (c) A person who brings an action under this section shall serve:
25 (1) a copy of the complaint; and
26 (2) a written disclosure that describes all relevant material
27 evidence and information the person possesses;
28 on both the attorney general and the inspector general. The person shall
29 file the complaint under seal, and the complaint shall remain under seal
30 for at least sixty (60) days. The complaint shall not be served on the
31 defendant until the court orders the complaint served on the defendant
32 following the intervention or the election not to intervene of the
33 attorney general or the inspector general. The state may elect to
34 intervene and proceed with the action not later than sixty (60) days
35 after it receives both the complaint and the written disclosure.
- 36 (d) For good cause shown, the attorney general or the inspector
37 general may move the court to extend the time during which the
38 complaint must remain under seal. A motion for extension may be
39 supported by an affidavit or other evidence. The affidavit or other
40 evidence may be submitted in camera.
- 41 (e) Before the expiration of the time during which the complaint is
42 sealed, the attorney general or the inspector general may:



- 1 (1) intervene in the case and proceed with the action, in which
 2 case the attorney general or the inspector general shall conduct
 3 the action; or
 4 (2) elect not to proceed with the action, in which case the person
 5 who initially filed the complaint may proceed with the action.
 6 (f) The defendant in an action filed under this section is not required
 7 to answer the complaint until twenty-one (21) days after the complaint
 8 has been unsealed and served on the defendant.
 9 (g) After a person has filed a complaint under this section, no person
 10 other than the attorney general or the inspector general may:
 11 (1) intervene; or
 12 (2) bring another action based on the same facts.
 13 (h) If the person who initially filed the complaint:
 14 (1) planned and initiated the violation of section 2 of this chapter;
 15 or
 16 (2) has been convicted of a crime related to the person's violation
 17 of section 2 of this chapter;
 18 upon motion of the attorney general or the inspector general, the court
 19 shall dismiss the person as a plaintiff.
 20 SECTION 6. IC 5-11-5.7-5, AS ADDED BY P.L.197-2013,
 21 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2014]: Sec. 5. (a) If the attorney general or the inspector
 23 general intervenes in an action under section 4 of this chapter, the
 24 attorney general or the inspector general is responsible for prosecuting
 25 the action and is not bound by an act of the person who initially filed
 26 the complaint. The attorney general or the inspector general may do the
 27 following:
 28 (1) File a complaint.
 29 (2) Amend the complaint of a person who has brought an action
 30 under section 4 of this chapter, to:
 31 (A) clarify or add detail to the claims in which the state is
 32 intervening; or
 33 (B) add additional claims to which the state contends the state
 34 is entitled to relief.
 35 (3) Move for a change of venue to Marion County if the attorney
 36 general or the inspector general files a motion for change of venue
 37 not later than ten (10) days after the attorney general or the
 38 inspector general intervenes.
 39 For statute of limitation purposes, a pleading filed by the attorney
 40 general or the inspector general relates back to the filing date of the
 41 complaint of the person who originally brought the action, to the extent
 42 that the claim of the state arises out of the conduct, transactions, or



1 occurrences set forth, or attempted to be set forth, in the original filed
 2 complaint. Except as provided in this section, the person who initially
 3 filed the complaint may continue as a party to the action.

4 (b) With the approval of the court, the attorney general or the
 5 inspector general may dismiss the action after:

- 6 (1) notifying the person who initially filed the complaint; and
- 7 (2) the court has conducted a hearing at which the person who
- 8 initially filed the complaint was provided the opportunity to be
- 9 heard on the motion.

10 The court may consider a request by the attorney general or the
 11 inspector general to dismiss the action but is not bound by the request.
 12 Additionally, the court may permit the attorney general or inspector
 13 general to ~~be dismissed from~~ **withdraw his or her appearance in** the
 14 case and may permit the person who initially filed the complaint to
 15 continue to prosecute the action **in the name of the state.**

16 (c) The attorney general or the inspector general may settle the
 17 action if a court determines, after a hearing, that the proposed
 18 settlement is fair, adequate, and reasonable in light of the
 19 circumstances. Upon a showing of good cause, the court may:

- 20 (1) conduct the settlement hearing in camera; or
- 21 (2) lift all or part of the seal to facilitate the investigative process
- 22 or settlement.

23 The court may consider an objection to the settlement brought by the
 24 person who initially filed the complaint, but is not bound by this
 25 objection.

26 (d) Upon a showing by the attorney general, the inspector general,
 27 or the defendant that unrestricted participation by the person who
 28 initially filed the complaint:

- 29 (1) will interfere with or unduly delay the prosecution of the case
- 30 by the attorney general or the inspector general;
- 31 (2) will involve the presentation of repetitious or irrelevant
- 32 evidence, or evidence introduced for purposes of harassment; or
- 33 (3) will cause the defendant to suffer undue burden or
- 34 unnecessary expense;

35 the court may impose reasonable limitations on the person's
 36 participation, including a limit on the number of witnesses that the
 37 person may call, a limit to the length of testimony that the person's
 38 witness may present, a limit to the person's cross-examination of a
 39 witness, or otherwise limit the participation by the person in the
 40 litigation.

41 (e) If the attorney general or the inspector general elects not to
 42 intervene in the action, the person who initially filed the complaint has



1 the right to prosecute the action. Upon request, the attorney general or
2 the inspector general shall be served with copies of all documents filed
3 in the action and may obtain a copy of depositions and other transcripts
4 at the state's expense.

5 (f) If the attorney general and the inspector general have elected not
6 to intervene in an action in accordance with section 4 of this chapter,
7 upon a showing of good cause, a court may permit either the attorney
8 general or the inspector general to intervene at a later time. The
9 attorney general may move to intervene at any time. If the attorney
10 general has not moved to intervene, the inspector general may move to
11 intervene by providing written notice to the attorney general of the
12 inspector general's intent to intervene. If the attorney general does not
13 move to intervene earlier than fifteen (15) days after receipt of the
14 notice of intent to intervene, the inspector general may move to
15 intervene. If the attorney general or the inspector general intervenes
16 under this subsection, the attorney general or the inspector general is
17 responsible for prosecuting the action as if the attorney general or the
18 inspector general had intervened in accordance with section 4 of this
19 chapter.

20 (g) If the attorney general or inspector general shows that a specific
21 discovery action by the person who initially filed the complaint will
22 interfere with the investigation or prosecution of a civil or criminal
23 matter arising out of the same facts, the court may, following a hearing
24 in camera, stay discovery for not more than sixty (60) days. After the
25 court has granted a sixty (60) day stay, the court may extend the stay,
26 following a hearing in camera, if it determines that the state has
27 pursued the civil or criminal investigation with reasonable diligence
28 and that a specific discovery action by the person who initially filed the
29 complaint will interfere with the state's investigation or prosecution of
30 the civil or criminal matter.

31 (h) A court may dismiss an action brought under this chapter to
32 permit the attorney general or the inspector general to pursue its claim
33 through an alternative proceeding, including an administrative
34 proceeding or a proceeding brought in another jurisdiction. The person
35 who initially filed the complaint has the same rights in the alternative
36 proceedings as the person would have had in the original proceedings.
37 A finding of fact or conclusion of law made in the alternative
38 proceeding is binding on all parties to an action under this section once
39 the determination made in the alternative proceeding is final under the
40 rules, regulations, statutes, or law governing the alternative proceeding,
41 or if the time for seeking an appeal or review of the determination
42 made in the alternative proceeding has elapsed.



1 SECTION 7. IC 5-11-5.7-6, AS ADDED BY P.L.197-2013,
 2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2014]: Sec. 6. (a) The person who initially filed the complaint
 4 is entitled to the following amounts if the state prevails in the action:

5 (1) Except as provided in subdivision (2), if the attorney general
 6 or the inspector general intervened in the action, the person is
 7 entitled to receive at least fifteen percent (15%) and not more than
 8 twenty-five percent (25%) of the proceeds of the action or
 9 settlement, plus reasonable attorney's fees and an amount to cover
 10 the expenses and costs of bringing the action.

11 (2) If the attorney general or the inspector general intervened in
 12 the action and the court finds that the evidence used to prosecute
 13 the action consisted primarily of specific information, other than
 14 information provided by the person bringing the action, contained
 15 in:

16 (A) a transcript of a criminal, a civil, or an administrative
 17 hearing;

18 (B) a legislative, an administrative, or another public **state**
 19 report, hearing, audit, or investigation; or

20 (C) a news media report;

21 the person is entitled to receive not more than ten percent (10%)
 22 of the proceeds of the action or settlement, taking into account the
 23 significance of the information and the role of the person bringing
 24 the action in advancing the case to litigation, plus reasonable
 25 attorney's fees and an amount to cover the expenses and costs of
 26 bringing the action.

27 (3) If the attorney general or the inspector general did not
 28 intervene in the action, the person is entitled to receive at least
 29 twenty-five percent (25%) and not more than thirty percent (30%)
 30 of the proceeds of the action or settlement, plus reasonable
 31 attorney's fees and an amount to cover the expenses and costs of
 32 bringing the action.

33 (4) If the person who initially filed the complaint:

34 (A) planned and initiated the violation of section 2 of this
 35 chapter; or

36 (B) has been convicted of a crime related to the person's
 37 violation of section 2 of this chapter;

38 the person is not entitled to an amount under this section.

39 After conducting a hearing at which the attorney general or the
 40 inspector general and the person who initially filed the complaint may
 41 be heard, the court shall determine the specific amount to be awarded
 42 under this section to the person who initially filed the complaint. The



1 award of reasonable attorney's fees plus an amount to cover the
 2 expenses and costs of bringing the action is an additional cost assessed
 3 against the defendant and may not be paid from the proceeds of the
 4 civil action.

5 (b) If:

6 (1) the attorney general or the inspector general did not intervene
 7 in the action; and

8 (2) the defendant prevails;

9 the court may award the defendant reasonable attorney's fees plus an
 10 amount to cover the expenses and costs of defending the action, if the
 11 court finds that the action is frivolous, vexatious, or brought primarily
 12 for purposes of harassment.

13 (c) The state is not liable for the expenses, costs, or attorney's fees
 14 of a party to an action brought under this chapter.

15 SECTION 8. IC 5-11-5.7-7, AS ADDED BY P.L.197-2013,
 16 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2014]: Sec. 7. (a) This section does not apply to an action
 18 brought by:

19 (1) the attorney general;

20 (2) the inspector general;

21 (3) a prosecuting attorney; or

22 (4) a state employee in the employee's official capacity.

23 (b) A court does not have jurisdiction over an action brought under
 24 section 4 of this chapter if the action is brought by an incarcerated
 25 offender, including an offender incarcerated in another jurisdiction.

26 (c) A court does not have jurisdiction over an action **or claim**
 27 brought under section 4 of this chapter against the state, a state officer,
 28 a judge (as defined in IC 33-23-11-7), a justice, a member of the
 29 general assembly, a state employee, or an employee of a political
 30 subdivision, if the action **or claim** is based on information known to
 31 the state at the time the action was brought.

