



February 22, 2005

# HOUSE BILL No. 1750

DIGEST OF HB 1750 (Updated February 16, 2005 12:25 pm - DI 77)

**Citations Affected:** IC 5-14; IC 12-9; IC 16-18; IC 16-27; IC 22-1; noncode.

**Synopsis:** Personal services agencies. Establishes a program for the licensing and regulation of personal services agencies. Provides that home health agencies and personal services agencies are approved to provide home health services under certain federal waivers. Provides that home health services includes services that are required to be ordered or performed by certain health care professionals. Requires a personal services agency to comply with employee criminal history check requirements. Requires a personal services agency to be licensed by the state department of health after January 1, 2006. Provides that a home health agency that operates a personal services agency is not required to obtain a license to operate the personal services agency. Makes operating or advertising an unlicensed personal services agency a Class A misdemeanor. Requires a placement agency to provide the consumer and worker with certain information when a home care services worker is placed in the consumer's home. Allows the state department of health to impose a civil penalty against a placement agency for failing to provide the notice. Makes conforming changes. Relocates the definition of "attendant care services".

**Effective:** July 1, 2005.

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**Budak, Welch**

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January 19, 2005, read first time and referred to Committee on Public Health.  
February 21, 2005, amended, reported — Do Pass.

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February 22, 2005

First Regular Session 114th General Assembly (2005)

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.

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## HOUSE BILL No. 1750

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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 5-14-3-2 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2005]: Sec. 2. As used in this chapter:  
3 "Copy" includes transcribing by handwriting, photocopying,  
4 xerography, duplicating machine, duplicating electronically stored data  
5 onto a disk, tape, drum, or any other medium of electronic data storage,  
6 and reproducing by any other means.  
7 "Direct cost" means one hundred five percent (105%) of the sum of  
8 the cost of:  
9 (1) the initial development of a program, if any;  
10 (2) the labor required to retrieve electronically stored data; and  
11 (3) any medium used for electronic output;  
12 for providing a duplicate of electronically stored data onto a disk, tape,  
13 drum, or other medium of electronic data retrieval under section 8(g)  
14 of this chapter, or for reprogramming a computer system under section  
15 6(c) of this chapter.  
16 "Electronic map" means copyrighted data provided by a public  
17 agency from an electronic geographic information system.

HB 1750—LS 7556/DI 77+



1 "Enhanced access" means the inspection of a public record by a  
 2 person other than a governmental entity and that:  
 3 (1) is by means of an electronic device other than an electronic  
 4 device provided by a public agency in the office of the public  
 5 agency; or  
 6 (2) requires the compilation or creation of a list or report that does  
 7 not result in the permanent electronic storage of the information.  
 8 "Facsimile machine" means a machine that electronically transmits  
 9 exact images through connection with a telephone network.  
 10 "Inspect" includes the right to do the following:  
 11 (1) Manually transcribe and make notes, abstracts, or memoranda.  
 12 (2) In the case of tape recordings or other aural public records, to  
 13 listen and manually transcribe or duplicate, or make notes,  
 14 abstracts, or other memoranda from them.  
 15 (3) In the case of public records available:  
 16 (A) by enhanced access under section 3.5 of this chapter; or  
 17 (B) to a governmental entity under section 3(c)(2) of this  
 18 chapter;  
 19 to examine and copy the public records by use of an electronic  
 20 device.  
 21 (4) In the case of electronically stored data, to manually transcribe  
 22 and make notes, abstracts, or memoranda or to duplicate the data  
 23 onto a disk, tape, drum, or any other medium of electronic  
 24 storage.  
 25 "Investigatory record" means information compiled in the course of  
 26 the investigation of a crime.  
 27 "Patient" has the meaning set out in ~~IC 16-18-2-272(d)~~.  
 28 **IC 16-18-2-272(e).**  
 29 "Person" means an individual, a corporation, a limited liability  
 30 company, a partnership, an unincorporated association, or a  
 31 governmental entity.  
 32 "Provider" has the meaning set out in IC 16-18-2-295(a) and  
 33 includes employees of the state department of health or local boards of  
 34 health who create patient records at the request of another provider or  
 35 who are social workers and create records concerning the family  
 36 background of children who may need assistance.  
 37 "Public agency" means the following:  
 38 (1) Any board, commission, department, division, bureau,  
 39 committee, agency, office, instrumentality, or authority, by  
 40 whatever name designated, exercising any part of the executive,  
 41 administrative, judicial, or legislative power of the state.  
 42 (2) Any:

