

**CONFERENCE COMMITTEE REPORT
DIGEST FOR EHB 1306**

Citations Affected: IC 12-7-2; IC 12-12-8; IC 25-22.5-11.

Synopsis: Various health matters. Establishes the statewide independent living council. Requires the council to assist the division of disability, aging, and rehabilitative services (division) in the preparation of a state plan to provide independent living services and promote the development of a statewide network of centers for independent living. Authorizes state grants for centers for independent living. Requires the division to review certain centers receiving federal money for compliance with federal law. Requires a physician to provide certain information to an individual before referring the individual to a health care entity in which the physician has a financial interest. Provides certain exceptions. **(This committee report: (1) adds HB 1444 concerning independent living councils except that it makes changes to the makeup of the council members; (2) modifies language concerning when a physician has to notify a patient before referring the patient to another health care entity; and (3) makes technical changes.)**

Effective: July 1, 2005.

Adopted

Rejected

CONFERENCE COMMITTEE REPORT

MR. SPEAKER:

Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill No. 1306 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning health.
- 3 Delete everything after the enacting clause and insert the following:
- 4 SECTION 1. IC 12-7-2-34.2 IS ADDED TO THE INDIANA CODE
- 5 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
- 6 JULY 1, 2005]: **Sec. 34.2. "Commissioner", for purposes of**
- 7 **IC 12-12-8, has the meaning set forth in IC 12-12-8-1.5.**
- 8 SECTION 2. IC 12-7-2-44 IS AMENDED TO READ AS
- 9 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 44. "Council" means
- 10 the following:
- 11 (1) For purposes of IC 12-9-4, the meaning set forth in IC 12-9-4-1.
- 12 **(2) For purposes of IC 12-12-8, the meaning set forth in**
- 13 **IC 12-12-8-2.5.**
- 14 ~~(2)~~ **(3)** For purposes of IC 12-13-4, the meaning set forth in
- 15 IC 12-13-4-1.
- 16 ~~(3)~~ **(4)** For purposes of IC 12-15-41 and IC 12-15-42, the Medicaid
- 17 work incentives council established by IC 12-15-42-1.
- 18 ~~(4)~~ **(5)** For purposes of IC 12-17-15, the meaning set forth in
- 19 IC 12-17-15-2.
- 20 ~~(5)~~ **(6)** For purposes of IC 12-18-3 and IC 12-18-4, the domestic
- 21 violence prevention and treatment council established by
- 22 IC 12-18-3-1.
- 23 ~~(6)~~ **(7)** For purposes of IC 12-21-4, the meaning set forth in