32 (d) A court does not have jurisdiction over an action brought under
 33 section 4 of this chapter if the action is based upon an act that is the
 34 subject of a civil suit, a criminal prosecution, or an administrative
 35 proceeding in which the state is a party.

36 (e) A court does not have jurisdiction over an action brought under
 37 section 4 of this chapter if the action is based upon information
 38 contained in:

39 (1) a transcript of a criminal, a civil, or an administrative hearing
 40 in which the state or the state's agent is a party;

41 (2) a legislative, an administrative, or another public state report,
 42 hearing, audit, or investigation; or



1 (3) a news media report;
 2 unless the person bringing the action either, before a public disclosure
 3 under this section voluntarily discloses to the state the information on
 4 which the allegations or transactions in a claim are based, or has
 5 knowledge that is independent of and materially adds to the publicly
 6 disclosed allegations or transactions, and the person bringing the action
 7 has voluntarily provided this information to the state before an action
 8 is filed under section 4 of this chapter.

9 (f) In determining whether a prior public disclosure bars a court
 10 from exercising jurisdiction over an action brought under section 4 of
 11 this chapter, the court shall consider, but is not bound by, any objection
 12 brought by the attorney general or the inspector general.

13 SECTION 9. IC 5-11-5.7-8, AS ADDED BY P.L.197-2013,
 14 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2014]: Sec. 8. (a) An employee, contractor, or agent who has
 16 been discharged, demoted, suspended, threatened, harassed, or
 17 otherwise discriminated against in the terms and conditions of
 18 employment because of lawful acts done by the employee, contractor,
 19 agent, or associated others to:

20 (1) object to or otherwise stop an act or omission described in
 21 section 2 of this chapter; ~~or~~

22 (2) initiate, testify, assist, or participate in an investigation, an
 23 action, or a hearing; ~~under this chapter; or~~

24 **(3) perform any other lawful act in furtherance of other**
 25 **efforts to stop one (1) or more violations under this chapter;**

26 is entitled to all relief necessary to make the employee, contractor, or
 27 agent whole.

28 (b) Relief under this section must include:

29 (1) reinstatement with the same seniority status the employee,
 30 contractor, or agent would have had but for the act described in
 31 subsection (a);

32 (2) two (2) times the amount of back pay;

33 (3) interest on the back pay; and

34 (4) compensation for any special damages sustained as a result of
 35 the act described in subsection (a), including costs and expenses
 36 of litigation and reasonable attorney's fees.

37 (c) An employee, **contractor, or agent** may bring an action for the
 38 relief provided in this section in any court with jurisdiction.

39 (d) A civil action under this section may not be brought more than
 40 three (3) years after the date the retaliation occurred.

41 SECTION 10. IC 5-11-5.7-9, AS ADDED BY P.L.197-2013,
 42 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2014]: Sec. 9. (a) A subpoena requiring the attendance of a
 2 witness at a trial or hearing conducted under this chapter may be served
 3 at any place in Indiana.

4 (b) A civil action under section 4 of this chapter is barred unless it
 5 is commenced:

6 (1) not later than six (6) years after the date on which the violation
 7 is committed; or

8 (2) not later than three (3) years after the date when facts material
 9 to the cause of action are known or reasonably should have been
 10 known by a state officer or employee who is responsible for
 11 addressing the false claim, ~~However, an action is barred unless it~~
 12 ~~is commenced not but in no event~~ later than ten (10) years after
 13 the date on which the violation is committed, **whichever occurs**
 14 **later.**

15 (c) In a civil action brought under this chapter, the state is required
 16 to establish:

17 (1) the essential elements of the offense; and

18 (2) damages;

19 by a preponderance of the evidence.

20 (d) If a defendant has been convicted (including a plea of guilty or
 21 nolo contendere) of a crime involving fraud or a false statement, the
 22 defendant is estopped from denying the elements of the offense in a
 23 civil action brought under section 4 of this chapter that involves the
 24 same transaction as the criminal prosecution.

25 SECTION 11. IC 5-11-5.7-10, AS ADDED BY P.L.197-2013,
 26 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2014]: Sec. 10. (a) Whenever the attorney general, the
 28 inspector general, or the designee of the attorney general or the
 29 inspector general has reason to believe that a person may be in
 30 possession, custody, or control of documentary material, **electronically**
 31 **stored information, a tangible thing**, or information relevant to an
 32 investigation under this chapter involving a false claim, the attorney
 33 general, the inspector general, or the designee of the attorney general
 34 or inspector general may, before commencing a civil proceeding under
 35 this chapter, issue and serve a civil investigative demand requiring the
 36 person to do one (1) or more of the following:

37 (1) Produce the documentary material, **electronically stored**
 38 **information, or tangible thing** for inspection and copying.

39 (2) Answer an interrogatory in writing concerning the
 40 documentary material, **electronically stored information,**
 41 **tangible thing**, or information.

42 (3) Give oral testimony concerning the documentary material,



1 **electronically stored information, tangible thing, or**
 2 information.

3 **(4) Furnish any combination of material, other evidence,**
 4 **answers, or testimony.**

5 (b) If a civil investigative demand is a specific demand for a product
 6 of discovery, the official issuing the civil investigative demand shall:

7 (1) serve a copy of the civil investigative demand on the person
 8 from whom the discovery was obtained; and

9 (2) notify the person to whom the civil investigative demand is
 10 issued of the date of service.

11 SECTION 12. IC 5-11-5.7-14, AS ADDED BY P.L.197-2013,
 12 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2014]: Sec. 14. (a) The production of documentary material
 14 in response to a civil investigative demand served under this chapter
 15 shall be made in accordance with ~~Trial Rule 34~~ **the rules of civil**
 16 **procedure concerning the production of documents, electronically**
 17 **stored information, and tangible things.**

18 (b) Each interrogatory in a civil investigative demand served under
 19 this chapter shall be answered in accordance with ~~Trial Rule 33:~~ **the**
 20 **rules of civil procedure concerning interrogatories.**

21 (c) The examination of a person under a civil investigative demand
 22 for oral testimony served under this chapter shall be conducted in
 23 accordance with ~~Trial Rule 30:~~ **the rules of civil procedure**
 24 **concerning oral depositions.**

25 SECTION 13. IC 5-11-5.7-16, AS ADDED BY P.L.197-2013,
 26 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2014]: Sec. 16. (a) A person who has failed to comply with a
 28 civil investigative demand is subject to sanctions under ~~Trial Rule 37~~
 29 **the rules of civil procedure** to the same extent as a person who has
 30 failed to cooperate in discovery.

31 (b) A person who objects to a civil investigative demand issued
 32 under this chapter may seek a protective order in accordance with ~~Trial~~
 33 ~~Rule 26(C):~~ **the rules of civil procedure.**

34 SECTION 14. IC 5-11-5.7-18, AS ADDED BY P.L.197-2013,
 35 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 2014]: Sec. 18. Proceedings under this chapter are governed
 37 by the Indiana Rules of Trial Procedure **if the proceedings are held in**
 38 **state court, and by the Federal Rules of Civil Procedure if the**
 39 **proceedings are held in federal court. unless the Indiana Rules of**
 40 **Trial Procedure are inconsistent with this chapter.**

41 SECTION 15. IC 12-7-2-44.6 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JANUARY 1, 2015]: Sec. 44.6. "Countable



1 asset" means the following:

2 **(1) For purposes of IC 12-10-10, in determining eligibility for**
 3 **the community and home options to institutional care for the**
 4 **elderly and disabled program, property that is included in**
 5 **determining assets in the same manner as determining an**
 6 **individual's eligibility for the Medicaid aged and disabled**
 7 **waiver.**

8 **(2) For purposes of IC 12-20, means noncash property that is not**
 9 **necessary for the health, safety, or decent living standard of a**
 10 **household that:**

11 ~~(1)~~ **(A)** is owned wholly or in part by the applicant or a
 12 member of the applicant's household;

13 ~~(2)~~ **(B)** the applicant or the household member has the legal
 14 right to sell or liquidate; and

15 ~~(3)~~ **(C)** includes:

16 ~~(A)~~ **(i)** real property other than property that is used for the
 17 production of income or that is the primary residence of the
 18 household;

19 ~~(B)~~ **(ii)** savings and checking accounts, certificates of
 20 deposit, bonds, stocks, and other intangibles that have a net
 21 cash value; and

22 ~~(C)~~ **(iii)** boats, other vehicles, or any other personal property
 23 used solely for recreational or entertainment purposes.

24 SECTION 16. IC 12-7-2-49.5 IS ADDED TO THE INDIANA
 25 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 26 [EFFECTIVE JANUARY 1, 2015]: 1, 2014]: **Sec. 49.5. "CPI", for**
 27 **purposes of IC 12-10-10, has the meaning set forth in**
 28 **IC 12-10-10-2.5.**

29 SECTION 17. IC 12-8-1.5-10.5 IS ADDED TO THE INDIANA
 30 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 31 [EFFECTIVE UPON PASSAGE]: **Sec. 10.5. (a) The office of the**
 32 **secretary is designated as the single state agency for administration**
 33 **of the state Medicaid program under IC 12-15.**

34 **(b) The office of the secretary shall develop and coordinate**
 35 **Medicaid policy for the state.**

36 SECTION 18. IC 12-8-6.5-3 IS REPEALED [EFFECTIVE UPON
 37 PASSAGE]. ~~Sec. 3: The office is designated as the single state agency~~
 38 ~~for administration of the state Medicaid program under IC 12-15.~~

39 SECTION 19. IC 12-8-6.5-4, AS ADDED BY P.L.160-2012,
 40 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 UPON PASSAGE]: **Sec. 4. Under the direction of the secretary,**
 42 **the office shall develop and coordinate Medicaid policy for the state.**



1 SECTION 20. IC 12-10-10-1 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JANUARY 1, 2015]: Sec. 1. As used in this
 3 chapter, "case management" means an administrative function
 4 conducted locally by an area agency on aging that includes the
 5 following:

6 (1) Assessment of an individual to determine the individual's
 7 functional impairment level and corresponding need for services.

8 **(2) Initial verification of an individual's income and assets.**

9 ~~(2)~~ **(3) Development of a care plan addressing that:**

10 **(A) addresses** an eligible individual's needs;

11 **(B) takes into consideration the individual's family and**
 12 **community members who are willing to provide services to**
 13 **meet any of the individual's needs; and**

14 **(C) is consistent with a person centered approach to client**
 15 **care.**

16 ~~(3)~~ **(4) Supervision of the implementation of appropriate and**
 17 **available services for an eligible individual.**

18 ~~(4)~~ **(5) Advocacy on behalf of an eligible individual's interests.**

19 ~~(5)~~ **(6) Monitoring the quality of community and home care**
 20 **services provided to an eligible individual.**

21 ~~(6)~~ **(7) Reassessment of the care plan to determine:**

22 **(A) the continuing need and effectiveness of the community**
 23 **and home care services provided to an eligible individual**
 24 **under this chapter; and**

25 **(B) the annual reverification of a plan recipient's income**
 26 **and assets, as may be required by the division under**
 27 **section 4(e) of this chapter.**

28 ~~(7)~~ **(8) Provision of information and referral services to**
 29 **individuals in need of community and home care services.**

30 SECTION 21. IC 12-10-10-2.5 IS ADDED TO THE INDIANA
 31 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 32 [EFFECTIVE JANUARY 1, 2015]: **Sec. 2.5. As used in this chapter,**
 33 **"CPI" refers to the United States Bureau of Labor Statistics**
 34 **Consumer Price Index, all items, all urban consumers, or its**
 35 **successor index.**

36 SECTION 22. IC 12-10-10-4, AS AMENDED BY P.L.99-2007,
 37 SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JANUARY 1, 2015]: Sec. 4. (a) As used in this chapter, "eligible
 39 individual" means an individual who **meets the following criteria:**

40 (1) Is a resident of Indiana.

