

**CONFERENCE COMMITTEE REPORT
DIGEST FOR EHB 1284**

Citations Affected: IC 27-1; IC 27-8; IC 27-13.

Synopsis: Insurance. Exempts a commissioner of insurance request for certain information from the requirement to issue an examination warrant. Permits a group life insurance policy to cover a spouse or dependent child for more than 50% of the amount provided for the insured. Revises the accident and sickness insurance form filing requirements concerning commissioner actions. Prohibits an accident and sickness insurer and a health maintenance organization from requiring a patient to travel a certain distance for dialysis treatment as a condition of coverage or reimbursement. Establishes a study committee on dialysis coverage. **(This conference committee report: (1) removes reports to the health finance commission; (2) prohibits requiring certain travel for dialysis treatment as a condition of reimbursement; and (3) establishes a study committee on dialysis coverage.)**

Effective: Upon passage; July 1, 2008.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 1284 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
- 3 insurance.
- 4 Delete everything after the enacting clause and insert the following:
- 5 SECTION 1. IC 27-1-3.1-9 IS AMENDED TO READ AS
- 6 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) Upon
- 7 determining that an examination should be conducted, the
- 8 commissioner or the commissioner's designee shall issue an
- 9 examination warrant appointing one **(1)** or more examiners to perform
- 10 the examination and instructing them as to the scope of the
- 11 examination. In conducting the examination, the examiner shall
- 12 observe those guidelines and procedures set forth in the NAIC
- 13 examiner's handbook. The commissioner may also employ such other
- 14 guidelines or procedures as the commissioner considers appropriate.
- 15 **The commissioner is not required to issue an examination warrant**
- 16 **for a data call.**
- 17 (b) Every company or person from whom information is sought, and
- 18 the officers, directors, and agents of the company or person, must
- 19 provide to the examiners appointed under subsection (a) timely,
- 20 convenient, and free access at all reasonable hours at its offices to all
- 21 books, records, accounts, papers, documents, and any or all computer
- 22 or other recordings relating to the property, assets, business, and affairs

1 of the company being examined. The officers, directors, employees,
 2 and agents of the company or person must facilitate the examination
 3 and aid in the examination so far as it is in their power to do so. The
 4 refusal of any company, by its officers, directors, employees, or agents
 5 within the company's control, to submit to examination or to comply
 6 with any reasonable written request of the examiners, or the failure of
 7 any company to make a good faith effort to require compliance with
 8 such a request, is grounds for:

- 9 (1) suspension;
- 10 (2) refusal; or
- 11 (3) nonrenewal;

12 of any license or authority held by the company to engage in an
 13 insurance or other business subject to the commissioner's jurisdiction.
 14 The commissioner may proceed to suspend or revoke a license or
 15 authority upon the grounds set forth in this subsection under
 16 IC 27-1-3-10 or IC 27-1-3-19.

17 (c) The commissioner and the commissioner's examiners may issue
 18 subpoenas, administer oaths, and examine under oath any person as to
 19 any matter pertinent to an examination conducted under this chapter.
 20 Upon the failure or refusal of any person to obey a subpoena, the
 21 commissioner may petition a court of competent jurisdiction, and upon
 22 proper showing, the court may enter any order compelling the witness
 23 to appear and testify or produce documentary evidence. Failure to obey
 24 the court order is punishable as contempt of court.

25 (d) When making an examination under this chapter, the
 26 commissioner may retain attorneys, appraisers, independent actuaries,
 27 independent certified public accountants, or other professionals and
 28 specialists as examiners. The cost of retaining these examiners shall be
 29 borne by the company that is the subject of the examination.

30 (e) This chapter does not limit the commissioner's authority to
 31 terminate or suspend any examination in order to pursue other legal or
 32 regulatory action pursuant to this title. Findings of fact and conclusions
 33 made pursuant to any examination shall be prima facie evidence in any
 34 legal or regulatory action.

35 SECTION 2. IC 27-1-12-40 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 40. Except for a policy
 37 that conforms to the description in section 37(2) of this chapter, a
 38 group life insurance policy may be extended to insure the employees
 39 or members, or any class or classes of employees or members, against
 40 loss due to the death of their spouses and dependent children, subject
 41 to the following:

- 42 (1) The premium for the insurance must be paid either from funds
 43 contributed by the employer, union, association, or other person
 44 to whom the policy has been issued, from funds contributed by
 45 the covered persons, or from both sources of funds. Except as
 46 provided in subdivision (2), a policy on which no part of the
 47 premium for the spouse's and dependent child's coverage is to be
 48 derived from funds contributed by the covered persons must
 49 insure all eligible employees or members, or any class or classes
 50 of eligible employees or members, with respect to their spouses
 51 and dependent children.