- 1 IC 12-21-4-1.
 2 ~~(7)~~ **(8)** For purposes of IC 12-28-5, the meaning set forth in
 3 IC 12-28-5-1.
 4 SECTION 3. IC 12-7-2-82.7 IS ADDED TO THE INDIANA CODE
 5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2005]: **Sec. 82.7. "Federal act", for purposes of IC 12-12-8,
 7 has the meaning set forth in IC 12-12-8-3.2.**
 8 SECTION 4. IC 12-7-2-117.3 IS ADDED TO THE INDIANA
 9 CODE AS A NEW SECTION TO READ AS FOLLOWS
 10 [EFFECTIVE JULY 1, 2005]: **Sec. 117.3. (a) "Individual with a
 11 disability", for purposes of IC 12-12-8, has the meaning set forth in
 12 IC 12-12-8-3.4.**
 13 **(b) "Individual with a significant disability", for purposes of
 14 IC 12-12-8, has the meaning set forth in IC 12-12-8-3.6.**
 15 SECTION 5. IC 12-12-8-1.5 IS ADDED TO THE INDIANA CODE
 16 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2005]: **Sec. 1.5. As used in this chapter, "commissioner"
 18 means the commissioner of the Rehabilitation Services
 19 Administration in the United States Department of Education.**
 20 SECTION 6. IC 12-12-8-2 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 2. As used in this
 22 chapter, "consumer control" means, with respect to a center for
 23 independent living or an eligible agency, that:**
 24 **(1) the center or eligible agency vests power and authority in
 25 individuals with disabilities, including individuals who are or have
 26 been recipients of independent living services; and**
 27 **(2) at least fifty-one percent (51%) of the center's board and
 28 staff are individuals with disabilities.**
 29 SECTION 7. IC 12-12-8-2.5 IS ADDED TO THE INDIANA CODE
 30 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2005]: **Sec. 2.5. As used in this chapter, "council" means
 32 the statewide independent living council established by section 6 of
 33 this chapter.**
 34 SECTION 8. IC 12-12-8-3.2 IS ADDED TO THE INDIANA CODE
 35 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 2005]: **Sec. 3.2. As used in this chapter, "federal act"
 37 refers to the Federal Rehabilitation Act of 1973 (29 U.S.C. 701 et
 38 seq.) and amendments to that statute.**
 39 SECTION 9. IC 12-12-8-3.4 IS ADDED TO THE INDIANA CODE
 40 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2005]: **Sec. 3.4. As used in this chapter, "individual with
 42 a disability" means an individual who:**
 43 **(1) has a physical or mental impairment that substantially
 44 limits a major life activity;**
 45 **(2) has a record of an impairment described in subdivision (1);**
 46 **or**
 47 **(3) is regarded as having an impairment described in
 48 subdivision (1).**
 49 SECTION 10. IC 12-12-8-3.6 IS ADDED TO THE INDIANA
 50 CODE AS A NEW SECTION TO READ AS FOLLOWS
 51 [EFFECTIVE JULY 1, 2005]: **Sec. 3.6. As used in this chapter,**

1 **"individual with a significant disability" means an individual who**
 2 **has a significant physical or mental impairment that substantially**
 3 **limits the individual's ability to:**

- 4 (1) **function independently in the family or community; or**
 5 (2) **obtain, maintain, or advance in employment.**

6 SECTION 11. IC 12-12-8-3.8 IS ADDED TO THE INDIANA
 7 CODE AS A NEW SECTION TO READ AS FOLLOWS
 8 [EFFECTIVE JULY 1, 2005]: **Sec. 3.8. As used in this chapter,**
 9 **"state plan" means the materials jointly developed and submitted**
 10 **by the council and the division to the commissioner containing the**
 11 **state's proposals for the following:**

- 12 (1) **The provision of statewide independent living services.**
 13 (2) **The development and support of a statewide network of**
 14 **centers for independent living.**
 15 (3) **Working relationships among:**
 16 (A) **programs providing independent living services and**
 17 **independent living centers; and**
 18 (B) **the vocational rehabilitation program administered by**
 19 **the division under the federal act and other programs**
 20 **providing services for individuals with disabilities.**

21 SECTION 12. IC 12-12-8-4 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 4. (a) Any provision**
 23 **of this chapter that violates a federal law or federal regulation is**
 24 **void.**

25 (b) To be eligible to receive state funds, a center for independent
 26 living must meet the requirements for federal funding for a center for
 27 independent living under:

- 28 (1) 29 U.S.C. 796; and
 29 (2) 34 CFR Parts 364 through 366;

30 that are in effect January 1, 1995.

31 SECTION 13. IC 12-12-8-5 IS ADDED TO THE INDIANA CODE
 32 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2005]: **Sec. 5. The division is designated as the state unit**
 34 **under Title VII of the federal act and has the following**
 35 **responsibilities:**

- 36 (1) **To receive, account for, and disburse funds received by the**
 37 **state under the federal act based on the state plan.**
 38 (2) **To provide administrative support services to centers for**
 39 **independent living programs.**
 40 (3) **To keep records and take actions with respect to the records**
 41 **as required by the commissioner.**
 42 (4) **To submit additional information or provide assurances**
 43 **with respect to the independent living programs as required by**
 44 **the commissioner.**

