



Reprinted  
February 2, 2010

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## HOUSE BILL No. 1226

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DIGEST OF HB 1226 (Updated February 1, 2010 5:53 pm - DI 77)

**Citations Affected:** IC 4-6; IC 12-15; IC 25-1; IC 34-30; IC 35-48.

**Synopsis:** Health and Medicaid fraud matters. Establishes procedures for the attorney general to seize, secure, store, and destroy abandoned or at risk health records and other records containing personally identifying information. Creates a health records and personal identifying information protection trust fund to pay for costs associated with securing and maintaining the records. Allows the office of the secretary of family and social services to exclude specified persons who engage in fraud or abuse from participating in state administered health care programs. Requires the office of the secretary to maintain a list of persons excluded from participating in state administered health care programs and provide that list to specified persons. Requires certain Medicaid providers or applicants to submit a surety bond to the office of Medicaid policy and planning to be used for specified purposes before the provider may receive reimbursement. Prohibits health professions licensing boards from accepting the surrender of a license if the attorney general files an administrative action against the practitioner and opposes the surrender. Provides for automatic revocation of a controlled substances advisory commission permit if a physician's license is revoked. (Current law requires a separate administrative process to take place if a physician's license is revoked.) Provides that a pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense a controlled substance may not dispense a controlled substance to a person who is not personally known to the pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense a controlled substance unless the person taking possession of the controlled substance provides documented proof of the person's identification to the pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense a controlled substance.

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**Effective:** July 1, 2010.

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### Reske, Frizzell

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January 11, 2010, read first time and referred to Committee on Public Health.  
January 26, 2010, amended, reported — Do Pass.  
February 1, 2010, read second time, amended, ordered engrossed.

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HB 1226—LS 6879/DI 104+



Reprinted  
February 2, 2010

Second Regular Session 116th General Assembly (2010)

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 2009 Regular and Special Sessions of the General Assembly.

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## HOUSE BILL No. 1226

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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 4-6-14 IS ADDED TO THE INDIANA CODE AS  
2 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2010]:

4 **Chapter 14. Health Records and Identifying Information**  
5 **Protection**

6 **Sec. 1. As used in this chapter, "abandoned" means voluntarily**  
7 **surrendered, relinquished, or disclaimed by the health care**  
8 **provider or regulated professional, with no intention of reclaiming**  
9 **or regaining possession.**

10 **Sec. 2. As used in this chapter, "health care provider" means a**  
11 **person listed in IC 16-39-7-1(a)(1) through IC 16-39-7-1(a)(11).**

12 **Sec. 3. As used in this chapter, "personal information" has the**  
13 **meaning set forth in IC 24-4.9-2-10.**

14 **Sec. 4. As used in this chapter, "regulated professional" means**  
15 **an individual who is regulated by a board listed under**

HB 1226—LS 6879/DI 104+



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**IC 25-1-11-1.**

**Sec. 5. The attorney general may do the following with abandoned health records and other records that contain personal information:**

- (1) Take possession of.**
- (2) Store.**
- (3) Maintain.**
- (4) Transfer.**
- (5) Protect.**
- (6) Destroy, subject to the limitations in sections 8(b) and 9(b) of this chapter.**

**Sec. 6. Before taking any action described in section 5 of this chapter, the attorney general shall determine whether a health care provider or regulated professional has abandoned original patient health records in violation of IC 16-39-7-1(b) or records containing personal information in violation of IC 24-4.9.**

**Sec. 7. (a) The attorney general shall make reasonable efforts to notify the patients and those individuals identified in:**

- (1) health records; or**
- (2) records or documents that contain personal information; that the attorney general has taken possession of the records or documents. The notice in this subsection must include information about the procedure for either obtaining originals or copies of the records or having the original records sent to a duly authorized subsequent treating health care provider.**

**(b) Unless prohibited by law, the attorney general may also notify other persons, including professional organizations, hospitals, law enforcement agencies, and government units, who:**

- (1) may be able to assist in notifying persons whose records were abandoned and secured by the attorney general under this chapter; and**
- (2) when appropriate, may be able to assist in returning the records to those persons.**

**Sec. 8. (a) The attorney general shall maintain an original patient health record obtained under section 5 of this chapter for the lesser of the following:**

- (1) The time required under IC 16-39-7-1 and IC 16-39-7-2.**
- (2) Three (3) years after the date the records are secured.**

**(b) When the time expires under subsection (a), the attorney general may destroy the original patient records obtained under section 5 of this chapter.**