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- 1 (A) county, township, school corporation, city, or town, or any
- 2 board, commission, department, division, bureau, committee,
- 3 office, instrumentality, or authority of any county, township,
- 4 school corporation, city, or town;
- 5 (B) political subdivision (as defined by IC 36-1-2-13); or
- 6 (C) other entity, or any office thereof, by whatever name
- 7 designated, exercising in a limited geographical area the
- 8 executive, administrative, judicial, or legislative power of the
- 9 state or a delegated local governmental power.
- 10 (3) Any entity or office that is subject to:
- 11 (A) budget review by either the department of local
- 12 government finance or the governing body of a county, city,
- 13 town, township, or school corporation; or
- 14 (B) an audit by the state board of accounts.
- 15 (4) Any building corporation of a political subdivision that issues
- 16 bonds for the purpose of constructing public facilities.
- 17 (5) Any advisory commission, committee, or body created by
- 18 statute, ordinance, or executive order to advise the governing
- 19 body of a public agency, except medical staffs or the committees
- 20 of any such staff.
- 21 (6) Any law enforcement agency, which means an agency or a
- 22 department of any level of government that engages in the
- 23 investigation, apprehension, arrest, or prosecution of alleged
- 24 criminal offenders, such as the state police department, the police
- 25 or sheriff's department of a political subdivision, prosecuting
- 26 attorneys, members of the excise police division of the alcohol
- 27 and tobacco commission, conservation officers of the department
- 28 of natural resources, and the security division of the state lottery
- 29 commission.
- 30 (7) Any license branch staffed by employees of the bureau of
- 31 motor vehicles commission under IC 9-16.
- 32 (8) The state lottery commission, including any department,
- 33 division, or office of the commission.
- 34 (9) The Indiana gaming commission established under IC 4-33,
- 35 including any department, division, or office of the commission.
- 36 (10) The Indiana horse racing commission established by IC 4-31,
- 37 including any department, division, or office of the commission.
- 38 "Public record" means any writing, paper, report, study, map,
- 39 photograph, book, card, tape recording, or other material that is
- 40 created, received, retained, maintained, or filed by or with a public
- 41 agency and which is generated on paper, paper substitutes,
- 42 photographic media, chemically based media, magnetic or machine

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1 readable media, electronically stored data, or any other material,  
2 regardless of form or characteristics.

3 "Standard-sized documents" includes all documents that can be  
4 mechanically reproduced (without mechanical reduction) on paper  
5 sized eight and one-half (8 1/2) inches by eleven (11) inches or eight  
6 and one-half (8 1/2) inches by fourteen (14) inches.

7 "Trade secret" has the meaning set forth in IC 24-2-3-2.

8 "Work product of an attorney" means information compiled by an  
9 attorney in reasonable anticipation of litigation and includes the  
10 attorney's:

11 (1) notes and statements taken during interviews of prospective  
12 witnesses; and

13 (2) legal research or records, correspondence, reports, or  
14 memoranda to the extent that each contains the attorney's  
15 opinions, theories, or conclusions.

16 This definition does not restrict the application of any exception under  
17 section 4 of this chapter.

18 SECTION 2. IC 12-9-9-5 IS ADDED TO THE INDIANA CODE  
19 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
20 1, 2005]: **Sec. 5. Notwithstanding any other law:**

21 **(1) home health agencies licensed under IC 16-27-1; and**

22 **(2) personal services agencies licensed under IC 16-27-4;**

23 **are approved to provide home health services under any federal**  
24 **waiver granted to the state under 42 U.S.C. 1315 or 42 U.S.C.**  
25 **1396n.**

26 SECTION 3. IC 16-18-2-28.5 IS AMENDED TO READ AS  
27 FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 28.5. (a) "Attendant**  
28 **care services", for purposes of IC 16-27-1 has the meaning set forth in**  
29 **~~IC 16-27-1-0.5.~~ and IC 16-27-4, means services:**

30 **(1) that could be performed by an impaired individual for**  
31 **whom the services are provided if the individual were not**  
32 **impaired; and**

33 **(2) that enable the impaired individual:**

34 **(A) to live in the individual's home and community rather**  
35 **than in an institution; and**

36 **(B) to carry out functions of daily living, self-care, and**  
37 **mobility.**

38 **(b) The term includes the following:**

39 **(1) Assistance in getting in and out of beds, wheelchairs, and**  
40 **motor vehicles.**

41 **(2) Assistance with routine bodily functions, including:**

42 **(A) bathing and personal hygiene;**

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- 1           **(B) using the toilet;**
- 2           **(C) dressing and grooming; and**
- 3           **(D) feeding, including preparation and cleanup.**
- 4       **(3) The provision of assistance:**
  - 5           **(A) through providing reminders or cues to take**
  - 6           **medication, the opening of preset medication containers,**
  - 7           **and providing assistance in the handling or ingesting of**
  - 8           **noncontrolled substance medications, including eye drops,**
  - 9           **herbs, supplements, and over-the-counter medications; and**
  - 10          **(B) to an individual who is unable to accomplish the task**
  - 11          **due to an impairment and who is:**
    - 12           **(i) competent and has directed the services; or**
    - 13           **(ii) incompetent and has the services directed by a**
    - 14           **competent individual who may consent to health care for**
    - 15           **the impaired individual.**