45 SECTION 14. IC 12-12-8-6 IS ADDED TO THE INDIANA CODE
 46 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 47 JULY 1, 2005]: **Sec. 6. (a) There is established a statewide**
 48 **independent living council. The council is not a part of a state**
 49 **agency.**

50 (b) **The council consists of at least twenty (20) members**
 51 **appointed by the governor, including the following:**

- 1 **(1) Each director of a center for independent living located in**
 2 **Indiana.**
 3 **(2) Nonvoting members from state agencies that provide**
 4 **services for individuals with disabilities.**
 5 **(3) Other members, who may include the following:**
 6 **(A) Representatives of centers for independent living.**
 7 **(B) Parents and guardians of individuals with disabilities.**
 8 **(C) Advocates for individuals with disabilities.**
 9 **(D) Representatives from private business.**
 10 **(E) Representative of organizations that provide services for**
 11 **individuals with disabilities.**
 12 **(F) Other appropriate individuals.**
 13 **(c) The members appointed under subsection (b) must:**
 14 **(1) provide statewide representation;**
 15 **(2) represent a broad range of individuals with disabilities from**
 16 **diverse backgrounds;**
 17 **(3) be knowledgeable about centers for independent living and**
 18 **independent living services; and**
 19 **(4) include a majority of members who:**
 20 **(A) are individuals with significant disabilities; and**
 21 **(B) are not employed by a state agency or a center for**
 22 **independent living.**

23 SECTION 15. IC 12-12-8-7 IS ADDED TO THE INDIANA CODE
 24 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2005]: **Sec. 7. (a) Each member of the council who is not a**
 26 **state employee is entitled to the minimum salary per diem provided**
 27 **by IC 4-10-11-2.1(b). The member is also entitled to reimbursement**
 28 **for traveling expenses as provided under IC 4-13-1-4 and other**
 29 **expenses actually incurred in connection with the member's duties**
 30 **as provided in the state policies and procedures established by the**
 31 **Indiana department of administration and approved by the budget**
 32 **agency.**

33 **(b) Each member of the council who is a state employee is entitled**
 34 **to reimbursement for traveling expenses as provided under**
 35 **IC 4-13-1-4 and other expenses actually incurred in connection**
 36 **with the member's duties as provided in the state policies and**
 37 **procedures established by the Indiana department of**
 38 **administration and approved by the budget agency.**

39 SECTION 16. IC 12-12-8-8 IS ADDED TO THE INDIANA CODE
 40 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2005]: **Sec. 8. (a) A member appointed to the council by the**
 42 **governor serves a term of three (3) years, beginning on July 1 after**
 43 **appointment. However, a member appointed to fill a vacancy on**
 44 **the council serves for the remainder of the unexpired term.**

45 **(b) A member appointed to the council by the governor may not**
 46 **serve more than two (2) consecutive terms.**

47 SECTION 17. IC 12-12-8-9 IS ADDED TO THE INDIANA CODE
 48 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 49 JULY 1, 2005]: **Sec. 9. If a vacancy occurs among the voting**
 50 **members of the council, the original appointing authority shall**
 51 **appoint a qualified individual to serve for the unexpired term of the**

1 **vacating member.**

2 SECTION 18. IC 12-12-8-10 IS ADDED TO THE INDIANA CODE
3 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2005]: **Sec. 10. (a) The council has the powers and duties
5 specified in this chapter.**

6 **(b) The council may do the following:**

7 **(1) Jointly develop and sign the state plan in conjunction with
8 the designated state unit.**

9 **(2) Monitor, review, and evaluate the implementation of the
10 state plan.**

11 **(3) Coordinate activities with the state rehabilitation council
12 and other councils that address the needs of specific disability
13 issues.**

14 **(4) Submit periodic reports to the funding sources and provide
15 access to the records that are necessary to verify contents of the
16 reports.**

17 **(5) Do other things necessary and proper to implement this
18 chapter.**

19 **(c) The council shall ensure that all meetings of the council are
20 open to the public and in accessible formats with sufficient advance
21 public notice.**