**Sec. 9. (a) The attorney general shall maintain records that are**

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1 not health records but contain personal information for at least  
 2 three (3) years after the date the records are seized or secured.  
 3 (b) When the time expires under subsection (a) and after  
 4 notification under section 7 of this chapter, the attorney general  
 5 may destroy the records that contain personal information.  
 6 Sec. 10. (a) The health records and personal identifying  
 7 information protection trust fund is established for the purpose of  
 8 paying storage, maintenance, copying, mailing, and transfer of:  
 9 (1) patient health records; and  
 10 (2) records containing personal information;  
 11 as required under this chapter. Expenditures from the trust fund  
 12 may be made only to carry out the purposes of this subsection.  
 13 (b) Subject to subsection (c), if a health care provider or a  
 14 regulated professional is disciplined under IC 25-1-9 or IC 25-1-11,  
 15 the board that issues the disciplinary order shall impose a fee  
 16 against the individual of five dollars (\$5). The fee must be  
 17 deposited into the health records and personal identifying  
 18 information protection trust fund.  
 19 (c) If the amount in the health records and personal identifying  
 20 information protection trust fund exceeds seventy-five thousand  
 21 dollars (\$75,000), the fee imposed under subsection (b) may not be  
 22 imposed on an individual who is subject to a disciplinary order.  
 23 (d) The attorney general shall administer the trust fund.  
 24 (e) The expenses of administering the trust fund shall be paid  
 25 from the money in the fund.  
 26 (f) The treasurer of state shall invest the money in the trust fund  
 27 not currently needed to meet the obligations of the fund in the same  
 28 manner as other public money may be invested.  
 29 (g) Money in the trust fund at the end of a state fiscal year does  
 30 not revert to the state general fund.  
 31 Sec. 11. The attorney general is immune from civil liability for  
 32 destroying or failing to maintain custody and control of any record  
 33 obtained under this chapter.  
 34 Sec. 12. The following may cooperate with the attorney general's  
 35 office to implement this chapter:  
 36 (1) The Indiana professional licensing agency and the  
 37 appropriate board that regulates a health care provider or a  
 38 regulated professional under IC 25.  
 39 (2) The state police department.  
 40 (3) A prosecuting attorney.  
 41 (4) Local law enforcement agencies.  
 42 (5) Federal law enforcement agencies.

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**Sec. 13. The attorney general may adopt rules under IC 4-22-2 that are necessary to administer and implement this chapter.**

**Sec. 14. A determination by the attorney general that health records or other records that contain personal information have been abandoned is subject to review in a circuit or superior court. A person who seeks to enforce this section must first notify the attorney general of the intention to seek judicial review.**

**Sec. 15. The attorney general may pay for the administration of this chapter only from funds currently appropriated to the office of the attorney general.**

**SECTION 2. IC 12-15-11-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1.5. (a) The office shall exclude the following persons from participating in the Medicaid program:**

**(1) A person who has been convicted of a criminal offense related to the delivery of an item or service under the Medicaid program.**

**(2) A person who has been convicted of a criminal offense relating to neglect or abuse of a patient during the delivery of a health care item or service.**

**(b) The office may exclude a person who meets at least one (1) of the following from participating in the Medicaid program:**

**(1) Has furnished services under a Medicaid waiver that failed substantially to provide medically necessary items and services required under law or the Medicaid provider contract and the failure has adversely affected or has the substantial likelihood of adversely affecting the patient.**

**(2) Is providing items or services as a risk based managed care organization and has failed substantially to provide medically necessary items and services that are required under law or contract to be provided to an individual covered under the risk sharing contract and the failure has adversely affected or has the substantial likelihood of adversely affecting the individual.**

**(3) Has had the person's license to provide health care services revoked, suspended, surrendered, or otherwise prohibited to renew the license by the licensing entity for reasons related to the person's:**

- (A) professional competence;**
- (B) professional performance; or**
- (C) financial integrity.**

**(4) Has failed to grant immediate access upon reasonable**

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request to any of the following:

- (A) The office of the secretary or an entity contracting with and representing the office.
- (B) The inspector general of the United States Department of Health and Human Services, for the purpose of reviewing records, documents, and other data necessary in the course of the inspector general's job.
- (C) The state Medicaid fraud control unit established under IC 4-6-10.

(5) Has collected or attempted to collect any amount not reimbursed by Medicaid from a Medicaid recipient and the collection of the amount is prohibited by state or federal law.

SECTION 3. IC 12-15-11-1.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 1.7. (a) The office of the secretary may not reimburse:**

- (1) a person;
- (2) a person with an ownership or control interest in the business of the person or in any subcontractor in which the business of the person has a direct or indirect ownership of at least five percent (5%) of the business of a person; or
- (3) an officer, director, agent, or managing employee of a person;

excluded under section 1.5 of this chapter for providing items or services under the Medicaid program.