41 (2) Is:

42 (A) at least sixty (60) years of age; or



- 1 (B) an individual with a disability.
- 2 (3) Has assets **that meet the following criteria:**
- 3 (A) **For an individual who participates in the program and**
- 4 **whose date of application for the program is before**
- 5 **January 1, 2015, assets** that do not exceed five hundred
- 6 thousand dollars (\$500,000), as determined by the division.
- 7 **and**
- 8 **(B) For an individual whose date of application for the**
- 9 **program is after December 31, 2014, countable assets that**
- 10 **do not exceed two hundred fifty thousand dollars**
- 11 **(\$250,000) adjusted by the CPI, as set forth in subsection**
- 12 **(c). In determining assets under this clause, the division**
- 13 **shall exclude an additional twenty thousand dollars**
- 14 **(\$20,000) in countable assets, as adjusted by the CPI as set**
- 15 **forth in subsection (c).**
- 16 (4) Qualifies under criteria developed by the board as having an
- 17 impairment that places the individual at risk of losing the
- 18 individual's independence, as described in subsection (b).
- 19 (b) For purposes of subsection (a), an individual is at risk of losing
- 20 the individual's independence if the individual is unable to perform **any**
- 21 **of the following:**
- 22 (1) Two (2) or more activities of daily living. The use by or on
- 23 behalf of the individual of any of the following services or devices
- 24 does not make the individual ineligible for services under this
- 25 chapter:
- 26 (1) (A) Skilled nursing assistance.
- 27 (2) (B) Supervised community and home care services,
- 28 including skilled nursing supervision.
- 29 (3) (C) Adaptive medical equipment and devices.
- 30 (4) (D) Adaptive nonmedical equipment and devices.
- 31 (2) **One (1) activity of daily living if, using the needs based**
- 32 **assessment established under section 13(1) of this chapter, the**
- 33 **area agency on aging determines that addressing the single**
- 34 **activity of daily living would significantly reduce the**
- 35 **likelihood of the individual's loss of independence and the**
- 36 **need for additional services.**
- 37 (3) **An activity if, using the needs based assessment established**
- 38 **under section 13(1) of this chapter, the area agency on aging**
- 39 **determines that targeted intervention or assistance with the**
- 40 **activity would significantly reduce the likelihood of the**
- 41 **individual's loss of independence and the need for additional**
- 42 **services.**



1 (c) Before June 1, 2015, and before June 1 of each subsequent
 2 year, the division shall determine an adjusted asset limit to be used
 3 for purposes of subsection (a)(3)(B), subsection (d)(4), and section
 4 13 of this chapter in the following state fiscal year. The adjusted
 5 asset limit for the following state fiscal year shall be determined as
 6 follows:

7 STEP ONE: Determine the percentage change between:

8 (A) the CPI as last reported for the calendar year ending
 9 in the state fiscal year in which the determination is made;
 10 and

11 (B) the CPI as last reported for the calendar year that
 12 precedes the calendar year described in clause (A).

13 STEP TWO: Express the percentage change determined in
 14 STEP ONE as a two (2) digit decimal rounded to the nearest
 15 hundredth. A negative percentage change under this STEP
 16 must be treated as zero (0).

17 STEP THREE: Add one (1) to the STEP TWO result.

18 STEP FOUR: Multiply:

19 (A) the STEP THREE result; by

20 (B) the asset limit used for purposes of subsection (a)(3)(B)
 21 in the state fiscal year in which the determination is made.

22 Before June 15, 2015, and before June 15 of each subsequent year
 23 the division shall publish in the Indiana Register the adjusted asset
 24 limit to be used for purposes of subsection (a)(3)(B) in the following
 25 state fiscal year.

26 (d) The division shall, in accordance with standards established
 27 under section 13(3) of this chapter, establish a cost participation
 28 schedule for a program recipient based on the program
 29 participant's income and countable assets. The cost participation
 30 schedule must meet the following:

31 (1) Exclude from cost participation an eligible individual
 32 whose income and countable assets do not exceed one hundred
 33 fifty percent (150%) of the federal income poverty level.

34 (2) Exclude from cost participation for the total services
 35 provided to an individual under the program unless the
 36 eligible individual's income and countable assets exceed three
 37 hundred fifty percent (350%) of the federal income poverty
 38 level.

39 (3) In calculating income and countable assets for an eligible
 40 individual, deduct the medical expenses of the following:

41 (A) The individual.

42 (B) The spouse of the individual.



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(C) The dependent children of the individual.

(4) Exclude twenty thousand dollars (\$20,000) of a participant's countable assets, as adjusted by CPI, from consideration in determining a participant's cost participation.

The cost participation schedule established under this subsection may be applied only to an individual whose date of application for the program is after December 31, 2014.

(e) The division may require annual reverification for program participants whom the division determines are likely to experience a material increase in income or assets. An individual shall submit the information requested by the division to carry out the redetermination allowed by this subsection.

(f) The division may not require a family or other person to provide services as a condition of an individual's eligibility for or participation in the program.

SECTION 23. IC 12-10-10-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2015]: Sec. 7. (a) Except as provided in subsection (b), the case management under this chapter of an individual leading to participation in the program may not be conducted by any agency that delivers services under the program.

(b) If the division determines that there is no alternative agency capable of delivering services to the individual, the area agency on aging that performs the assessment under the program may also deliver the services.

(c) The division shall provide the necessary funding to provide case management services for the program, as determined under section 13(2) of this chapter.

SECTION 24. IC 12-10-10-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2015]: Sec. 9. (a) The division shall establish a program to train relatives of eligible individuals to provide homemaker and personal care services to those eligible individuals.

(b) Relatives of eligible individuals who complete the training program established under this section are eligible for reimbursement under this chapter or under the Medicaid program for the provision of homemaker and personal care services to those eligible individuals. Reimbursement under the Medicaid program is limited to those cases in which the provision of homemaker and personal care services to an eligible individual by a relative results in financial hardship to the relative.

(c) For services that an individual is eligible to receive under the



1 program but receives from a relative or other individual without
2 receiving compensation, the area agency on aging shall:

- 3 (1) determine, in accordance with section 13(4) of this
4 chapter, the savings from not paying for these services; and
5 (2) allocate twenty percent (20%) of the savings calculated
6 under subdivision (1) to offset the individual's cost share
7 amount, if any, for participating in the program.

8 SECTION 25. IC 12-10-10-13 IS ADDED TO THE INDIANA
9 CODE AS A NEW SECTION TO READ AS FOLLOWS
10 [EFFECTIVE UPON PASSAGE]: Sec. 13. The division and the area
11 agencies on aging shall jointly develop policies that establish the
12 following:

- 13 (1) A needs based assessment to be used in determining a
14 client's needs and care plan under section 1(3) of this chapter.
15 (2) The percentage of program dollars adequate to provide
16 case management services.
17 (3) A cost participation schedule for program recipients as
18 required by section 4(d) of this chapter.
19 (4) Procedures for determining cost savings as required by
20 section 9(c) of this chapter.
21 (5) Program performance measures for the area agencies on
22 aging.

23 SECTION 26. IC 12-10-10-14 IS ADDED TO THE INDIANA
24 CODE AS A NEW SECTION TO READ AS FOLLOWS
25 [EFFECTIVE JANUARY 1, 2015]: Sec. 14. (a) This section applies
26 only to an individual whose date of application for the program is
27 after December 31, 2014.

28 (b) The division may obtain a lien on the program recipient's
29 real property for the cost of services provided to the individual in
30 the program if the cost of the services exceeds twenty thousand
31 dollars (\$20,000), as adjusted by the CPI under section 4(c) of this
32 chapter, in the same manner and with the same requirements as
33 the office obtains a lien against a Medicaid recipient under
34 IC 12-15-8.5, except that there may be no look back of the program
35 recipient's property as required under the Medicaid program in
36 IC 12-15-8.5-2.

37 (c) The division may adopt rules necessary under IC 4-22-2 to
38 implement this section.

39 SECTION 27. IC 12-10-11-8, AS AMENDED BY P.L.143-2011,
40 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
41 JANUARY 1, 2015]: Sec. 8. The board shall do the following:

- 42 (1) Establish long term goals of the state for the provision of a



- 1 continuum of care for the elderly and individuals with a disability
 2 based on the following:
- 3 (A) Individual independence, dignity, and privacy.
 - 4 (B) Long term care services that are:
 - 5 (i) integrated, accessible, and responsible; and
 - 6 (ii) available in home and community settings.
 - 7 (C) Individual choice in planning and managing long term
 8 care.
 - 9 (D) Access to an array of long term care services:
 - 10 (i) for an individual to receive care that is appropriate for the
 11 individual's needs; and
 - 12 (ii) to enable a case manager to have cost effective
 13 alternatives available in the construction of care plans and
 14 the delivery of services.
 - 15 (E) Long term care services that include home care,
 16 community based services, assisted living, congregate care,
 17 adult foster care, and institutional care.
 - 18 (F) Maintaining an individual's dignity and self-reliance to
 19 protect the fiscal interests of both taxpayers and the state.
 - 20 (G) Long term care services that are fiscally sound.
 - 21 (H) Services that:
 - 22 (i) promote behavioral health; and
 - 23 (ii) prevent and treat mental illness and addiction.
 - 24 (2) Review state policies on community and home care services.
 - 25 (3) Recommend the adoption of rules under IC 4-22-2.
 - 26 (4) Recommend legislative changes affecting community and
 27 home care services.
 - 28 (5) Recommend the coordination of the board's activities with the
 29 activities of other boards and state agencies concerned with
 30 community and home care services.
 - 31 (6) Evaluate cost effectiveness, quality, scope, and feasibility of
 32 a state administered system of community and home care
 33 services.
 - 34 (7) Evaluate programs for financing services to those in need of
 35 a continuum of care.
 - 36 (8) Evaluate state expenditures for community and home care
 37 services, taking into account efficiency, consumer choice,
 38 competition, and equal access to providers.
 - 39 (9) Develop policies that support the participation of families and
 40 volunteers in meeting the long term care needs of individuals.
 - 41 (10) Encourage the development of funding for a continuum of
 42 care from private resources, including insurance.