22 SECTION 19. IC 12-12-8-11 IS ADDED TO THE INDIANA CODE
23 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE
24 JULY 1, 2005]: **Sec. 11. The division shall prepare the state plan
25 that must be submitted to the commissioner.**

26 SECTION 20. IC 12-12-8-12 IS ADDED TO THE INDIANA CODE
27 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE
28 JULY 1, 2005]: **Sec. 12. The division may award grants to any
29 eligible center for independent living with funds that the division
30 receives under Title VII, Part B of the federal act.**

31 SECTION 21. IC 12-12-8-13 IS ADDED TO THE INDIANA CODE
32 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE
33 JULY 1, 2005]: **Sec. 13. The council and the division shall jointly
34 appoint a peer review committee to make recommendations for
35 grants to new organizations eligible to be centers for independent
36 living.**

37 SECTION 22. IC 12-12-8-14 IS ADDED TO THE INDIANA CODE
38 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE
39 JULY 1, 2005]: **Sec. 14. A center for independent living is eligible
40 to receive money under this chapter as long as the center complies
41 with the standards and assurances required under Section 725 of
42 the federal act. A center that receives only state or federal funds
43 under Title VII, Part B of the federal act is subject to review by the
44 division. A center that receives federal funds under Title VII, Part
45 C of the federal act is subject to review by the federal government.
46 A finding of noncompliance must be supported by a written report
47 from the peer review committee appointed under section 13 of this
48 chapter.**

49 SECTION 23. IC 12-12-8-15 IS ADDED TO THE INDIANA CODE
50 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE
51 JULY 1, 2005]: **Sec. 15. A center for independent living that**

1 receives money under this chapter shall comply with the standards
 2 and assurances required under the state plan and Section 725 of
 3 the federal act. The center for independent living shall provide the
 4 required assurances to the division.

5 SECTION 24. IC 12-12-8-16 IS ADDED TO THE INDIANA CODE
 6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2005]: Sec. 16. (a) If:

8 (1) there is no center for independent living serving a region of
 9 Indiana or a region of Indiana is underserved; and

10 (2) the state receives an increase in its federal allotment that is
 11 sufficient to support an additional center for independent living
 12 in Indiana;

13 the division may award a grant to an eligible agency for a new
 14 center for independent living in the unserved or underserved
 15 region. A grant awarded under this section must be consistent with
 16 the provisions of the state plan establishing a statewide network of
 17 centers for independent living.

18 (b) The council shall rank eligible agencies applying for a grant
 19 under this section using the standards and assurances required
 20 under Section 725 of the federal act. The council shall consider the
 21 ability of the applicant to operate a center for independent living
 22 and shall select an applicant using the following criteria:

23 (1) Evidence of the need for a center for independent living in
 24 the applicant's region of Indiana that is consistent with the
 25 state plan.

26 (2) The past performance of the applicant in providing services
 27 comparable to independent living services.

28 (3) The applicant's plan for complying with, or demonstrated
 29 compliance with, the standards and assurances set forth in
 30 Section 725 of the federal act.

31 (4) The quality of the applicant's key personnel and the
 32 involvement of individuals with significant disabilities.

33 SECTION 25. IC 12-12-8-17 IS ADDED TO THE INDIANA CODE
 34 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2005]: Sec. 17. (a) The division shall periodically review
 36 each new center for independent living that receives:

37 (1) money under Title VII, Part B of the federal act; or

38 (2) a grant under this chapter;

39 to determine whether the center is in compliance with the
 40 standards and assurances set forth in Section 725 of the federal act.

41 (b) If the division determines that a center reviewed under
 42 subsection (a) is not in compliance with the standards and
 43 assurances set forth in Section 725 of the federal act, the division
 44 shall immediately notify the center of the division's determination
 45 of noncompliance. A center may appeal the determination by
 46 requesting a hearing from the office of the secretary not later than
 47 thirty (30) days after receiving notice from the division.