(b) The office of the secretary shall maintain a list of persons excluded under section 1.5 of this chapter, including names of persons provided by the office of the attorney general, and make the list available to health care providers that are participating in state administered health care programs.

(c) A person who has been excluded from participating in the Medicaid program under section 1.5(a) of this chapter may apply to the office of the secretary in writing for reinstatement in a manner prescribed by the office of the secretary not earlier than five (5) years after the person has been excluded.

(d) A person that has been excluded from participating in the Indiana Medicaid program under section 1.5(b) of this chapter may apply to the office of the secretary in writing for reinstatement in a manner prescribed by the office of the secretary not earlier than one (1) year after the person has been excluded.

SECTION 4. IC 12-15-11-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS

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1 [EFFECTIVE JULY 1, 2010]: **Sec. 2.5. (a) This section does not**  
 2 **apply to the following durable medical equipment suppliers:**  
 3 (1) A person who is licensed or certified by a board listed in  
 4 IC 25-1-9-1.  
 5 (2) A person who has a surety bond under the Medicare  
 6 program to sell durable medical equipment.  
 7 (3) A retail facility that contains a pharmacy that has a permit  
 8 issued under IC 25-26-13.  
 9 (4) A facility or business that is owned or operated by a  
 10 hospital licensed under IC 16-21.  
 11 (b) As used in this section, "durable medical equipment" does  
 12 not include optical equipment.  
 13 (c) Except as provided in subsection (g), a transportation  
 14 supplier or durable medical equipment supplier:  
 15 (1) desiring to participate in the Medicaid program by  
 16 providing items or services to individuals eligible for  
 17 Medicaid services;  
 18 (2) changing the ownership of a Medicaid provider; or  
 19 (3) purchasing or transferring the assets or ownership  
 20 interests of a Medicaid provider and enrolling as a provider  
 21 in the Medicaid program;  
 22 shall submit to the office an authorized surety bond, as determined  
 23 by the office of the secretary, that meets the requirements under  
 24 subsections (f) and (g) from an authorized surety at the time the  
 25 person files a Medicaid provider agreement with the office.  
 26 (d) Not later than October 15, 2010, and except as provided in  
 27 subsection (g), a transportation supplier or durable medical  
 28 equipment supplier that is a Medicaid provider on June 30, 2010,  
 29 shall submit to the office an authorized surety bond, as determined  
 30 by the office of the secretary, and that meets the requirements  
 31 under subsections (f) and (g), from an authorized surety.  
 32 (e) In addition to a surety bond filed under subsection (c) or (d),  
 33 a transportation supplier or durable medical equipment supplier  
 34 that is a Medicaid provider applicant or provider shall file an  
 35 additional authorized surety bond, as determined by the office of  
 36 the secretary, of fifty thousand dollars (\$50,000) for each:  
 37 (1) criminal conviction;  
 38 (2) civil judgment; or  
 39 (3) exclusion action under this chapter, 42 U.S.C. 1320a-7, or  
 40 42 U.S.C. 1320c-5;  
 41 related to Medicaid provider services within the ten (10) years  
 42 preceding enrollment, renewal, or the purchase or transfer of

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ownership.

(f) A surety bond filed with the office under this section must meet the following requirements:

- (1) Be continuous.
- (2) Provide that the bond is liable for a duplicate, erroneous, or false claim paid by the office to the provider under Medicaid during the term of the bond.
- (3) Guarantee that the surety will, within thirty (30) days after receiving written notice from the office that contains sufficient evidence to establish the surety's liability under the bond of a duplicate, erroneous, or false claim paid by the office to the provider, pay the office the following amounts not to exceed the full amount of the bond:
  - (A) The amount of a provider's unpaid claim to the office, plus accrued interest, for which the provider is responsible.
  - (B) The amount of a duplicate, erroneous, or false claim that has previously been paid by the office to the provider.
  - (C) An assessment imposed by the office on the provider, plus accrued interest.
- (4) Provide that if the Medicaid provider's billing privileges are revoked, the last bond or rider submitted by the Medicaid provider remains in effect until the last day of the surety bond coverage period and the surety remains liable for a duplicate, erroneous, or false claim paid by the office to the provider during the term of the bond.
- (5) Name the Medicaid provider as principal, the office as obligee, and the surety, including the surety's heirs, executors, administrators, successors, and assignees, jointly and severally as surety.
- (6) Provide that actions under the bond may be brought by the office or by the attorney general.
- (7) Provide the surety's name, street address or post office box number, city, state, and ZIP code.