1 (~~11~~) Develop a cost of services basis and a program of cost
 2 reimbursement for those persons who can pay all or a part of the
 3 cost of the services rendered. The division shall use this cost of
 4 services basis and program of cost reimbursement in
 5 administering IC ~~12-10-10~~. The cost of services basis and
 6 program of cost reimbursement must include a client cost share
 7 formula that:

8 (A) imposes no charges for an eligible individual whose
 9 income does not exceed one hundred fifty percent (~~150%~~) of
 10 the federal income poverty level; and

11 (B) does not impose charges for the total cost of services
 12 provided to an individual under the community and home
 13 options to institutional care for the elderly and disabled
 14 program unless the eligible individual's income exceeds three
 15 hundred fifty percent (~~350%~~) of the federal income poverty
 16 level.

17 The calculation of income for an eligible individual must include
 18 the deduction of the individual's medical expenses and the
 19 medical expenses of the individual's spouse and dependent
 20 children who reside in the eligible individual's household.

21 (~~12~~) **(11)** Establish long term goals for the provision of
 22 guardianship services for adults.

23 (~~13~~) **(12)** Coordinate activities and programs with the activities of
 24 other boards and state agencies concerning the provision of
 25 guardianship services.

26 (~~14~~) **(13)** Recommend statutory changes affecting the
 27 guardianship of indigent adults.

28 (~~15~~) **(14)** Review a proposed rule concerning home and
 29 community based services as required under section 9 of this
 30 chapter.

31 SECTION 28. IC 12-15-1-1 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. The office of
 33 **Medicaid policy and planning of the secretary** shall administer the
 34 Medicaid program under 42 U.S.C. 1396 et seq.

35 SECTION 29. IC 12-15-13-0.4, AS ADDED BY P.L.117-2008,
 36 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 UPON PASSAGE]: Sec. 0.4. As used in this chapter, "office" includes
 38 the following:

39 (1) The office of **Medicaid policy and planning: the secretary of**
 40 **family and social services.**

41 (2) A managed care organization that has contracted with the
 42 office of Medicaid policy and planning under this article.



- 1 (3) A person that has contracted with a managed care organization
 2 described in subdivision (2).
 3 SECTION 30. IC 16-18-2-84, AS AMENDED BY P.L.197-2011,
 4 SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2014]: Sec. 84. "Council", ~~refers to the following:~~
 6 ~~(1) For purposes of IC 16-21, IC 16-25, IC 16-27, IC 16-28, and~~
 7 ~~IC 16-29, the health care facility advisory council.~~
 8 ~~(2) for purposes of IC 16-46-6, refers to the interagency state~~
 9 ~~council on black and minority health.~~
 10 SECTION 31. IC 16-18-2-199 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 199. "Legend drug", for
 12 purposes of IC 16-42, means a drug that is:
 13 (1) subject to 21 U.S.C. 353(b)(1); ~~or~~
 14 (2) listed in the Prescription Drug Product List as:
 15 (A) published in United States Department of Health and
 16 Human Services Approved Drug Products with Therapeutic
 17 Equivalence Evaluations, Tenth Edition, (1990); and
 18 (B) revised in United State Department of Health and Human
 19 Services, Approved Drug Products with Therapeutic
 20 Equivalence Evaluations, Cumulative Supplement to the Tenth
 21 Edition, Number 10 (1990); ~~or~~
 22 **(3) insulin.**
 23 SECTION 32. IC 16-19-15 IS REPEALED [EFFECTIVE JULY 1,
 24 2014]. (Health Care Facility Advisory Council).
 25 SECTION 33. IC 16-21-1-7, AS AMENDED BY P.L.96-2005,
 26 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2014]: Sec. 7. ~~(a) Except as provided in subsection (b), the~~
 28 ~~council shall propose and~~ The executive board may adopt rules under
 29 IC 4-22-2 necessary to protect the health, safety, rights, and welfare of
 30 patients, including the following:
 31 (1) Rules pertaining to the operation and management of
 32 hospitals, ambulatory outpatient surgical centers, abortion clinics,
 33 and birthing centers.
 34 (2) Rules establishing standards for equipment, facilities, and
 35 staffing required for efficient and quality care of patients.
 36 ~~(b) The state department may request the council to propose a new~~
 37 ~~rule or an amendment to an existing rule necessary to protect the~~
 38 ~~health, safety, rights, and welfare of patients. If the council does not~~
 39 ~~propose a rule within ninety (90) days of the department's request, the~~
 40 ~~department may propose its own rule.~~
 41 ~~(c) The state department shall consider the rules proposed by the~~
 42 ~~council and may adopt, modify, remand, or reject specific rules or parts~~



1 of rules proposed by the council:
 2 SECTION 34. IC 16-21-1-10, AS AMENDED BY P.L.1-2006,
 3 SECTION 295, IS AMENDED TO READ AS FOLLOWS
 4 [EFFECTIVE JULY 1, 2014]: Sec. 10. (a) Licensure inspections of an
 5 institution or agency shall be made regularly in accordance with rules
 6 adopted under this chapter. The state department shall make all health
 7 and sanitation inspections, including inspections in response to an
 8 alleged breach of this chapter or rules adopted under this chapter. The
 9 division of fire and building safety shall make all fire safety
 10 inspections. ~~The council may provide for other inspections necessary~~
 11 ~~to implement this chapter.~~
 12 (b) An employee of the state department who knowingly or
 13 intentionally informs an institution or agency of the exact date of an
 14 unannounced inspection shall be suspended without pay for five (5)
 15 days for a first offense and shall be dismissed for a subsequent offense.
 16 (c) Reports of all inspections must be in writing and sent to the
 17 institution or agency.
 18 (d) The report of an inspection and records relating to the inspection
 19 may not be released to the public until the conditions set forth in
 20 IC 16-19-3-25 are satisfied.
 21 SECTION 35. IC 16-21-2-4 IS REPEALED [EFFECTIVE JULY 1,
 22 2014]. ~~Sec. 4: The state department shall administer this chapter with~~
 23 ~~the advice of the council.~~
 24 SECTION 36. IC 16-25-3-2.5 IS REPEALED [EFFECTIVE JULY
 25 1, 2014]. ~~Sec. 2.5: The state department shall administer this chapter~~
 26 ~~with the advice of the health care facility advisory council established~~
 27 ~~by IC 16-19-15-1.~~
 28 SECTION 37. IC 16-27-0.5-9, AS AMENDED BY P.L.6-2012,
 29 SECTION 117, IS AMENDED TO READ AS FOLLOWS
 30 [EFFECTIVE JULY 1, 2014]: Sec. 9. ~~(a)~~ The state department may
 31 request the health care facility advisory council to propose a new rule
 32 or an amendment to a rule **adopt rules under IC 4-22-2** necessary to
 33 protect the health, safety, rights, and welfare of the home health care
 34 patients and hospice patients. ~~If the council does not propose a rule~~
 35 ~~within ninety (90) days after the state department's request, the state~~
 36 ~~department may propose the rule.~~
 37 (b) The executive board shall consider rules proposed by the council
 38 under this section. The executive board may adopt, modify, remand, or
 39 reject specific rules or parts of rules proposed by the council.
 40 (c) ~~To become effective, all rules proposed by the council under this~~
 41 ~~chapter must be adopted by the executive board in accordance with~~
 42 ~~IC 4-22-2.~~



1 SECTION 38. IC 16-28-1-7, AS AMENDED BY P.L.156-2011,
 2 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2014]: Sec. 7. The ~~council~~ **state department** shall do the
 4 following:

5 (1) ~~Propose the adoption of~~ **Adopt** rules by the department under
 6 IC 4-22-2 governing the following:

7 (A) Health and sanitation standards necessary to protect the
 8 health, safety, security, rights, and welfare of patients.

9 (B) Qualifications of applicants for licenses issued under this
 10 article to assure the proper care of patients.

11 (C) Operation, maintenance, management, equipment, and
 12 construction of facilities required to be licensed under this
 13 article if jurisdiction is not vested in any other state agency.

14 (D) Manner, form, and content of the license, including rules
 15 governing disclosure of ownership interests.

16 (E) Levels of medical staffing and medical services in
 17 cooperation with the office of Medicaid policy and planning,
 18 division of family resources, and other agencies authorized to
 19 pay for the services.

20 (2) Recommend to the fire prevention and building safety
 21 commission fire safety rules necessary to protect the health,
 22 safety, security, rights, and welfare of patients.

23 (3) Classify health facilities in health care categories.

24 (4) ~~Act as an advisory body for the division; commissioner; and~~
 25 ~~state department.~~

26 SECTION 39. IC 16-28-1-9 IS REPEALED [EFFECTIVE JULY 1,
 27 2014]. Sec. 9: The ~~council~~ may not waive a rule adopted under this
 28 chapter:

29 SECTION 40. IC 16-28-1-12 IS REPEALED [EFFECTIVE JULY
 30 1, 2014]. Sec. 12: (a) The department may request the council to
 31 propose a new rule or an amendment to a rule necessary to protect the
 32 health, safety, rights, and welfare of patients. If the council does not
 33 propose a rule not more than ninety (90) days after the department's
 34 request, the department may propose its own rule.

35 (b) The executive board may adopt, modify, remand, or reject
 36 specific rules or parts of rules proposed by the council.

37 (c) To become effective, all rules adopted under this chapter must
 38 be adopted by the executive board in accordance with IC 4-22-2. The
 39 rules adopted under this chapter are the only rules governing the
 40 licensing and operation of health facilities.

41 SECTION 41. IC 16-28-1-13, AS AMENDED BY P.L.1-2006,
 42 SECTION 299, IS AMENDED TO READ AS FOLLOWS



1 [EFFECTIVE JULY 1, 2014]: Sec. 13. (a) Licensure inspections of
 2 health facilities shall be made regularly in accordance with rules
 3 adopted under this chapter. The division shall make all health and
 4 sanitation inspections. The division of fire and building safety shall
 5 make all fire safety inspections. ~~The council or the director may~~
 6 ~~provide for other inspections necessary to carry out this chapter.~~

7 (b) The exact date of an inspection of a health facility under this
 8 chapter may not be announced or communicated directly or indirectly
 9 to the owner, administrator, or an employee of the facility before the
 10 inspection. An employee of the state department who knowingly or
 11 intentionally informs a health facility of the exact date of an inspection
 12 shall be suspended without pay for five (5) days for a first offense and
 13 shall be dismissed for a subsequent offense.

14 (c) Reports of all inspections must be:

15 (1) in writing; and

16 (2) sent to the health facility.

17 (d) The report of an inspection and records relating to the inspection
 18 may not be released to the public until the conditions set forth in
 19 IC 16-19-3-25 are satisfied.

20 SECTION 42. IC 16-28-10-1 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. (a) Hearings under
 22 this article shall be conducted in accordance with IC 4-21.5. Except for
 23 hearings held on the adoption of rules, an administrative law judge
 24 must meet the following conditions:

25 (1) Be admitted to the practice of law in Indiana.