1 (2) An insurer may exclude or limit the coverage on any spouse
 2 or dependent child as to whom evidence of individual insurability
 3 is not satisfactory to the insurer.

4 ~~(3) The amounts of insurance for any covered spouse or~~
 5 ~~dependent child under the policy may not exceed fifty percent~~
 6 ~~(50%) of the amount of insurance for which the employee or~~
 7 ~~member is insured.~~

8 SECTION 3. IC 27-8-5-1.5, AS ADDED BY P.L.173-2007,
 9 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2008]: Sec. 1.5. (a) This section applies to a policy of accident
 11 and sickness insurance issued on an individual, a group, a franchise, or
 12 a blanket basis, including a policy issued by an assessment company or
 13 a fraternal benefit society.

14 (b) As used in this section, "commissioner" refers to the insurance
 15 commissioner appointed under IC 27-1-1-2.

16 (c) As used in this section, "grossly inadequate filing" means a
 17 policy form filing:

18 (1) that fails to provide key information, including state specific
 19 information, regarding a product, policy, or rate; or

20 (2) that demonstrates an insufficient understanding of applicable
 21 legal requirements.

22 (d) As used in this section, "policy form" means a policy, a contract,
 23 a certificate, a rider, an endorsement, an evidence of coverage, or any
 24 amendment that is required by law to be filed with the commissioner
 25 for approval before use in Indiana.

26 (e) As used in this section, "type of insurance" refers to a type of
 27 coverage listed on the National Association of Insurance
 28 Commissioners Uniform Life, Accident and Health, Annuity and Credit
 29 Product Coding Matrix, or a successor document, under the heading
 30 "Continuing Care Retirement Communities", "Health", "Long Term
 31 Care", or "Medicare Supplement".

32 (f) Each person having a role in the filing process described in
 33 subsection (i) shall act in good faith and with due diligence in the
 34 performance of the person's duties.

35 (g) A policy form may not be issued or delivered in Indiana unless
 36 the policy form has been filed with and approved by the commissioner.

37 (h) The commissioner shall do the following:

38 (1) Create a document containing a list of all product filing
 39 requirements for each type of insurance, with appropriate
 40 citations to the law, administrative rule, or bulletin that specifies
 41 the requirement, including the citation for the type of insurance
 42 to which the requirement applies.

43 (2) Make the document described in subdivision (1) available on
 44 the department of insurance Internet site.

45 (3) Update the document described in subdivision (1) at least
 46 annually and not more than thirty (30) days following any change
 47 in a filing requirement.

48 (i) The filing process is as follows:

49 (1) A filer shall submit a policy form filing that:

50 (A) includes a copy of the document described in subsection

51 (h);

- 1 (B) indicates the location within the policy form or supplement
 2 that relates to each requirement contained in the document
 3 described in subsection (h); and
 4 (C) certifies that the policy form meets all requirements of
 5 state law.
- 6 (2) The commissioner shall review a policy form filing and, not
 7 more than thirty (30) days after the commissioner receives the
 8 filing under subdivision (1):
 9 (A) approve the filing; or
 10 (B) provide written notice of a determination:
 11 (i) that deficiencies exist in the filing; or
 12 (ii) that the commissioner disapproves the filing.
- 13 A written notice provided by the commissioner under clause (B)
 14 must be based only on the requirements set forth in the document
 15 described in subsection (h) and must cite the specific
 16 requirements not met by the filing. A written notice provided by
 17 the commissioner under clause (B)(i) must state the reasons for
 18 the commissioner's determination in sufficient detail to enable the
 19 filer to bring the policy form into compliance with the
 20 requirements not met by the filing.
- 21 (3) A filer may resubmit a policy form that:
 22 (A) was determined deficient under subdivision (2) and has
 23 been amended to correct the deficiencies; or
 24 (B) was disapproved under subdivision (2) and has been
 25 revised.
- 26 A policy form resubmitted under this subdivision must meet the
 27 requirements set forth as described in subdivision (1) and must be
 28 resubmitted not more than thirty (30) days after the filer receives
 29 the commissioner's written notice of deficiency or disapproval. If
 30 a policy form is not resubmitted within thirty (30) days after
 31 receipt of the written notice, the commissioner's determination
 32 regarding the policy form is final.
- 33 (4) The commissioner shall review a policy form filing
 34 resubmitted under subdivision (3) and, not more than thirty (30)
 35 days after the commissioner receives the resubmission:
 36 (A) approve the resubmitted policy form; or
 37 (B) provide written notice that the commissioner disapproves
 38 the resubmitted policy form.
- 39 A written notice of disapproval provided by the commissioner
 40 under clause (B) must be based only on the requirements set forth
 41 in the document described in subsection (h), must cite the specific
 42 requirements not met by the filing, and must state the reasons for
 43 the commissioner's determination in detail. The commissioner's
 44 approval or disapproval of a resubmitted policy form under this
 45 subdivision is final, except that the commissioner may allow the
 46 filer to resubmit a further revised policy form if the filer, in the
 47 filer's resubmission under subdivision (3), introduced new
 48 provisions or materially modified a substantive provision of the
 49 policy form. If the commissioner allows a filer to resubmit a
 50 further revised policy form under this subdivision, the filer must
 51 resubmit the further revised policy form not more than thirty (30)