(g) A transportation provider or durable medical equipment provider that states on the Medicaid application or renewal form that the provider bills or expects to bill less than fifty thousand dollars (\$50,000) annually under the Medicaid program is not required to obtain a surety bond. A transportation or durable medical equipment provider that states on the Medicaid application or renewal form that the provider bills or expects to bill the following amounts shall file the following surety bond:

- (1) More than fifty thousand dollars (\$50,000) but less than

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two hundred fifty thousand dollars (\$250,000), a surety bond in the amount of twenty-five thousand dollars (\$25,000).

(2) Two hundred fifty thousand dollars (\$250,000) or more, a surety bond in the amount of fifty thousand dollars (\$50,000).

(h) If a transportation or durable medical equipment provider bills more than the amount set forth on the provider's application or renewal form under subsection (g) during the year in which the surety bond filed with the office of the secretary applies, the provider shall obtain an updated surety bond that complies with the billing amounts and corresponding surety bond coverage amounts described in subsection (g).

(i) The office may revoke or deny a Medicaid provider's billing privileges based on the submission of a bond that does not comply with this section.

(j) If a Medicaid provider determines to cancel a surety bond, the Medicaid provider shall do the following:

(1) Provide notice to the office and the surety at least thirty (30) days before the effective date of the cancellation.

(2) Submit a new bond before the effective date of the cancellation of the previous bond.

The office may revoke the Medicaid provider's billing privileges if the provider violates this subsection. The liability of the surety continues until the effective date of the cancellation.

(k) The surety shall notify the office of a lapse in the surety's coverage of a Medicaid provider.

(l) Upon notice under subsection (k) of a lapse in coverage or if a gap in coverage occurs, the office shall revoke the Medicaid provider's billing privileges. The office may not reimburse the Medicaid provider for services provided during the lapse or gap in coverage. The Medicaid provider is liable for the services provided and, if permitted by federal and state law, may charge the beneficiary for the services.

(m) A Medicaid provider that obtains a replacement surety bond from another surety to cover the remaining term of a previous bond shall:

(1) submit the new surety bond to the office at least thirty (30) days before the expiration of the previous surety bond; and

(2) ensure that there is no gap in coverage.

(n) If a Medicaid provider changes sureties during the term of the bond, the new surety is, beginning on the effective date of the surety, responsible for:

(1) a duplicate, erroneous, or false claim paid to; or

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**(2) an assessment imposed on; the Medicaid provider by the office, plus interest. The previous surety is responsible for a duplicate, erroneous, or false claim paid to, or an assessment imposed on, the Medicaid provider during the effective date of the previous surety.**

**(o) The office may require a Medicaid provider to show compliance with this section at any time.**

**(p) If a surety has paid the office for a liability incurred under the surety bond for a Medicaid provider, and the Medicaid provider subsequently is successful in appealing the determination of liability, the office shall refund the surety or Medicaid provider for the amount paid for the liability upon the completion of the appellate process.**

SECTION 5. IC 12-15-22-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1.5. In addition to any sanction imposed on a provider **or an individual** under section 1 of this chapter, a provider **or an individual** convicted of an offense under IC 35-43-5-7.1 is ineligible to participate in the Medicaid program for ten (10) years after the conviction.

SECTION 6. IC 12-15-22-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. A provider may appeal a sanction under **IC 12-8-15 or** section 1 of this chapter under rules concerning appeal that are adopted by the secretary under IC 4-22-2.

SECTION 7. IC 12-15-22-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. A final directive made by the office that:

- (1) denies payment to a provider for medical services provided during a specified period of time; **or**
- (2) terminates a provider agreement permitting a provider's participation in the Medicaid program; **or**

**(3) excludes a provider from participating in the Medicaid program;**  
must direct the provider to inform each eligible individual recipient of services, before services are provided, that the office or the office's contractor under IC 12-15-30 will not pay for those services if provided.

SECTION 8. IC 25-1-9-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 14. **(a) Except as provided in subsection (b),** a practitioner may petition the board to accept the surrender of the practitioner's license instead of **conducting** a hearing before the board. The practitioner may not surrender the

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1 practitioner's license without the written approval of the board, and the  
2 board may impose any conditions appropriate to the surrender or  
3 reinstatement of a surrendered license.

4 **(b) A board may not approve the surrender of a practitioner's**  
5 **license under subsection (a) if the office of the attorney general**  
6 **has:**

7 **(1) filed an administrative complaint concerning the**  
8 **practitioner's license; and**

9 **(2) notified the board of its opposition to the surrender of the**  
10 **practitioner's license.**

11 SECTION 9. IC 35-48-3-5, AS AMENDED BY P.L.197-2007,  
12 SECTION 93, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
13 JULY 1, 2010]: Sec. 5. (a) An application for registration or  
14 re-registration submitted pursuant to and a registration issued under  
15 section 3 of this chapter to manufacture, distribute, or dispense a  
16 controlled substance may be denied, suspended, or revoked by the  
17 board upon a finding by the advisory committee that the applicant or  
18 registrant:

19 (1) has furnished false or fraudulent material information in any  
20 application filed under this article;

21 (2) has violated any state or federal law relating to any controlled  
22 substance;

23 (3) has had his federal registration suspended or revoked to  
24 manufacture, distribute, or dispense controlled substances; or

25 (4) has failed to maintain reasonable controls against diversion of  
26 controlled substances into other than legitimate medical,  
27 scientific, or industrial channels.