26 (2) Not be a ~~member of the council~~ or an employee of the state.

27 (b) A health facility shall pay the costs of appointing an
 28 administrative law judge if the administrative law judge finds in favor
 29 of the state. However, if the administrative law judge finds in favor of
 30 the health facility, the state shall pay the costs of appointing the
 31 administrative law judge.

32 SECTION 43. IC 16-29-4-3, AS AMENDED BY P.L.6-2012,
 33 SECTION 118, IS AMENDED TO READ AS FOLLOWS
 34 [EFFECTIVE JULY 1, 2014]: Sec. 3. ~~The health care facility advisory~~
 35 ~~council may recommend~~; Before the conversion of existing health
 36 facility beds to ICF/MR beds or the construction of a new ICF/MR
 37 facility, ~~that~~ the state department ~~may~~ issue a preliminary approval of
 38 the proposed project, but only if the ~~council~~ **state department**
 39 determines that there is an insufficient number of available beds to care
 40 for all the persons who are determined under IC 12-11-2.1 to be
 41 appropriate for placement in an ICF/MR facility.

42 SECTION 44. IC 16-29-4-4, AS AMENDED BY P.L.6-2012,



1 SECTION 119, IS AMENDED TO READ AS FOLLOWS
 2 [EFFECTIVE JULY 1, 2014]: Sec. 4. A proposed project that receives
 3 preliminary approval under this chapter may not add more beds than
 4 the number determined by the ~~health care facility advisory council~~
 5 **state department** to be necessary to provide an available bed for each
 6 person determined under IC 12-11-2.1 to be appropriate for placement
 7 in an ICF/MR facility. Upon completion of the proposed project and
 8 compliance with the other requirements for licensure under IC 16-28,
 9 the state department shall issue a license to the facility.

10 SECTION 45. IC 16-36-6-7, AS ADDED BY P.L.164-2013,
 11 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2014]: Sec. 7. (a) The following individuals may complete a
 13 POST form:

14 (1) A qualified person who is:

15 (A) either:

16 (i) at least eighteen (18) years of age; or

17 (ii) less than eighteen (18) years of age but authorized to
 18 consent under IC 16-36-1-3(a)(2); and

19 (B) of sound mind.

20 (2) A qualified person's representative, if the qualified person:

21 (A) is less than eighteen (18) years of age and is not authorized
 22 to consent under IC 16-36-1-3(a)(2); or

23 (B) has been determined to be incapable of making decisions
 24 about the qualified person's health care by a treating physician
 25 acting in good faith and the representative has been:

26 (i) appointed by the individual under IC 16-36-1-7 to serve
 27 as the individual's health care representative;

28 (ii) authorized to act under IC 30-5-5-16 and IC 30-5-5-17
 29 as the individual's attorney in fact with authority to consent
 30 to or refuse health care for the individual; ~~or~~

31 (iii) appointed by a court as the individual's ~~guardian~~ **health**
 32 **care representative** under IC 16-36-1-8; ~~or~~

33 (iv) **appointed by a court as the guardian of the person**
 34 **with the authority to make health care decisions under**
 35 **IC 29-3.**

36 (b) In order to complete a POST form, a person described in
 37 subsection (a) and the qualified person's treating physician or the
 38 physician's designee must do the following:

39 (1) Discuss the qualified person's goals and treatment options
 40 available to the qualified person based on the qualified person's
 41 health.

42 (2) Complete the POST form, to the extent possible, based on the



- 1 qualified person's preferences determined during the discussion
 2 in subdivision (1).
- 3 (c) When completing a POST form on behalf of a qualified person,
 4 a representative shall act:
- 5 (1) in good faith; and
 6 (2) in:
- 7 (A) accordance with the qualified person's express or implied
 8 intentions, if known; or
 9 (B) the best interest of the qualified person, if the qualified
 10 person's express or implied intentions are not known.
- 11 (d) A copy of the executed POST form shall be maintained in the
 12 qualified person's medical file.
- 13 SECTION 46. IC 16-37-2-4, AS AMENDED BY P.L.232-2013,
 14 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2014]: Sec. 4. A local health officer may accept a certificate
 16 of birth presented for filing not more than ~~four (4) years~~ **twelve (12)**
 17 **months** after the birth occurred if the attending physician, certified
 18 nurse midwife, certified direct entry midwife, or other person desiring
 19 to file the certificate states the reason for the delay in writing. This
 20 statement shall be made a part of the certificate of birth.
- 21 SECTION 47. IC 16-37-2-5 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. A certificate of birth
 23 presented for filing more than ~~four (4) years~~ **twelve (12) months** after
 24 the birth occurred is a delayed certificate of birth and the record shall
 25 be filed only with the state department.
- 26 SECTION 48. IC 16-38-4-1, AS AMENDED BY P.L.232-2013,
 27 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2014]: Sec. 1. As used in this chapter, "birth problems" means
 29 one (1) or more of the following conditions:
- 30 (1) A structural deformation.
 31 (2) A developmental malformation.
 32 (3) A genetic, inherited, or biochemical disease.
 33 (4) A condition of a chronic nature, including central nervous
 34 system hemorrhage or infection of the central nervous system,
 35 that may result in a need for long term health care.
 36 (5) An autism spectrum disorder that is recognized in a ~~child~~
 37 ~~before the child becomes five (5) years of age~~ **an individual at any years of**
 38 **age**.
 39 (6) A fetal alcohol spectrum disorder that is recognized before a
 40 child becomes five (5) years of age.
 41 (7) Any other severe disability that is:
 42 (A) designated in a rule adopted by the state department; and



- 1 (B) recognized in a child after birth and before the child
 2 becomes three (3) years of age.
 3 (8) Complications resulting from a home delivery. As used in this
 4 subdivision, "home" includes the delivery of a viable fetus at a
 5 home or other non-health care facility.
 6 **(9) A visual impairment.**
 7 **(10) Cortical blindness.**
 8 **(11) Legal blindness.**
 9 SECTION 49. IC 16-38-4-8, AS AMENDED BY P.L.188-2013,
 10 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2014]: Sec. 8. (a) The state department shall establish a birth
 12 problems registry for the purpose of recording all cases of birth
 13 problems that occur in Indiana residents and compiling necessary and
 14 appropriate information concerning those cases, as determined by the
 15 state department, in order to:
 16 (1) conduct epidemiologic and environmental studies and to apply
 17 appropriate preventive and control measures;
 18 (2) **except for an autism spectrum disorder**, inform the parents
 19 of children with birth problems:
 20 (A) at the time of discharge from the hospital; or
 21 (B) if a birth problem is diagnosed during a physician or
 22 hospital visit that occurs before the child is:
 23 (i) except as provided in item (ii), three (3) years of age at
 24 the time of diagnosis; or
 25 (ii) five (5) years of age at the time of diagnosis if the
 26 disorder is ~~an autism spectrum disorder or~~ a fetal alcohol
 27 spectrum disorder;
 28 about physicians care facilities, and appropriate community
 29 resources, including local step ahead agencies and the infants and
 30 toddlers with disabilities program (IC 12-12.7-2); ~~or~~
 31 **(3) except as provided in subsection (d), inform:**
 32 **(A) the individual with problems at any age; or**
 33 **(B) the individual's parent;**
 34 **at the time of diagnosis, if the individual's disorder is an**
 35 **autism spectrum disorder, about physicians and appropriate**
 36 **state and community resources, including local step ahead**
 37 **agencies and the infants and toddlers with disabilities**
 38 **program (IC 12-12.7-2); or**
 39 ~~(3)~~ **(4) inform citizens regarding programs designed to prevent or**
 40 **reduce birth problems.**
 41 (b) The state department shall record in the birth problems registry:
 42 (1) all data concerning birth problems of children that are



1 provided from the certificate of live birth; and

2 (2) any additional information that may be provided by an
3 individual or entity described in section 7(a)(2) of this chapter
4 concerning a birth problem that is:

5 (A) designated in a rule adopted by the state department; and

6 (B) recognized:

7 (i) after the child is discharged from the hospital as a
8 newborn;

9 (ii) before the child is five (5) years of age if the child is
10 diagnosed with ~~an autism spectrum disorder~~ or a fetal
11 alcohol spectrum disorder; ~~and~~

12 (iii) before the child is three (3) years of age for any
13 diagnosis not specified in ~~item~~ **items (ii) and (iv); and**

14 **(iv) at any age if the individual is diagnosed with an**
15 **autism spectrum disorder.**

16 (c) The state department shall:

17 (1) provide a physician and a local health department with
18 necessary forms for reporting under this chapter; and

19 (2) report in an electronic format under IC 5-14-6 to the
20 legislative council any birth problem trends that are identified
21 through the data collected under this chapter.

22 **(d) Concerning an individual who is at least eight (8) years of**
23 **age and diagnosed with an autism spectrum disorder, the state**
24 **department is not required to do any of the following:**

25 **(1) Report information to the federal Centers for Disease**
26 **Control and Prevention.**

27 **(2) Confirm the individual's diagnosis.**

28 **(3) Verbally inform an individual of the information set forth**
29 **in subsection (a)(3).**

30 SECTION 50. IC 16-38-4-9, AS AMENDED BY P.L.232-2013,
31 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
32 JULY 1, 2014]: Sec. 9. (a) Certified nurse midwives, certified direct
33 entry midwives, and individuals and entities described in section
34 7(a)(2) of this chapter shall report each confirmed case of a birth
35 problem that is recognized at the time of birth to the registry not later
36 than sixty (60) days after the birth. An individual or entity described in
37 section 7(a)(2) of this chapter who recognizes a birth problem in:

38 **(1) a child after birth but before the child is five (5) years of age,**
39 **if the child is diagnosed with a disorder other than an autism**
40 **spectrum disorder;**

41 **(2) an individual at any age, if the individual is diagnosed with**
42 **an autism spectrum disorder; and**



1 **(3) a child before the child is three (3) years of age for any**
 2 **birth problem diagnosis not specified in subdivisions (1) and**
 3 **(2);**

4 shall report the birth problem to the registry not later than sixty (60)
 5 days after recognizing the birth problem. Information may be provided
 6 to amend or clarify an earlier reported case.

7 (b) A person required to report information to the registry under this
 8 section may use, when completing reports required by this chapter,
 9 information submitted to any other public or private registry or required
 10 to be filed with federal, state, or local agencies. However, the state
 11 department may require additional, definitive information.

12 (c) Exchange of information between state department registries is
 13 authorized. The state department may use information from another
 14 registry administered by the state department. Information used from
 15 other registries remains subject to the confidentiality restrictions on the
 16 other registries.

17 SECTION 51. IC 16-41-42.2-4, AS ADDED BY P.L.3-2008,
 18 SECTION 113, IS AMENDED TO READ AS FOLLOWS
 19 [EFFECTIVE JULY 1, 2014]: Sec. 4. The fund is to be used for the
 20 following purposes:

21 (1) Establishing and maintaining a state medical surveillance
 22 registry for traumatic spinal cord and brain injuries.