48 (c) Except as provided in subsection (d), the division shall
 49 terminate all funds to a center determined to be in noncompliance
 50 under this section not later than ninety (90) days after the date of:

51 (1) the division's notification of noncompliance; or

1 (2) a final decision by the office of the secretary in the case of
2 a center that appeals the division's determination under
3 subsection (b).

4 (d) The division may not terminate the funds of a center for
5 independent living that is determined to be noncompliant with the
6 standards and assurances set forth in Section 725 of the federal act
7 if:

8 (1) the center submits to the division a plan for achieving
9 compliance within ninety (90) days; and

10 (2) the division approves the plan.

11 A plan required under this subsection must be submitted not later
12 than thirty (30) days after the center receives a notice of
13 noncompliance from the division under subsection (b).

14 SECTION 26. IC 25-22.5-11 IS ADDED TO THE INDIANA CODE
15 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2005]:

17 Chapter 11. Physician Referral to Certain Health Care Entities

18 Sec. 1. (a) As used in this chapter, "financial interest" means an
19 ownership or investment interest through equity, debt, or other
20 means. The term includes an ownership or investment interest in
21 an entity that holds:

22 (1) directly; or

23 (2) through a subsidiary;

24 an ownership or investment interest in a health care entity.

25 (b) The term does not include the following:

26 (1) Ownership of investment securities (including shares or
27 bonds, debentures, notes, or other debt instruments) that may
28 be purchased on terms generally available to the public and
29 that are:

30 (A) securities:

31 (i) listed on the New York Stock Exchange, the American
32 Stock Exchange, any regional exchange in which
33 quotations are published on a daily basis, or foreign
34 securities listed on a recognized foreign, national, or
35 regional exchange in which quotations are published on a
36 daily basis; or

37 (ii) traded under the National Association of Securities
38 Dealers, Inc. Automated Quotations System; and

39 (B) in a corporation that had, at the end of the corporation's
40 most recent fiscal year, or on average during the previous
41 three (3) fiscal years, stockholder equity exceeding
42 seventy-five million dollars (\$75,000,000).

43 (2) Ownership of shares in a regulated investment company as
44 defined in section 851(a) of the Internal Revenue Code of 1986,
45 if such company had, at the end of the company's most recent
46 fiscal year, or on average during the previous three (3) fiscal
47 years, total assets exceeding seventy-five million dollars
48 (\$75,000,000).

49 Sec. 2. As used in this chapter, "health care entity" means an
50 organization or a business that provides diagnostic, medical, or
51 surgical services, dental treatment, or rehabilitative care.

1 **Sec. 3. (a) Except as provided in subsection (b), a physician must**
2 **do the following before referring an individual to a health care**
3 **entity in which the physician has a financial interest:**

4 **(1) Disclose in writing to the individual that the physician has**
5 **a financial interest in the health care entity.**

6 **(2) Inform the individual in writing that the individual may**
7 **choose to be referred to another health care entity.**

8 **The individual shall acknowledge receipt of the notice required**
9 **under this section by signing the notice. The physician shall keep**
10 **a copy of the signed notice.**

11 **(b) Subsection (a) does not apply if a delay in treatment caused**
12 **by compliance with the requirements of subsection (a) would**
13 **reasonably be expected by the referring physician to result in**
14 **serious:**

15 **(1) jeopardy to the individual's health;**

16 **(2) impairment to the individual's bodily functions; or**

17 **(3) dysfunction of a bodily organ or part of the individual.**

18 **Sec. 4. Compliance with this chapter is a condition of licensure**
19 **under this article.**

20 **Sec. 5. This chapter is not intended to conflict with 42 U.S.C.**
21 **1395nn or 42 U.S.C. 1396b(s).**

(Reference is to EHB 1306 as reprinted March 29, 2005.)

Conference Committee Report
on
Engrossed House Bill 1306

Signed by:

Representative Becker
Chairperson

Senator Server

Representative Brown C

Senator Simpson

House Conferees

Senate Conferees