1 days after the filer receives notice under clause (B), and the
 2 commissioner shall issue a final determination on the further
 3 revised policy form not more than thirty (30) days after the
 4 commissioner receives the further revised policy form.

5 (5) If the commissioner disapproves a policy form filing under
 6 this subsection, the commissioner shall notify the filer, in writing,
 7 of the filer's right to a hearing as described in subsection (m). ~~The~~
 8 **A disapproved policy form filing may not be disapproved used**
 9 **for a policy of accident and sickness insurance unless it**
 10 **contains a material error or omission. At any the disapproval is**
 11 **overturned in a hearing conducted under this subsection. the**
 12 **commissioner must prove that the policy form contains a material**
 13 **error or omission.**

14 **(6) If the commissioner does not take any action on a policy**
 15 **form that is filed or resubmitted under this subsection in**
 16 **accordance with any applicable period specified in subdivision**
 17 **(2), (3), or (4), the policy form filing is considered to be**
 18 **approved.**

19 (j) Except as provided in this subsection, the commissioner may not
 20 disapprove a policy form resubmitted under subsection (i)(3) or (i)(4)
 21 for a reason other than a reason specified in the original notice of
 22 determination under subsection (i)(2)(B). The commissioner may
 23 disapprove a resubmitted policy form for a reason other than a reason
 24 specified in the original notice of determination under subsection (i)(2)
 25 if:

- 26 (1) the filer has introduced a new provision in the resubmission;
- 27 (2) the filer has materially modified a substantive provision of the
- 28 policy form in the resubmission;
- 29 (3) there has been a change in requirements applying to the policy
- 30 form; or
- 31 (4) there has been reviewer error and the written disapproval fails
- 32 to state a specific requirement with which the policy form does
- 33 not comply.

34 (k) The commissioner may return a grossly inadequate filing to the
 35 filer without triggering a deadline set forth in this section.

36 (l) The commissioner may disapprove a policy form if:

- 37 (1) the benefits provided under the policy form are not reasonable
- 38 in relation to the premium charged; or
- 39 (2) the policy form contains provisions that are unjust, unfair,
- 40 inequitable, misleading, or deceptive, or that encourage
- 41 misrepresentation of the policy.

42 (m) Upon disapproval of a filing under this section, the
 43 commissioner shall provide written notice to the filer or insurer of the
 44 right to a hearing within twenty (20) days of a request for a hearing.

45 (n) Unless a policy form approved under this chapter contains a
 46 material error or omission, the commissioner may not:

- 47 (1) retroactively disapprove the policy form; or
- 48 (2) examine the filer of the policy form during a routine or
- 49 targeted market conduct examination for compliance with a policy
- 50 form filing requirement that was not in existence at the time the
- 51 policy form was filed.

1 SECTION 4. IC 27-8-11-10 IS ADDED TO THE INDIANA CODE
 2 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
 3 **UPON PASSAGE]: Sec. 10. (a) As used in this section, "dialysis**
 4 **facility" means an outpatient facility in Indiana at which a dialysis**
 5 **treatment provider provides dialysis treatment.**

6 (b) As used in this section, "contracted dialysis facility" means
 7 a dialysis facility that has entered into an agreement with a
 8 particular insurer under section 3 of this chapter.

9 (c) Notwithstanding section 1 of this chapter, as used in this
 10 section, "insured" refers only to an insured who requires dialysis
 11 treatment.

12 (d) As used in this section, "insurer" includes the following:

13 (1) An administrator licensed under IC 27-1-25.

14 (2) An agent of an insurer.

15 (e) As used in this section, "non-contracted dialysis facility"
 16 means a dialysis facility that has not entered into an agreement
 17 with a particular insurer under section 3 of this chapter.