28 (b) The board may limit revocation or suspension of a registration  
29 or the denial of an application for registration or re-registration to the  
30 particular controlled substance with respect to which grounds for  
31 revocation, suspension, or denial exist.

32 (c) If the board suspends or revokes a registration or denies a  
33 application for re-registration, all controlled substances owned or  
34 possessed by the registrant at the time of suspension or the effective  
35 date of the revocation or denial order may be placed under seal. The  
36 board may require the removal of such substances from the premises.  
37 No disposition may be made of substances under seal until the time for  
38 taking an appeal has elapsed or until all appeals have been concluded  
39 unless a court, upon application therefor, orders the sale of perishable  
40 substances and the deposit of the proceeds of the sale with the court.  
41 Upon a revocation or denial order becoming final, all controlled  
42 substances may be forfeited to the state.

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1 (d) The board shall promptly notify the drug enforcement  
2 administration of all orders suspending or revoking registration, all  
3 orders denying any application for registration or re-registration, and  
4 all forfeitures of controlled substances.

5 (e) If the Drug Enforcement Administration terminates, denies,  
6 suspends, or revokes a federal registration for the manufacture,  
7 distribution, or dispensing of controlled substances, a registration  
8 issued by the board under this chapter is automatically suspended.

9 (f) The board may reinstate a registration that has been suspended  
10 under subsection (e), after a hearing, if the board is satisfied that the  
11 applicant is able to manufacture, distribute, or dispense controlled  
12 substances with reasonable skill and safety to the public. As a condition  
13 of reinstatement, the board may impose disciplinary or corrective  
14 measures authorized under IC 25-1-9-9 or this article.

15 **(g) If any state license authorizing the dispenser to act as a**  
16 **practitioner is revoked, the registration issued under this chapter**  
17 **is automatically revoked.**

18 SECTION 10. IC 34-30-2-2.5 IS ADDED TO THE INDIANA  
19 CODE AS A NEW SECTION TO READ AS FOLLOWS  
20 [EFFECTIVE JULY 1, 2010]: **Sec. 2.5. IC 4-6-14-11 (Concerning the**  
21 **attorney general for destroying or failing to maintain custody and**  
22 **control of certain records).**

23 SECTION 11. IC 35-48-7-8.1, AS AMENDED BY  
24 P.L.182-2009(ss), SECTION 399, IS AMENDED TO READ AS  
25 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8.1. (a) This section  
26 applies after June 30, 2007.

27 (b) The advisory committee shall provide for a controlled substance  
28 prescription monitoring program that includes the following  
29 components:

30 (1) Each time a controlled substance designated by the advisory  
31 committee under IC 35-48-2-5 through IC 35-48-2-10 is  
32 dispensed, the dispenser shall transmit to the INSPECT program  
33 the following information:

- 34 (A) The controlled substance recipient's name.
- 35 (B) The controlled substance recipient's or the recipient  
36 representative's identification number or the identification  
37 number or phrase designated by the INSPECT program.
- 38 (C) The controlled substance recipient's date of birth.
- 39 (D) The national drug code number of the controlled substance  
40 dispensed.
- 41 (E) The date the controlled substance is dispensed.
- 42 (F) The quantity of the controlled substance dispensed.