23 (2) Fulfilling the duties of the board established by section 5 of
 24 this chapter.

25 (3) Funding research related to the treatment and cure of spinal
 26 cord and brain injuries, including acute management, medical
 27 complications, rehabilitative techniques, and neuronal recovery.
 28 Research must be conducted in compliance with all state and
 29 federal laws.

30 **(4) Develop a statewide trauma system.**

31 **However, not more than fifty percent (50%) of the money in the**
 32 **fund may be used for purposes of developing a statewide trauma**
 33 **system.**

34 SECTION 52. IC 16-42-19-29 IS ADDED TO THE INDIANA
 35 CODE AS A NEW SECTION TO READ AS FOLLOWS
 36 [EFFECTIVE JULY 1, 2014]: **Sec. 29. A legend drug that is**
 37 **composed wholly or partly of insulin may be sold for retail sale by**
 38 **a pharmacy only to an individual who possesses a prescription**
 39 **from one (1) of the following:**

40 **(1) A physician licensed under IC 25-22.5.**

41 **(2) A veterinarian licensed to practice veterinary medicine in**
 42 **Indiana.**



- 1 **(3) An advanced practice nurse who meets the requirements**
- 2 **of IC 25-23-1-19.5.**
- 3 **(4) A physician assistant licensed under IC 25-27.5 who is**
- 4 **delegated prescriptive authority under IC 25-27.5-5-6.**
- 5 SECTION 53. [EFFECTIVE UPON PASSAGE] **(a) As used in this**
- 6 **SECTION, "department" refers to the state department of health.**
- 7 **(b) Before September 1, 2014, the department shall adopt rules**
- 8 **that establish a license and provide regulations for a facility that**
- 9 **provides specialized treatment and services for traumatic brain**
- 10 **injuries.**
- 11 **(c) Before September 1, 2014, the department shall make to the**
- 12 **legislative council and health finance commission**
- 13 **recommendations concerning changes to the food handling laws.**
- 14 **Recommendations made to the legislative council must be in an**
- 15 **electronic format under IC 5-14-6.**
- 16 **(d) This SECTION expires December 31, 2014.**
- 17 SECTION 54. **An emergency is declared for this act.**



COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 406, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 406 as introduced.)

Committee Vote: Yeas 8, Nays 0

Senator Miller Patricia, Chairperson

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Senate Bill 406, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

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

Page 15, after line 40, begin a new paragraph and insert:

"SECTION 15. IC 12-7-2-44.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2015]: Sec. 44.6. "Countable asset" means the following:

(1) For purposes of IC 12-10-10, in determining eligibility for the community and home options to institutional care for the elderly and disabled program, property that is included in determining assets in the same manner as determining an individual's eligibility for the Medicaid aged and disabled waiver.

(2) For purposes of IC 12-20, means noncash property that is not necessary for the health, safety, or decent living standard of a household that:

(1) (A) is owned wholly or in part by the applicant or a member of the applicant's household;

(2) (B) the applicant or the household member has the legal right to sell or liquidate; and

(3) (C) includes:

(A) (i) real property other than property that is used for the production of income or that is the primary residence of the household;

ES 406—LS 6935/DI 106



~~(B)~~ **(ii)** savings and checking accounts, certificates of deposit, bonds, stocks, and other intangibles that have a net cash value; and

~~(C)~~ **(iii)** boats, other vehicles, or any other personal property used solely for recreational or entertainment purposes.

SECTION 16. IC 12-7-2-49.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2015]: 1, 2014]: **Sec. 49.5. "CPI", for purposes of IC 12-10-10, has the meaning set forth in IC 12-10-10-2.5.**

SECTION 17. IC 12-8-1.5-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 10.5. (a) The office of the secretary is designated as the single state agency for administration of the state Medicaid program under IC 12-15.**

(b) The office of the secretary shall develop and coordinate Medicaid policy for the state.

SECTION 18. IC 12-8-6.5-3 IS REPEALED [EFFECTIVE UPON PASSAGE]. ~~Sec. 3: The office is designated as the single state agency for administration of the state Medicaid program under IC 12-15.~~

SECTION 19. IC 12-8-6.5-4, AS ADDED BY P.L.160-2012, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 4. Under the direction of the secretary,** the office shall develop and coordinate Medicaid policy for the state.

SECTION 20. IC 12-10-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2015]: **Sec. 1.** As used in this chapter, "case management" means an administrative function conducted locally by an area agency on aging that includes the following:

(1) Assessment of an individual to determine the individual's functional impairment level and corresponding need for services.

(2) Initial verification of an individual's income and assets.

~~(2)~~ **(3) Development of a care plan addressing that:**

(A) addresses an eligible individual's needs;

(B) takes into consideration the individual's family and community members who are willing to provide services to meet any of the individual's needs; and

(C) is consistent with a person centered approach to client care.

~~(3)~~ **(4) Supervision** of the implementation of appropriate and available services for an eligible individual.

~~(4)~~ **(5) Advocacy** on behalf of an eligible individual's interests.



~~(5)~~ **(6)** Monitoring the quality of community and home care services provided to an eligible individual.

~~(6)~~ **(7)** Reassessment of the care plan to determine:

(A) the continuing need and effectiveness of the community and home care services provided to an eligible individual under this chapter; **and**

(B) the annual reverification of a plan recipient's income and assets, as may be required by the division under section 4(e) of this chapter.

~~(7)~~ **(8)** Provision of information and referral services to individuals in need of community and home care services.

SECTION 21. IC 12-10-10-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2015]: **Sec. 2.5. As used in this chapter, "CPI" refers to the United States Bureau of Labor Statistics Consumer Price Index, all items, all urban consumers, or its successor index.**

SECTION 22. IC 12-10-10-4, AS AMENDED BY P.L.99-2007, SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2015]: **Sec. 4. (a) As used in this chapter, "eligible individual" means an individual who meets the following criteria:**

(1) Is a resident of Indiana.

(2) Is:

(A) at least sixty (60) years of age; or

(B) an individual with a disability.

(3) Has assets **that meet the following criteria:**

(A) For an individual who participates in the program and whose date of application for the program is before January 1, 2015, assets that do not exceed five hundred thousand dollars (\$500,000), as determined by the division.
and

(B) For an individual whose date of application for the program is after December 31, 2014, countable assets that do not exceed two hundred fifty thousand dollars (\$250,000) adjusted by the CPI, as set forth in subsection (c). In determining assets under this clause, the division shall exclude an additional twenty thousand dollars (\$20,000) in countable assets, as adjusted by the CPI as set forth in subsection (c).

(4) Qualifies under criteria developed by the board as having an impairment that places the individual at risk of losing the individual's independence, as described in subsection (b).



(b) For purposes of subsection (a), an individual is at risk of losing the individual's independence if the individual is unable to perform **any of the following**:

(1) Two (2) or more activities of daily living. The use by or on behalf of the individual of any of the following services or devices does not make the individual ineligible for services under this chapter:

(1) (A) Skilled nursing assistance.

(2) (B) Supervised community and home care services, including skilled nursing supervision.

(3) (C) Adaptive medical equipment and devices.

(4) (D) Adaptive nonmedical equipment and devices.

(2) One (1) activity of daily living if, using the needs based assessment established under section 13(1) of this chapter, the area agency on aging determines that addressing the single activity of daily living would significantly reduce the likelihood of the individual's loss of independence and the need for additional services.

(3) An activity if, using the needs based assessment established under section 13(1) of this chapter, the area agency on aging determines that targeted intervention or assistance with the activity would significantly reduce the likelihood of the individual's loss of independence and the need for additional services.

(c) Before June 1, 2015, and before June 1 of each subsequent year, the division shall determine an adjusted asset limit to be used for purposes of subsection (a)(3)(B), subsection (d)(4), and section 13 of this chapter in the following state fiscal year. The adjusted asset limit for the following state fiscal year shall be determined as follows:

STEP ONE: Determine the percentage change between:

(A) the CPI as last reported for the calendar year ending in the state fiscal year in which the determination is made; and

(B) the CPI as last reported for the calendar year that precedes the calendar year described in clause (A).

STEP TWO: Express the percentage change determined in STEP ONE as a two (2) digit decimal rounded to the nearest hundredth. A negative percentage change under this STEP must be treated as zero (0).

STEP THREE: Add one (1) to the STEP TWO result.

STEP FOUR: Multiply:



- (A) the STEP THREE result; by
- (B) the asset limit used for purposes of subsection (a)(3)(B) in the state fiscal year in which the determination is made.

Before June 15, 2015, and before June 15 of each subsequent year the division shall publish in the Indiana Register the adjusted asset limit to be used for purposes of subsection (a)(3)(B) in the following state fiscal year.

(d) The division shall, in accordance with standards established under section 13(3) of this chapter, establish a cost participation schedule for a program recipient based on the program participant's income and countable assets. The cost participation schedule must meet the following:

- (1) Exclude from cost participation an eligible individual whose income and countable assets do not exceed one hundred fifty percent (150%) of the federal income poverty level.
- (2) Exclude from cost participation for the total services provided to an individual under the program unless the eligible individual's income and countable assets exceed three hundred fifty percent (350%) of the federal income poverty level.
- (3) In calculating income and countable assets for an eligible individual, deduct the medical expenses of the following:
 - (A) The individual.
 - (B) The spouse of the individual.
 - (C) The dependent children of the individual.
- (4) Exclude twenty thousand dollars (\$20,000) of a participant's countable assets, as adjusted by CPI, from consideration in determining a participant's cost participation.

The cost participation schedule established under this subsection may be applied only to an individual whose date of application for the program is after December 31, 2014.

(e) The division may require annual reverification for program participants whom the division determines are likely to experience a material increase in income or assets. An individual shall submit the information requested by the division to carry out the redetermination allowed by this subsection.

(f) The division may not require a family or other person to provide services as a condition of an individual's eligibility for or participation in the program.

SECTION 23. IC 12-10-10-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2015]: Sec. 7. (a) Except as



provided in subsection (b), the case management under this chapter of an individual leading to participation in the program may not be conducted by any agency that delivers services under the program.

(b) If the division determines that there is no alternative agency capable of delivering services to the individual, the area agency on aging that performs the assessment under the program may also deliver the services.

(c) The division shall provide the necessary funding to provide case management services for the program, as determined under section 13(2) of this chapter.

SECTION 24. IC 12-10-10-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2015]: Sec. 9. (a) The division shall establish a program to train relatives of eligible individuals to provide homemaker and personal care services to those eligible individuals.

(b) Relatives of eligible individuals who complete the training program established under this section are eligible for reimbursement under this chapter or under the Medicaid program for the provision of homemaker and personal care services to those eligible individuals. Reimbursement under the Medicaid program is limited to those cases in which the provision of homemaker and personal care services to an eligible individual by a relative results in financial hardship to the relative.