18 (f) An insurer shall not require an insured, as a condition of
 19 coverage or reimbursement, to:

20 (1) if the nearest dialysis facility is located within thirty (30)
 21 miles of the insured's home, travel more than thirty (30) miles
 22 from the insured's home to obtain dialysis treatment; or

23 (2) if the nearest dialysis facility is located more than thirty
 24 (30) miles from the insured's home, travel a greater distance
 25 than the distance to the nearest dialysis facility to obtain
 26 dialysis treatment;

27 regardless of whether the insured chooses to receive dialysis
 28 treatment at a contracted dialysis facility or a non-contracted
 29 dialysis facility.

30 SECTION 5. IC 27-13-1-11.5 IS ADDED TO THE INDIANA
 31 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
 32 **[EFFECTIVE UPON PASSAGE]: Sec. 11.5. "Dialysis facility"**
 33 **means an outpatient facility in Indiana at which a dialysis**
 34 **treatment provider provides dialysis treatment.**

35 SECTION 6. IC 27-13-15-5 IS ADDED TO THE INDIANA CODE
 36 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
 37 **UPON PASSAGE]: Sec. 5. (a) Notwithstanding IC 27-13-1-12, as**
 38 **used in this section, "enrollee" refers only to an enrollee who**
 39 **requires dialysis treatment.**

40 (b) As used in this section, "health maintenance organization"
 41 includes the following:

42 (1) A limited service health maintenance organization.

43 (2) An agent of a health maintenance organization or a limited
 44 service health maintenance organization.

45 (c) A health maintenance organization shall not require an
 46 enrollee, as a condition of coverage or reimbursement, to:

47 (1) if the nearest dialysis facility is located within thirty (30)
 48 miles of the enrollee's home, travel more than thirty (30) miles
 49 from the enrollee's home to obtain dialysis treatment; or

50 (2) if the nearest dialysis facility is located more than thirty
 51 (30) miles from the enrollee's home, travel a greater distance

1 **than the distance to the nearest dialysis facility to obtain**
2 **dialysis treatment;**
3 **regardless of whether the enrollee chooses to receive dialysis**
4 **treatment at a dialysis facility that is a participating provider or a**
5 **dialysis facility that is not a participating provider.**

6 **SECTION 7. [EFFECTIVE JULY 1, 2008] (a) As used in this**
7 **SECTION, "committee" refers to the interim study committee on**
8 **dialysis coverage established by subsection (b).**

9 **(b) There is established the interim study committee on dialysis**
10 **coverage.**

11 **(c) The committee consists of the following members:**

12 **(1) Four (4) legislators appointed by the president pro**
13 **tempore of the senate, not more than two (2) of whom may be**
14 **members of the same political party.**

15 **(2) Four (4) legislators appointed by the speaker of the house**
16 **of representatives, not more than two (2) of whom may be**
17 **members of the same political party.**

18 **(3) The executive director of the Indiana comprehensive**
19 **health insurance association established by IC 27-8-10-2.1,**
20 **who shall serve as chairperson of the committee.**

21 **(d) The committee shall study issues related to coverage of**
22 **dialysis treatment under a policy of accident and sickness**
23 **insurance and a health maintenance organization contract,**
24 **including:**

25 **(1) requirements, as a condition of coverage or**
26 **reimbursement, for patients to obtain treatment from**
27 **particular dialysis treatment providers;**

28 **(2) costs related to dialysis treatment;**

29 **(3) availability, including changes in availability since 2003, of**
30 **dialysis treatment throughout Indiana;**

31 **(4) payment rates, including changes in payment rates since**
32 **2003, for dialysis treatment throughout Indiana;**

33 **(5) consideration of the items described in subdivisions (1)**
34 **through (4) as affected by a dialysis treatment provider's**
35 **participation in provider networks used by accident and**
36 **sickness insurers and health maintenance organizations; and**

37 **(6) additional issues related to coverage of dialysis treatment,**
38 **as determined by the committee.**

39 **(e) The committee shall operate under the policies governing**
40 **study committees adopted by the legislative council.**

41 **(f) The affirmative votes of a majority of the voting members**
42 **appointed to the committee are required for the committee to take**
43 **action on any measure, including final reports.**

44 **(g) The committee shall submit a final report to the legislative**
45 **council in an electronic format under IC 5-14-6 before November**
46 **1, 2008.**

47 **(h) This SECTION expires December 31, 2008.**

48 **SECTION 8. An emergency is declared for this act.**

(Reference is to EHB 1284 as reprinted February 27, 2008.)

Conference Committee Report
on
Engrossed House Bill 1284

Signed by:

Representative Fry
Chairperson

Senator Paul

Representative Ripley

Senator Smith S

House Conferees

Senate Conferees