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- 1 (G) The number of days of supply dispensed.
- 2 (H) The dispenser's United States Drug Enforcement Agency
- 3 registration number.
- 4 (I) The prescriber's United States Drug Enforcement Agency
- 5 registration number.
- 6 (J) An indication as to whether the prescription was
- 7 transmitted to the pharmacist orally or in writing.
- 8 (K) Other data required by the advisory committee.
- 9 (2) The information required to be transmitted under this section
- 10 must be transmitted not more than seven (7) days after the date on
- 11 which a controlled substance is dispensed.
- 12 (3) A dispenser shall transmit the information required under this
- 13 section by:
- 14 (A) uploading to the INSPECT web site;
- 15 (B) a computer diskette; or
- 16 (C) a CD-ROM disk;
- 17 that meets specifications prescribed by the advisory committee.
- 18 (4) The advisory committee may require that prescriptions for
- 19 controlled substances be written on a one (1) part form that
- 20 cannot be duplicated. However, the advisory committee may not
- 21 apply such a requirement to prescriptions filled at a pharmacy
- 22 with a Type II permit (as described in IC 25-26-13-17) and
- 23 operated by a hospital licensed under IC 16-21, or prescriptions
- 24 ordered for and dispensed to bona fide enrolled patients in
- 25 facilities licensed under IC 16-28. The committee may not require
- 26 multiple copy prescription forms for any prescriptions written.
- 27 The advisory committee may not require different prescription
- 28 forms for any individual drug or group of drugs. Prescription
- 29 forms required under this subdivision must be jointly approved by
- 30 the committee and by the Indiana board of pharmacy established
- 31 by IC 25-26-13-3.
- 32 (5) The costs of the program.
- 33 **(c) A pharmacist, pharmacy technician, or person authorized by**
- 34 **a pharmacist to dispense a controlled substance may not dispense**
- 35 **a controlled substance to a person who is not personally known to**
- 36 **the pharmacist, pharmacy technician, or person authorized by a**
- 37 **pharmacist to dispense a controlled substance unless the person**
- 38 **taking possession of the controlled substance provides documented**
- 39 **proof of the person's identification to the pharmacist, pharmacy**
- 40 **technician, or person authorized by a pharmacist to dispense a**
- 41 **controlled substance.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1226, 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:

Page 1, delete lines 6 through 15, begin a new paragraph and insert:

**"Sec. 1. As used in this chapter, "abandoned" means voluntarily surrendered, relinquished, or disclaimed by the health care provider or regulated professional, with no intention of reclaiming or regaining possession.**

**Sec. 2. As used in this chapter, "health care provider" means a person listed in IC 16-39-7-1(a)(1) through IC 16-39-7-1(a)(11).**

**Sec. 3. As used in this chapter, "personal information" has the meaning set forth in IC 24-4.9-2-10.**

**Sec. 4. As used in this chapter, "regulated professional" means an individual who is regulated by a board listed under IC 25-1-11-1.**

**Sec. 5. The attorney general may do the following with abandoned health records and other records that contain personal information:**

- (1) Take possession of.**
- (2) Store.**
- (3) Maintain.**
- (4) Transfer.**
- (5) Protect.**
- (6) Destroy, subject to the limitations in sections 8(b) and 9(b) of this chapter.**

**Sec. 6. Before taking any action described in section 5 of this chapter, the attorney general shall determine whether a health care provider or regulated professional has abandoned original patient health records in violation of IC 16-39-7-1(b) or records containing personal information in violation of IC 24-4.9.**

**Sec. 7. (a) The attorney general shall make reasonable efforts to notify the patients and those individuals identified in:**

- (1) health records; or**
  - (2) records or documents that contain personal information;**
- that the attorney general has taken possession of the records or documents. The notice in this subsection must include information about the procedure for either obtaining originals or copies of the records or having the original records sent to a duly authorized subsequent treating health care provider.**

**(b) Unless prohibited by law, the attorney general may also**

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notify other persons, including professional organizations, hospitals, law enforcement agencies, and government units, who:

- (1) may be able to assist in notifying persons whose records were abandoned and secured by the attorney general under this chapter; and
- (2) when appropriate, may be able to assist in returning the records to those persons.

Sec. 8. (a) The attorney general shall maintain an original patient health record obtained under section 5 of this chapter for the lesser of the following:

- (1) The time required under IC 16-39-7-1 and IC 16-39-7-2.
- (2) Three (3) years after the date the records are secured.

(b) When the time expires under subsection (a), the attorney general may destroy the original patient records obtained under section 5 of this chapter.

Sec. 9. (a) The attorney general shall maintain records that are not health records but contain personal information for at least three (3) years after the date the records are seized or secured.

(b) When the time expires under subsection (a) and after notification under section 7 of this chapter, the attorney general may destroy the records that contain personal information.

Sec. 10. (a) The health records and personal identifying information protection trust fund is established for the purpose of paying storage, maintenance, copying, mailing, and transfer of:

- (1) patient health records; and
- (2) records containing personal information;

as required under this chapter. Expenditures from the trust fund may be made only to carry out the purposes of this subsection.

(b) Subject to subsection (c), if a health care provider or a regulated professional is disciplined under IC 25-1-9 or IC 25-1-11, the board that issues the disciplinary order shall impose a fee against the individual of five dollars (\$5). The fee must be deposited into the health records and personal identifying information protection trust fund.

(c) If the amount in the health records and personal identifying information protection trust fund exceeds seventy-five thousand dollars (\$75,000), the fee imposed under subsection (b) may not be imposed on an individual who is subject to a disciplinary order.