(c) For services that an individual is eligible to receive under the program but receives from a relative or other individual without receiving compensation, the area agency on aging shall:

- (1) determine, in accordance with section 13(4) of this chapter, the savings from not paying for these services; and**
- (2) allocate twenty percent (20%) of the savings calculated under subdivision (1) to offset the individual's cost share amount, if any, for participating in the program.**

SECTION 25. IC 12-10-10-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 13. The division and the area agencies on aging shall jointly develop policies that establish the following:**

- (1) A needs based assessment to be used in determining a client's needs and care plan under section 1(3) of this chapter.**
- (2) The percentage of program dollars adequate to provide case management services.**
- (3) A cost participation schedule for program recipients as required by section 4(d) of this chapter.**



(4) Procedures for determining cost savings as required by section 9(c) of this chapter.

(5) Program performance measures for the area agencies on aging.

SECTION 26. IC 12-10-10-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2015]: **Sec. 14. (a) This section applies only to an individual whose date of application for the program is after December 31, 2014.**

(b) The division may obtain a lien on the program recipient's real property for the cost of services provided to the individual in the program if the cost of the services exceeds twenty thousand dollars (\$20,000), as adjusted by the CPI under section 4(c) of this chapter, in the same manner and with the same requirements as the office obtains a lien against a Medicaid recipient under IC 12-15-8.5, except that there may be no look back of the program recipient's property as required under the Medicaid program in IC 12-15-8.5-2.

(c) The division may adopt rules necessary under IC 4-22-2 to implement this section.

SECTION 27. IC 12-10-11-8, AS AMENDED BY P.L.143-2011, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2015]: **Sec. 8.** The board shall do the following:

(1) Establish long term goals of the state for the provision of a continuum of care for the elderly and individuals with a disability based on the following:

(A) Individual independence, dignity, and privacy.

(B) Long term care services that are:

(i) integrated, accessible, and responsible; and

(ii) available in home and community settings.

(C) Individual choice in planning and managing long term care.

(D) Access to an array of long term care services:

(i) for an individual to receive care that is appropriate for the individual's needs; and

(ii) to enable a case manager to have cost effective alternatives available in the construction of care plans and the delivery of services.

(E) Long term care services that include home care, community based services, assisted living, congregate care, adult foster care, and institutional care.

(F) Maintaining an individual's dignity and self-reliance to



protect the fiscal interests of both taxpayers and the state.

(G) Long term care services that are fiscally sound.

(H) Services that:

(i) promote behavioral health; and

(ii) prevent and treat mental illness and addiction.

(2) Review state policies on community and home care services.

(3) Recommend the adoption of rules under IC 4-22-2.

(4) Recommend legislative changes affecting community and home care services.

(5) Recommend the coordination of the board's activities with the activities of other boards and state agencies concerned with community and home care services.

(6) Evaluate cost effectiveness, quality, scope, and feasibility of a state administered system of community and home care services.

(7) Evaluate programs for financing services to those in need of a continuum of care.

(8) Evaluate state expenditures for community and home care services, taking into account efficiency, consumer choice, competition, and equal access to providers.

(9) Develop policies that support the participation of families and volunteers in meeting the long term care needs of individuals.

(10) Encourage the development of funding for a continuum of care from private resources, including insurance.

(11) Develop a cost of services basis and a program of cost reimbursement for those persons who can pay all or a part of the cost of the services rendered. The division shall use this cost of services basis and program of cost reimbursement in administering IC 12-10-10. The cost of services basis and program of cost reimbursement must include a client cost share formula that:

(A) imposes no charges for an eligible individual whose income does not exceed one hundred fifty percent (150%) of the federal income poverty level; and

(B) does not impose charges for the total cost of services provided to an individual under the community and home options to institutional care for the elderly and disabled program unless the eligible individual's income exceeds three hundred fifty percent (350%) of the federal income poverty level.

The calculation of income for an eligible individual must include the deduction of the individual's medical expenses and the



medical expenses of the individual's spouse and dependent children who reside in the eligible individual's household.

~~(12)~~ **(11)** Establish long term goals for the provision of guardianship services for adults.

~~(13)~~ **(12)** Coordinate activities and programs with the activities of other boards and state agencies concerning the provision of guardianship services.

~~(14)~~ **(13)** Recommend statutory changes affecting the guardianship of indigent adults.

~~(15)~~ **(14)** Review a proposed rule concerning home and community based services as required under section 9 of this chapter.

SECTION 28. IC 12-15-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. The office of **Medicaid policy and planning of the secretary** shall administer the Medicaid program under 42 U.S.C. 1396 et seq.

SECTION 29. IC 12-15-13-0.4, AS ADDED BY P.L.117-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 0.4. As used in this chapter, "office" includes the following:

(1) The office of ~~Medicaid policy and planning~~: **the secretary of family and social services.**

(2) A managed care organization that has contracted with the office of Medicaid policy and planning under this article.

(3) A person that has contracted with a managed care organization described in subdivision (2).

SECTION 30. IC 16-18-2-84, AS AMENDED BY P.L.197-2011, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 84. "Council", ~~refers to the following~~:

~~(1) For purposes of IC 16-21, IC 16-25, IC 16-27, IC 16-28, and IC 16-29, the health care facility advisory council.~~

~~(2) for purposes of IC 16-46-6, refers to the interagency state council on black and minority health.~~

SECTION 31. IC 16-18-2-199 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 199. "Legend drug", for purposes of IC 16-42, means a drug that is:

(1) subject to 21 U.S.C. 353(b)(1); ~~or~~

(2) listed in the Prescription Drug Product List as:

(A) published in United States Department of Health and Human Services Approved Drug Products with Therapeutic Equivalence Evaluations, Tenth Edition, (1990); and

(B) revised in United State Department of Health and Human



Services, Approved Drug Products with Therapeutic Equivalence Evaluations, Cumulative Supplement to the Tenth Edition, Number 10 (1990); **or**

(3) insulin.

SECTION 32. IC 16-19-15 IS REPEALED [EFFECTIVE JULY 1, 2014]. (Health Care Facility Advisory Council).

SECTION 33. IC 16-21-1-7, AS AMENDED BY P.L.96-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 7. ~~(a) Except as provided in subsection (b); the council shall propose and~~ The executive board may adopt rules under IC 4-22-2 necessary to protect the health, safety, rights, and welfare of patients, including the following:

- (1) Rules pertaining to the operation and management of hospitals, ambulatory outpatient surgical centers, abortion clinics, and birthing centers.
- (2) Rules establishing standards for equipment, facilities, and staffing required for efficient and quality care of patients.

~~(b) The state department may request the council to propose a new rule or an amendment to an existing rule necessary to protect the health, safety, rights, and welfare of patients. If the council does not propose a rule within ninety (90) days of the department's request, the department may propose its own rule.~~

~~(c) The state department shall consider the rules proposed by the council and may adopt, modify, remand, or reject specific rules or parts of rules proposed by the council.~~

SECTION 34. IC 16-21-1-10, AS AMENDED BY P.L.1-2006, SECTION 295, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 10. (a) Licensure inspections of an institution or agency shall be made regularly in accordance with rules adopted under this chapter. The state department shall make all health and sanitation inspections, including inspections in response to an alleged breach of this chapter or rules adopted under this chapter. The division of fire and building safety shall make all fire safety inspections. ~~The council may provide for other inspections necessary to implement this chapter.~~

(b) An employee of the state department who knowingly or intentionally informs an institution or agency of the exact date of an unannounced inspection shall be suspended without pay for five (5) days for a first offense and shall be dismissed for a subsequent offense.

(c) Reports of all inspections must be in writing and sent to the institution or agency.

(d) The report of an inspection and records relating to the inspection



may not be released to the public until the conditions set forth in IC 16-19-3-25 are satisfied.

SECTION 35. IC 16-21-2-4 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 4. The state department shall administer this chapter with the advice of the council:

SECTION 36. IC 16-25-3-2.5 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 2.5: The state department shall administer this chapter with the advice of the health care facility advisory council established by IC 16-19-15-1.

SECTION 37. IC 16-27-0.5-9, AS AMENDED BY P.L.6-2012, SECTION 117, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 9. (a) The state department may request the health care facility advisory council to propose a new rule or an amendment to a rule **adopt rules under IC 4-22-2** necessary to protect the health, safety, rights, and welfare of the home health care patients and hospice patients. If the council does not propose a rule within ninety (90) days after the state department's request, the state department may propose the rule:

(b) The executive board shall consider rules proposed by the council under this section. The executive board may adopt, modify, remand, or reject specific rules or parts of rules proposed by the council.

(c) To become effective, all rules proposed by the council under this chapter must be adopted by the executive board in accordance with IC 4-22-2.

SECTION 38. IC 16-28-1-7, AS AMENDED BY P.L.156-2011, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 7. The ~~council~~ **state department** shall do the following:

(1) ~~Propose the adoption of~~ **Adopt** rules by the department under IC 4-22-2 governing the following:

- (A) Health and sanitation standards necessary to protect the health, safety, security, rights, and welfare of patients.
- (B) Qualifications of applicants for licenses issued under this article to assure the proper care of patients.
- (C) Operation, maintenance, management, equipment, and construction of facilities required to be licensed under this article if jurisdiction is not vested in any other state agency.
- (D) Manner, form, and content of the license, including rules governing disclosure of ownership interests.
- (E) Levels of medical staffing and medical services in cooperation with the office of Medicaid policy and planning, division of family resources, and other agencies authorized to



pay for the services.

(2) Recommend to the fire prevention and building safety commission fire safety rules necessary to protect the health, safety, security, rights, and welfare of patients.

(3) Classify health facilities in health care categories.

~~(4) Act as an advisory body for the division, commissioner, and state department.~~

SECTION 39. IC 16-28-1-9 IS REPEALED [EFFECTIVE JULY 1, 2014]. ~~Sec. 9: The council may not waive a rule adopted under this chapter.~~

SECTION 40. IC 16-28-1-12 IS REPEALED [EFFECTIVE JULY 1, 2014]. ~~Sec. 12: (a) The department may request the council to propose a new rule or an amendment to a rule necessary to protect the health, safety, rights, and welfare of patients. If the council does not propose a rule not more than ninety (90) days after the department's request, the department may propose its own rule.~~

~~(b) The executive board may adopt, modify, remand, or reject specific rules or parts of rules proposed by the council.~~

~~(c) To become effective, all rules adopted under this chapter must be adopted by the executive board in accordance with IC 4-22-2. The rules adopted under this chapter are the only rules governing the licensing and operation of health facilities.~~

SECTION 41. IC 16-28-1-13, AS AMENDED BY P.L.1-2006, SECTION 299, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 13. (a) Licensure inspections of health facilities shall be made regularly in accordance with rules adopted under this chapter. The division shall make all health and sanitation inspections. The division of fire and building safety shall make all fire safety inspections. ~~The council or the director may provide for other inspections necessary to carry out this chapter.~~

(b) The exact date of an inspection of a health facility under this chapter may not be announced or communicated directly or indirectly to the owner, administrator, or an employee of the facility before the inspection. An employee of the state department who knowingly or intentionally informs a health facility of the exact date of an inspection shall be suspended without pay for five (5) days for a first offense and shall be dismissed for a subsequent offense.

