

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WITHDRAWN	Noes _____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

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 18 be amended to read as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 health.
- 4 Page 1, between the enacting clause and line 1, begin a new
- 5 paragraph and insert:
- 6 "SECTION 1. IC 11-10-4-9 IS ADDED TO THE INDIANA CODE
- 7 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
- 8 JULY 1, 2006]: **Sec. 9. (a) As used in this section, "mental health**
- 9 **record" has the meaning set forth in IC 16-18-2-226.**
- 10 **(b) A psychiatrist or a mental health facility may, with or**
- 11 **without the offender's consent, provide a copy of an offender's**
- 12 **mental health record to a facility or an agency responsible for the**
- 13 **incarceration of an offender. Any mental health records provided**
- 14 **under this subsection shall become part of the offender's health**
- 15 **record maintained by the facility or agency responsible for the**
- 16 **incarceration of an offender.**
- 17 **(c) If an offender is transferred to a different facility, the**
- 18 **offender's mental health records must be provided to the facility**
- 19 **that is used to:**
- 20 **(1) house; or**
- 21 **(2) provide mental health treatment to;**
- 22 **the offender, including a county jail or a community mental health**
- 23 **center.**
- 24 **(d) The department shall maintain health records for each**
- 25 **offender incarcerated by the department. After an offender is**

1 **released from incarceration, the department shall provide the**
 2 **offender's mental health records, if any, to a mental health facility**
 3 **or mental health provider who is providing mental health**
 4 **treatment to the offender."**

5 Page 2, between lines 24 and 25, begin a new paragraph and insert:
 6 "SECTION 7. IC 16-39-2-6 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) Without the
 8 consent of the patient, the patient's mental health record may only be
 9 disclosed as follows:

10 (1) To individuals who meet the following conditions:

11 (A) Are employed by:

12 (i) the provider at the same facility or agency;

13 (ii) a managed care provider (as defined in
 14 IC 12-7-2-127(b)); or

15 (iii) a health care provider or mental health care provider, if
 16 the mental health records are needed to provide health care
 17 or mental health services to the patient.

18 (B) Are involved in the planning, provision, and monitoring of
 19 services.

20 (2) To the extent necessary to obtain payment for services
 21 rendered or other benefits to which the patient may be entitled, as
 22 provided in IC 16-39-5-3.

23 (3) To the patient's court appointed counsel and to the Indiana
 24 protection and advocacy services commission.

25 (4) For research conducted in accordance with IC 16-39-5-3 and
 26 the rules of the division of mental health and addiction, the rules
 27 of the division of disability, aging, and rehabilitative services, or
 28 the rules of the provider.

29 (5) To the division of mental health and addiction for the purpose
 30 of data collection, research, and monitoring managed care
 31 providers (as defined in IC 12-7-2-127(b)) who are operating
 32 under a contract with the division of mental health and addiction.

33 (6) To the extent necessary to make reports or give testimony
 34 required by the statutes pertaining to admissions, transfers,
 35 discharges, and guardianship proceedings.

36 (7) To a law enforcement agency if any of the following
 37 conditions are met:

38 (A) A patient escapes from a facility to which the patient is
 39 committed under IC 12-26.

40 (B) The superintendent of the facility determines that failure to
 41 provide the information may result in bodily harm to the
 42 patient or another individual.

43 (C) A patient commits or threatens to commit a crime on
 44 facility premises or against facility personnel.

45 (D) A patient is in the custody of a law enforcement officer or
 46 agency for any reason and:

47 (i) the information to be released is limited to medications

- 1 currently prescribed for the patient or to the patient's history
2 of adverse medication reactions; and
3 (ii) the provider determines that the release of the medication
4 information will assist in protecting the health, safety, or
5 welfare of the patient.
- 6 Mental health records released under this clause must be
7 maintained in confidence by the law enforcement agency
8 receiving them.
- 9 (8) To a coroner or medical examiner, in the performance of the
10 individual's duties.
- 11 (9) To a school in which the patient is enrolled if the
12 superintendent of the facility determines that the information will
13 assist the school in meeting educational needs of a person with a
14 disability under 20 U.S.C. 1400 et seq.
- 15 (10) To the extent necessary to satisfy reporting requirements
16 under the following statutes:
- 17 (A) IC 12-10-3-10.
18 (B) IC 12-17-2-16.
19 (C) IC 12-24-17-5.
20 (D) IC 16-41-2-3.
21 (E) IC 31-33-5-4.
22 (F) IC 34-30-16-2.
23 (G) IC 35-46-1-13.
- 24 (11) To the extent necessary to satisfy release of information
25 requirements under the following statutes:
- 26 **(A) IC 11-10-4-9.**
27 ~~(A)~~ **(B)** IC 12-24-11-2.
28 ~~(B)~~ **(C)** IC 12-24-12-3, IC 12-24-12-4, and IC 12-24-12-6.
29 ~~(C)~~ **(D)** IC 12-26-11.
- 30 (12) To another health care provider in a health care emergency.
31 (13) For legitimate business purposes as described in
32 IC 16-39-5-3.
33 (14) Under a court order under IC 16-39-3.
34 (15) With respect to records from a mental health or
35 developmental disability facility, to the United States Secret
36 Service if the following conditions are met:
- 37 (A) The request does not apply to alcohol or drug abuse
38 records described in 42 U.S.C. 290dd-2 unless authorized by
39 a court order under 42 U.S.C. 290dd-2(b)(2)(c).
40 (B) The request relates to the United States Secret Service's
41 protective responsibility and investigative authority under 18
42 U.S.C. 3056, 18 U.S.C. 871, or 18 U.S.C. 879.
43 (C) The request specifies an individual patient.
44 (D) The director or superintendent of the facility determines
45 that disclosure of the mental health record may be necessary to
46 protect a person under the protection of the United States
47 Secret Service from serious bodily injury or death.

