

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 2004 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1306

AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 12-7-2-34.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 34.2. "Commissioner", for purposes of IC 12-12-8, has the meaning set forth in IC 12-12-8-1.5.**

SECTION 2. IC 12-7-2-44 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 44. "Council" means the following:

- (1) For purposes of IC 12-9-4, the meaning set forth in IC 12-9-4-1.
- (2) For purposes of IC 12-12-8, the meaning set forth in IC 12-12-8-2.5.**
- ~~(3)~~ **(3)** For purposes of IC 12-13-4, the meaning set forth in IC 12-13-4-1.
- ~~(4)~~ **(4)** For purposes of IC 12-15-41 and IC 12-15-42, the Medicaid work incentives council established by IC 12-15-42-1.
- ~~(5)~~ **(5)** For purposes of IC 12-17-15, the meaning set forth in IC 12-17-15-2.
- ~~(6)~~ **(6)** For purposes of IC 12-18-3 and IC 12-18-4, the domestic violence prevention and treatment council established by IC 12-18-3-1.
- ~~(7)~~ **(7)** For purposes of IC 12-21-4, the meaning set forth in

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IC 12-21-4-1.

(7) (8) For purposes of IC 12-28-5, the meaning set forth in IC 12-28-5-1.

SECTION 3. IC 12-7-2-82.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 82.7. "Federal act", for purposes of IC 12-12-8, has the meaning set forth in IC 12-12-8-3.2.**

SECTION 4. IC 12-7-2-117.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 117.3. (a) "Individual with a disability", for purposes of IC 12-12-8, has the meaning set forth in IC 12-12-8-3.4.**

(b) "Individual with a significant disability", for purposes of IC 12-12-8, has the meaning set forth in IC 12-12-8-3.6.

SECTION 5. IC 12-12-8-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 1.5. As used in this chapter, "commissioner" means the commissioner of the Rehabilitation Services Administration in the United States Department of Education.**

SECTION 6. IC 12-12-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 2. As used in this chapter, "consumer control" means, with respect to a center for independent living or an eligible agency, that:**

- (1) the center or eligible agency vests power and authority in individuals with disabilities, including individuals who are or have been recipients of independent living services; and**
- (2) at least fifty-one percent (51%) of the center's board and staff are individuals with disabilities.**

SECTION 7. IC 12-12-8-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 2.5. As used in this chapter, "council" means the statewide independent living council established by section 6 of this chapter.**

SECTION 8. IC 12-12-8-3.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 3.2. As used in this chapter, "federal act" refers to the Federal Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.) and amendments to that statute.**

SECTION 9. IC 12-12-8-3.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 3.4. As used in this chapter, "individual with a disability" means an individual who:**

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- (1) has a physical or mental impairment that substantially limits a major life activity;**
- (2) has a record of an impairment described in subdivision (1); or**
- (3) is regarded as having an impairment described in subdivision (1).**

SECTION 10. IC 12-12-8-3.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 3.6. As used in this chapter, "individual with a significant disability" means an individual who has a significant physical or mental impairment that substantially limits the individual's ability to:**

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

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

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

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

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

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

that are in effect January 1, 1995.

SECTION 13. IC 12-12-8-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 5. The division is designated as the state unit under**

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Title VII of the federal act and has the following responsibilities:

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

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

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

- (1) Each director of a center for independent living located in Indiana.**
- (2) Nonvoting members from state agencies that provide services for individuals with disabilities.**
- (3) Other members, who may include the following:**
 - (A) Representatives of centers for independent living.**
 - (B) Parents and guardians of individuals with disabilities.**
 - (C) Advocates for individuals with disabilities.**
 - (D) Representatives from private business.**
 - (E) Representative of organizations that provide services for individuals with disabilities.**
 - (F) Other appropriate individuals.**

(c) The members appointed under subsection (b) must:

- (1) provide statewide representation;**
- (2) represent a broad range of individuals with disabilities from diverse backgrounds;**
- (3) be knowledgeable about centers for independent living and independent living services; and**
- (4) include a majority of members who:**
 - (A) are individuals with significant disabilities; and**
 - (B) are not employed by a state agency or a center for independent living.**

SECTION 15. IC 12-12-8-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) Each member of the council who is not a state employee is entitled to the minimum salary per diem provided by

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IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

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

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

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

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

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

(b) The council may do the following:

- (1) Jointly develop and sign the state plan in conjunction with the designated state unit.
- (2) Monitor, review, and evaluate the implementation of the state plan.
- (3) Coordinate activities with the state rehabilitation council and other councils that address the needs of specific disability issues.
- (4) Submit periodic reports to the funding sources and provide access to the records that are necessary to verify contents of the reports.
- (5) Do other things necessary and proper to implement this

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chapter.

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

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

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

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

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

SECTION 23. IC 12-12-8-15 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 15. A center for independent living that receives money under this chapter shall comply with the standards and assurances required under the state plan and Section 725 of the federal act. The center for independent living shall provide the required assurances to the division.**

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

- (1) there is no center for independent living serving a region**

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- of Indiana or a region of Indiana is underserved; and
 (2) the state receives an increase in its federal allotment that is sufficient to support an additional center for independent living in Indiana;

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

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

- (1) Evidence of the need for a center for independent living in the applicant's region of Indiana that is consistent with the state plan.
- (2) The past performance of the applicant in providing services comparable to independent living services.
- (3) The applicant's plan for complying with, or demonstrated compliance with, the standards and assurances set forth in Section 725 of the federal act.
- (4) The quality of the applicant's key personnel and the involvement of individuals with significant disabilities.

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

- (1) money under Title VII, Part B of the federal act; or
- (2) a grant under this chapter;

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

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

(c) Except as provided in subsection (d), the division shall terminate all funds to a center determined to be in noncompliance

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under this section not later than ninety (90) days after the date of:

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

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

- (1) the center submits to the division a plan for achieving compliance within ninety (90) days; and
- (2) the division approves the plan.

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

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

Chapter 11. Physician Referral to Certain Health Care Entities

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

- (1) directly; or
- (2) through a subsidiary;

an ownership or investment interest in a health care entity.

(b) The term does not include the following:

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

(A) securities:

- (i) listed on the New York Stock Exchange, the American Stock Exchange, any regional exchange in which quotations are published on a daily basis, or foreign securities listed on a recognized foreign, national, or regional exchange in which quotations are published on a daily basis; or
- (ii) traded under the National Association of Securities Dealers, Inc. Automated Quotations System; and

(B) in a corporation that had, at the end of the corporation's most recent fiscal year, or on average during

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the previous three (3) fiscal years, stockholder equity exceeding seventy-five million dollars (\$75,000,000).

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

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

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

- (1) Disclose in writing to the individual that the physician has a financial interest in the health care entity.
- (2) Inform the individual in writing that the individual may choose to be referred to another health care entity.

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

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

- (1) jeopardy to the individual's health;
- (2) impairment to the individual's bodily functions; or
- (3) dysfunction of a bodily organ or part of the individual.

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

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

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Approved: _____

Governor of the State of Indiana

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