(d) The attorney general shall administer the trust fund.

(e) The expenses of administering the trust fund shall be paid from the money in the fund.

(f) The treasurer of state shall invest the money in the trust fund

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not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(g) Money in the trust fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 11. The attorney general is immune from civil liability for destroying or failing to maintain custody and control of any record obtained under this chapter.

Sec. 12. The following may cooperate with the attorney general's office to implement this chapter:

- (1) The Indiana professional licensing agency and the appropriate board that regulates a health care provider or a regulated professional under IC 25.
- (2) The state police department.
- (3) A prosecuting attorney.
- (4) Local law enforcement agencies.
- (5) Federal law enforcement agencies.

Sec. 13. The attorney general may adopt rules under IC 4-22-2 that are necessary to administer and implement this chapter.

Sec. 14. A determination by the attorney general that health records or other records that contain personal information have been abandoned is subject to review in a circuit or superior court. A person who seeks to enforce this section must first notify the attorney general of the intention to seek judicial review."

Delete pages 2 through 3.

Page 4, delete lines 1 through 23.

Page 4, line 24, delete "IC 12-8-15" and insert "IC 12-15-11-1.5".

Page 4, line 25, delete "CHAPTER" and insert "SECTION".

Page 4, line 26, after ":" insert "**Sec. 1.5. (a) The office shall exclude the following**".

Page 4, delete lines 27 through 29.

Page 4, line 30, delete "a state administered health care" and insert "**the Medicaid**".

Page 4, run in lines 26 through 30.

Page 4, line 33, delete "federal" and insert "**Medicaid**".

Page 4, delete line 34.

Page 4, delete lines 39 through 42, begin a new paragraph and insert:

**"(b) The office may exclude a person who meets at least one (1) of the following from participating in the Medicaid program:"**

Page 5, delete lines 1 through 7.

Page 5, line 8, delete "(C)", begin a new line block indented and insert:

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"(1)".

Page 5, line 13, delete "(D)", begin a new line block indented and insert:

"(2)".

Page 5, line 20, delete "(E)", begin a new line block indented and insert:

"(3)".

Page 5, line 24, delete "(i)", begin a new line double block indented and insert:

"(A)".

Page 5, line 25, delete "(ii)", begin a new line double block indented and insert:

"(B)".

Page 5, line 26, delete "(iii)", begin a new line double block indented and insert:

"(C)".

Page 5, line 27, delete "(F)", begin a new line block indented and insert:

"(4)".

Page 5, line 29, delete "(i)", begin a new line double block indented and insert:

"(A)".

Page 5, line 31, delete "(ii)", begin a new line double block indented and insert:

"(B)".

Page 5, line 35, delete "(iii)", begin a new line double block indented and insert:

"(C)".

Page 5, line 37, delete "(G)", begin a new line block indented and insert:

"(5)".

Page 5, line 38, delete "unless" and insert "**and the collection of the amount is prohibited**".

Page 5, line 39, delete "expressly authorized".

Page 5, line 40, delete "Sec. 2.", begin a new paragraph and insert:

"SECTION 3. IC 12-15-11-1.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 1.7.**".

Page 5, line 42, delete "who owns or controls" and insert "**with an ownership or control interest in the business of the person or in any subcontractor in which the business of the person has a direct or indirect ownership of**".

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Page 6, line 4, delete "described in section 1" and insert "**excluded under section 1.5**".

Page 6, line 5, delete "a state administered health care" and insert "**the Medicaid**".

Page 6, line 7, delete "described in section 1" and insert "**excluded under section 1.5**".

Page 6, line 7, after "chapter" insert ", **including names of persons provided by the office of the attorney general**".

Page 6, line 10, delete "Sec. 3." and insert "(c)".

Page 6, line 10, after "in" delete "a".

Page 6, line 11, delete "state administered health care" and insert "**the Medicaid**".

Page 6, line 11, delete "1" and insert "**1.5(a)**".

Page 6, line 13, delete "." and insert "**not earlier than five (5) years after the person has been excluded**".

**(d) A person that has been excluded from participating in the Indiana Medicaid program under section 1.5(b) of this chapter may apply to the office of the secretary in writing for reinstatement in a manner prescribed by the office of the secretary not earlier than one (1) year after the person has been excluded.**

Page 6, line 16, delete "A person:" and insert "**This section does not apply to the following durable medical equipment suppliers:**

**(1) A person who is licensed or certified by a board listed in IC 25-1-9-1.**

**(2) A person who has a surety bond under the Medicare program to sell durable medical equipment.**

**(3) A retail facility that contains a pharmacy that has a permit issued under IC 25-26-13.**

**(b) As used in this section, "durable medical equipment" does not include optical equipment.**

**(c) Except as provided in subsection (g), a transportation supplier or durable medical equipment supplier:"**

Page 6, line 24, delete "a" and insert "**an authorized**".