- 1 (E) The United States Secret Service agrees to only use the
 2 mental health record information for investigative purposes
 3 and not disclose the information publicly.
- 4 (F) The mental health record information disclosed to the
 5 United States Secret Service includes only:
- 6 (i) the patient's name, age, and address;
 7 (ii) the date of the patient's admission to or discharge from
 8 the facility; and
 9 (iii) any information that indicates whether or not the patient
 10 has a history of violence or presents a danger to the person
 11 under protection.
- 12 (16) To the statewide waiver ombudsman established under
 13 IC 12-11-13, in the performance of the ombudsman's duties.
- 14 (b) After information is disclosed under subsection (a)(15) and if the
 15 patient is evaluated to be dangerous, the records shall be interpreted in
 16 consultation with a licensed mental health professional on the staff of
 17 the United States Secret Service.
- 18 (c) A person who discloses information under subsection (a)(7) or
 19 (a)(15) in good faith is immune from civil and criminal liability.
- 20 SECTION 8. IC 16-39-5-3 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) As used in this
 22 section, "association" refers to an Indiana hospital trade association
 23 founded in 1921.
- 24 (b) As used in this section, "data aggregation" means a combination
 25 of information obtained from the health records of a provider with
 26 information obtained from the health records of one (1) or more other
 27 providers to permit data analysis that relates to the health care
 28 operations of the providers.
- 29 (c) Except as provided in IC 16-39-4-5, the original health record of
 30 the patient is the property of the provider and as such may be used by
 31 the provider, **including a previous or subsequent provider**, without
 32 specific written authorization for legitimate business purposes,
 33 including the following:
- 34 (1) Submission of claims for payment from third parties.
 35 (2) Collection of accounts.
 36 (3) Litigation defense.
 37 (4) Quality assurance.
 38 (5) Peer review.
 39 (6) Scientific, statistical, and educational purposes.
- 40 (d) In use under subsection (c), the provider shall at all times protect
 41 the confidentiality of the health record and may disclose the identity of
 42 the patient only when disclosure is essential to the provider's business
 43 use or to quality assurance and peer review.
- 44 (e) A provider may disclose a health record to another provider or
 45 to a nonprofit medical research organization to be used in connection
 46 with a joint scientific, statistical, or educational project. Each party that
 47 receives information from a health record in connection with the joint

1 project shall protect the confidentiality of the health record and may not
2 disclose the patient's identity except as allowed under this article.

3 (f) A provider may disclose a health record or information obtained
4 from a health record to the association for use in connection with a data
5 aggregation project undertaken by the association. However, the
6 provider may disclose the identity of a patient to the association only
7 when the disclosure is essential to the project. The association may
8 disclose the information it receives from a provider under this
9 subsection to the state department to be used in connection with a
10 public health activity or data aggregation of inpatient and outpatient
11 discharge information submitted under IC 16-21-6-6. The information
12 disclosed by:

13 (1) a provider to the association; or

14 (2) the association to the state department;

15 under this subsection is confidential.

16 (g) Information contained in final results obtained by the state
17 department for a public health activity that:

18 (1) is based on information disclosed under subsection (f); and

19 (2) identifies or could be used to determine the identity of a
20 patient;

21 is confidential. All other information contained in the final results is not
22 confidential.

23 (h) Information that is:

24 (1) advisory or deliberative material of a speculative nature; or

25 (2) an expression of opinion;

26 including preliminary reports produced in connection with a public
27 health activity using information disclosed under subsection (f), is
28 confidential and may only be disclosed by the state department to the
29 association and to the provider who disclosed the information to the
30 association.

31 (i) The association shall, upon the request of a provider that
32 contracts with the association to perform data aggregation, make
33 available information contained in the final results of data aggregation
34 activities performed by the association in compliance with subsection
35 (f).

36 (j) A person who recklessly violates or fails to comply with
37 subsections (e) through (h) commits a Class C infraction. Each day a
38 violation continues constitutes a separate offense.

39 (k) This chapter does not do any of the following:

40 (1) Repeal, modify, or amend any statute requiring or authorizing
41 the disclosure of information about any person.

42 (2) Prevent disclosure or confirmation of information about
43 patients involved in incidents that are reported or required to be
44 reported to governmental agencies and not required to be kept
45 confidential by the governmental agencies."

46 Renumber all SECTIONS consecutively.

(Reference is to ESB 18 as printed February 17, 2006.)

Representative Brown T