(c) Reports of all inspections must be:

(1) in writing; and

(2) sent to the health facility.

(d) The report of an inspection and records relating to the inspection may not be released to the public until the conditions set forth in



IC 16-19-3-25 are satisfied.

SECTION 42. IC 16-28-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. (a) Hearings under this article shall be conducted in accordance with IC 4-21.5. Except for hearings held on the adoption of rules, an administrative law judge must meet the following conditions:

- (1) Be admitted to the practice of law in Indiana.
- (2) Not be a ~~member of the council~~ or an employee of the state.

(b) A health facility shall pay the costs of appointing an administrative law judge if the administrative law judge finds in favor of the state. However, if the administrative law judge finds in favor of the health facility, the state shall pay the costs of appointing the administrative law judge.

SECTION 43. IC 16-29-4-3, AS AMENDED BY P.L.6-2012, SECTION 118, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. ~~The health care facility advisory council may recommend;~~ Before the conversion of existing health facility beds to ICF/MR beds or the construction of a new ICF/MR facility, ~~that~~ the state department ~~may~~ issue a preliminary approval of the proposed project, but only if the ~~council~~ **state department** determines that there is an insufficient number of available beds to care for all the persons who are determined under IC 12-11-2.1 to be appropriate for placement in an ICF/MR facility.

SECTION 44. IC 16-29-4-4, AS AMENDED BY P.L.6-2012, SECTION 119, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. A proposed project that receives preliminary approval under this chapter may not add more beds than the number determined by the ~~health care facility advisory council~~ **state department** to be necessary to provide an available bed for each person determined under IC 12-11-2.1 to be appropriate for placement in an ICF/MR facility. Upon completion of the proposed project and compliance with the other requirements for licensure under IC 16-28, the state department shall issue a license to the facility.

SECTION 45. IC 16-36-6-7, AS ADDED BY P.L.164-2013, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 7. (a) The following individuals may complete a POST form:

- (1) A qualified person who is:
 - (A) either:
 - (i) at least eighteen (18) years of age; or
 - (ii) less than eighteen (18) years of age but authorized to consent under IC 16-36-1-3(a)(2); and



(B) of sound mind.

- (2) A qualified person's representative, if the qualified person:
- (A) is less than eighteen (18) years of age and is not authorized to consent under IC 16-36-1-3(a)(2); or
 - (B) has been determined to be incapable of making decisions about the qualified person's health care by a treating physician acting in good faith and the representative has been:
 - (i) appointed by the individual under IC 16-36-1-7 to serve as the individual's health care representative;
 - (ii) authorized to act under IC 30-5-5-16 and IC 30-5-5-17 as the individual's attorney in fact with authority to consent to or refuse health care for the individual; ~~or~~
 - (iii) appointed by a court as the individual's **guardian health care representative** under IC 16-36-1-8; **or**
 - (iv) **appointed by a court as the guardian of the person with the authority to make health care decisions under IC 29-3.**

(b) In order to complete a POST form, a person described in subsection (a) and the qualified person's treating physician or the physician's designee must do the following:

- (1) Discuss the qualified person's goals and treatment options available to the qualified person based on the qualified person's health.
- (2) Complete the POST form, to the extent possible, based on the qualified person's preferences determined during the discussion in subdivision (1).

(c) When completing a POST form on behalf of a qualified person, a representative shall act:

- (1) in good faith; and
- (2) in:
 - (A) accordance with the qualified person's express or implied intentions, if known; or
 - (B) the best interest of the qualified person, if the qualified person's express or implied intentions are not known.

(d) A copy of the executed POST form shall be maintained in the qualified person's medical file.

SECTION 46. IC 16-37-2-4, AS AMENDED BY P.L.232-2013, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. A local health officer may accept a certificate of birth presented for filing not more than ~~four (4) years~~ **twelve (12) months** after the birth occurred if the attending physician, certified nurse midwife, certified direct entry midwife, or other person desiring



to file the certificate states the reason for the delay in writing. This statement shall be made a part of the certificate of birth.

SECTION 47. IC 16-37-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. A certificate of birth presented for filing more than ~~four (4) years~~ **twelve (12) months** after the birth occurred is a delayed certificate of birth and the record shall be filed only with the state department.

SECTION 48. IC 16-38-4-1, AS AMENDED BY P.L.232-2013, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. As used in this chapter, "birth problems" means one (1) or more of the following conditions:

- (1) A structural deformation.
- (2) A developmental malformation.
- (3) A genetic, inherited, or biochemical disease.
- (4) A condition of a chronic nature, including central nervous system hemorrhage or infection of the central nervous system, that may result in a need for long term health care.
- (5) An autism spectrum disorder that is recognized in a ~~child before the child becomes five (5) years of age~~ **an individual at any years of age.**
- (6) A fetal alcohol spectrum disorder that is recognized before a child becomes five (5) years of age.
- (7) Any other severe disability that is:
 - (A) designated in a rule adopted by the state department; and
 - (B) recognized in a child after birth and before the child becomes three (3) years of age.
- (8) Complications resulting from a home delivery. As used in this subdivision, "home" includes the delivery of a viable fetus at a home or other non-health care facility.
- (9) A visual impairment.**
- (10) Cortical blindness.**
- (11) Legal blindness.**

SECTION 49. IC 16-38-4-8, AS AMENDED BY P.L.188-2013, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 8. (a) The state department shall establish a birth problems registry for the purpose of recording all cases of birth problems that occur in Indiana residents and compiling necessary and appropriate information concerning those cases, as determined by the state department, in order to:

- (1) conduct epidemiologic and environmental studies and to apply appropriate preventive and control measures;
- (2) **except for an autism spectrum disorder**, inform the parents



of children with birth problems:

- (A) at the time of discharge from the hospital; or
- (B) if a birth problem is diagnosed during a physician or hospital visit that occurs before the child is:
 - (i) except as provided in item (ii), three (3) years of age at the time of diagnosis; or
 - (ii) five (5) years of age at the time of diagnosis if the disorder is ~~an autism spectrum disorder~~ or a fetal alcohol spectrum disorder;

about physicians care facilities, and appropriate community resources, including local step ahead agencies and the infants and toddlers with disabilities program (IC 12-12.7-2); ~~or~~

(3) except as provided in subsection (d), inform:

(A) the individual with problems at any age; or

(B) the individual's parent;

at the time of diagnosis, if the individual's disorder is an autism spectrum disorder, about physicians and appropriate state and community resources, including local step ahead agencies and the infants and toddlers with disabilities program (IC 12-12.7-2); or

~~(3)~~ **(4) inform citizens regarding programs designed to prevent or reduce birth problems.**

(b) The state department shall record in the birth problems registry:

- (1) all data concerning birth problems of children that are provided from the certificate of live birth; and
- (2) any additional information that may be provided by an individual or entity described in section 7(a)(2) of this chapter concerning a birth problem that is:

(A) designated in a rule adopted by the state department; and

(B) recognized:

- (i) after the child is discharged from the hospital as a newborn;
- (ii) before the child is five (5) years of age if the child is diagnosed with ~~an autism spectrum disorder~~ or a fetal alcohol spectrum disorder; ~~and~~
- (iii) before the child is three (3) years of age for any diagnosis not specified in ~~item~~ ~~items~~ (ii) ~~and~~ (iv); ~~and~~
- (iv) at any age if the individual is diagnosed with an autism spectrum disorder.**

(c) The state department shall:

- (1) provide a physician and a local health department with necessary forms for reporting under this chapter; and



(2) report in an electronic format under IC 5-14-6 to the legislative council any birth problem trends that are identified through the data collected under this chapter.

(d) Concerning an individual who is at least eight (8) years of age and diagnosed with an autism spectrum disorder, the state department is not required to do any of the following:

(1) Report information to the federal Centers for Disease Control and Prevention.

(2) Confirm the individual's diagnosis.

(3) Verbally inform an individual of the information set forth in subsection (a)(3).

SECTION 50. IC 16-38-4-9, AS AMENDED BY P.L.232-2013, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 9. (a) Certified nurse midwives, certified direct entry midwives, and individuals and entities described in section 7(a)(2) of this chapter shall report each confirmed case of a birth problem that is recognized at the time of birth to the registry not later than sixty (60) days after the birth. An individual or entity described in section 7(a)(2) of this chapter who recognizes a birth problem in:

(1) a child after birth but before the child is five (5) years of age, if the child is diagnosed with a disorder other than an autism spectrum disorder;

(2) an individual at any age, if the individual is diagnosed with an autism spectrum disorder; and

(3) a child before the child is three (3) years of age for any birth problem diagnosis not specified in subdivisions (1) and (2);

shall report the birth problem to the registry not later than sixty (60) days after recognizing the birth problem. Information may be provided to amend or clarify an earlier reported case.

(b) A person required to report information to the registry under this section may use, when completing reports required by this chapter, information submitted to any other public or private registry or required to be filed with federal, state, or local agencies. However, the state department may require additional, definitive information.

(c) Exchange of information between state department registries is authorized. The state department may use information from another registry administered by the state department. Information used from other registries remains subject to the confidentiality restrictions on the other registries.

SECTION 51. IC 16-41-42.2-4, AS ADDED BY P.L.3-2008, SECTION 113, IS AMENDED TO READ AS FOLLOWS



[EFFECTIVE JULY 1, 2014]: Sec. 4. The fund is to be used for the following purposes:

- (1) Establishing and maintaining a state medical surveillance registry for traumatic spinal cord and brain injuries.
- (2) Fulfilling the duties of the board established by section 5 of this chapter.
- (3) Funding research related to the treatment and cure of spinal cord and brain injuries, including acute management, medical complications, rehabilitative techniques, and neuronal recovery. Research must be conducted in compliance with all state and federal laws.

(4) Develop a statewide trauma system.

However, not more than fifty percent (50%) of the money in the fund may be used for purposes of developing a statewide trauma system.

SECTION 52. IC 16-42-19-29 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 29. A legend drug that is composed wholly or partly of insulin may be sold for retail sale by a pharmacy only to an individual who possesses a prescription from one (1) of the following:**

- (1) A physician licensed under IC 25-22.5.**
- (2) A veterinarian licensed to practice veterinary medicine in Indiana.**
- (3) An advanced practice nurse who meets the requirements of IC 25-23-1-19.5.**
- (4) A physician assistant licensed under IC 25-27.5 who is delegated prescriptive authority under IC 25-27.5-5-6.**

SECTION 53. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "department" refers to the state department of health.

(b) Before September 1, 2014, the department shall adopt rules that establish a license and provide regulations for a facility that provides specialized treatment and services for traumatic brain injuries.

(c) Before September 1, 2014, the department shall make to the legislative council and health finance commission recommendations concerning changes to the food handling laws. Recommendations made to the legislative council must be in an electronic format under IC 5-14-6.

(d) This SECTION expires December 31, 2014.



SECTION 54. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 406 as printed January 24, 2014.)

CLERE, Chair

Committee Vote: yeas 11, nays 0.