Page 6, line 24, delete "bond" and insert "**bond, as determined by the office of the secretary,**".

Page 6, line 25, delete "subsection (d) and in the amount of fifty thousand dollars" and insert "**subsections (f) and (g)**".

Page 6, line 26, delete "(\$50,000)".

Page 6, line 28, delete "(b)" and insert "**(d)**".

Page 6, line 28, delete "a person" and insert "**and except as provided in subsection (g), a transportation supplier or durable medical equipment supplier**".

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Page 6, line 29, delete "a" and insert "**an authorized**".

Page 6, line 29, after "bond" insert "**, as determined by the office of the secretary, and that meets the requirements under subsections (f) and (g),**".

Page 6, line 30, delete "in the amount of fifty thousand dollars (\$50,000)".

Page 6, line 32, delete "(c)" and insert "(e)".

Page 6, line 32, delete "(a) or (b)" and insert "**(c) or (d)**".

Page 6, line 33, delete "a Medicaid provider applicant or a Medicaid provider" and insert "**a transportation supplier or durable medical equipment supplier that is a Medicaid provider applicant or provider**".

Page 6, line 34, after "additional" insert "**authorized**".

Page 6, line 34, after "bond" insert "**, as determined by the office of the secretary,**".

Page 6, line 34, after "each" insert ":

- (1) criminal conviction;**
- (2) civil judgment; or**
- (3) exclusion action under this chapter, 42 U.S.C. 1320a-7, or 42 U.S.C. 1320c-5;"**

Page 6, line 35, delete "adverse judgment or final order".

Page 6, line 35, block left beginning with "related".

Page 6, line 38, delete "(d)" and insert "(f)".

Page 7, line 28, delete "(e)" insert "**(g) A transportation provider or durable medical equipment provider that states on the Medicaid application or renewal form that the provider bills or expects to bill less than fifty thousand dollars (\$50,000) annually under the Medicaid program is not required to obtain a surety bond. A transportation or durable medical equipment provider that states on the Medicaid application or renewal form that the provider bills or expects to bill the following amounts shall file the following surety bond:**

- (1) More than fifty thousand dollars (\$50,000) but less than two hundred fifty thousand dollars (\$250,000), a surety bond in the amount of twenty-five thousand dollars (\$25,000).**
- (2) Two hundred fifty thousand dollars (\$250,000) or more, a surety bond in the amount of fifty thousand dollars (\$50,000).**

**(h) If a transportation or durable medical equipment provider bills more than the amount set forth on the provider's application or renewal form under subsection (g) during the year in which the surety bond filed with the office of the secretary applies, the provider shall obtain an updated surety bond that complies with**

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**the billing amounts and corresponding surety bond coverage amounts described in subsection (g).**

**(i)**".

Page 7, line 31, delete "(f)" and insert "**(j)**".

Page 7, line 40, delete "(g)" and insert "**(k)**".

Page 7, line 42, delete "(h)" and insert "**(l)**".

Page 7, line 42, delete "(g)" and insert "**(k)**".

Page 8, line 7, delete "(i)" and insert "**(m)**".

Page 8, line 13, delete "(j)" and insert "**(n)**".

Page 8, line 22, delete "(k)" and insert "**(o)**".

Page 8, line 24, delete "(l)" and insert "**(p)**".

Page 17, line 7, delete "IC 4-6-14-10" and insert "**IC 4-6-14-11**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1226 as introduced.)

BROWN C, Chair

Committee Vote: yeas 8, nays 1.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1226 be amended to read as follows:

Page 6, between lines 5 and 6, begin a new line block indented and insert:

**"(4) A facility or business that is owned or operated by a hospital licensed under IC 16-21."**

(Reference is to HB 1226 as printed January 26, 2010.)

RESKE

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1226 be amended to read as follows:

Page 9, delete lines 33 through 42.

Page 10, delete lines 1 through 26.

Page 10, delete line 42.

**HB 1226—LS 6879/DI 104+**



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Delete pages 11 through 15.  
Page 16, delete lines 1 through 18.  
Page 19, delete lines 8 through 13.  
Renumber all SECTIONS consecutively.

(Reference is to HB 1226 as printed January 26, 2010.)

RESKE

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1226 be amended to read as follows:

Page 4, between lines 7 and 8, begin a new paragraph and insert:

**"Sec. 15. The attorney general may pay for the administration of this chapter only from funds currently appropriated to the office of the attorney general."**

(Reference is to HB 1226 as printed January 26, 2010.)

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