16           SECTION 4. IC 16-18-2-56.5 IS ADDED TO THE INDIANA  
 17 CODE AS A **NEW** SECTION TO READ AS FOLLOW [EFFECTIVE  
 18 JULY 1, 2005]: **Sec. 56.5. "Client", for purposes of IC 16-27-4, has**  
 19 **the meaning set forth in IC 16-27-4-1.**

20           SECTION 5. IC 16-18-2-162 IS AMENDED TO READ AS  
 21 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 162. (a) "Health care  
 22 professional", for purposes of IC 16-27-1 **and IC 16-27-4**, has the  
 23 meaning set forth in IC 16-27-1-1.

24           (b) "Health care professional", for purposes of IC 16-27-2, has the  
 25 meaning set forth in IC 16-27-2-1.

26           SECTION 6. IC 16-18-2-266.5 IS ADDED TO THE INDIANA  
 27 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 28 [EFFECTIVE JULY 1, 2005]: **Sec. 266.5. "Parent personal services**  
 29 **agency", for purposes of IC 16-27-4, has the meaning set forth in**  
 30 **IC 16-27-4-2.**

31           SECTION 7. IC 16-18-2-277.6 IS ADDED TO THE INDIANA  
 32 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 33 [EFFECTIVE JULY 1, 2005]: **Sec. 277.6. "Personal representative",**  
 34 **for purposes of IC 16-27-4, has the meaning set forth in**  
 35 **IC 16-27-4-3.**

36           SECTION 8. IC 16-18-2-277.7 IS ADDED TO THE INDIANA  
 37 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 38 [EFFECTIVE JULY 1, 2005]: **Sec. 277.7. "Personal services", for**  
 39 **purposes of IC 16-27-4, has the meaning set forth in IC 16-27-4-3.**

40           SECTION 9. IC 16-18-2-277.8 IS ADDED TO THE INDIANA  
 41 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 42 [EFFECTIVE JULY 1, 2005]: **Sec. 277.8. "Personal services**

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1 **agency", for purposes of IC 16-27-4, has the meaning set forth in**  
2 **IC 16-27-4-4.**

3 SECTION 10. IC 16-27-1-5 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) As used in this  
5 chapter, "home health services" means services that: ~~are:~~

- 6 (1) **are** provided to a patient by:
  - 7 (A) a home health agency; or
  - 8 (B) another person under an arrangement with a home health
  - 9 agency;
- 10 in the temporary or permanent residence of the patient; and

- 11 (2) **either, are required by law to be:**
  - 12 (A) ordered by a licensed physician, a licensed dentist, a
  - 13 licensed chiropractor, a licensed podiatrist, or a licensed
  - 14 optometrist **for the service to be performed; or**
  - 15 (B) **performed only by a health care professional.**

- 16 (b) The term includes the following:
  - 17 (1) Nursing treatment and procedures.
  - 18 (2) Physical therapy.
  - 19 (3) Occupational therapy.
  - 20 (4) Speech therapy.
  - 21 (5) Medical social services.
  - 22 (6) Home health aide services.
  - 23 (7) Other therapeutic services.

- 24 (c) The term does not apply to the following:
  - 25 (1) Services provided by a physician licensed under IC 25-22.5.
  - 26 (2) Incidental services provided by a licensed health facility to
  - 27 patients of the licensed health facility.
  - 28 (3) Services provided by employers or membership organizations
  - 29 using health care professionals for their employees, members, and
  - 30 families of the employees or members if the health or home care
  - 31 services are not the predominant purpose of the employer or a
  - 32 membership organization's business.
  - 33 (4) Nonmedical nursing care given in accordance with the tenets
  - 34 and practice of a recognized church or religious denomination to
  - 35 a patient who depends upon healing by prayer and spiritual means
  - 36 alone in accordance with the tenets and practices of the patient's
  - 37 church or religious denomination.
  - 38 (5) Services that are allowed to be performed by an attendant
  - 39 under IC 16-27-1-10.
  - 40 (6) Authorized services provided by a personal services attendant
  - 41 under IC 12-10-17.

42 SECTION 11. IC 16-27-2-2.2 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.2. As used in this  
2 chapter, "services" includes:

- 3 (1) home health services (as defined in IC 16-27-1-5); ~~and~~
- 4 (2) any services such as homemaker, companion, sitter, or
- 5 handyman services provided by a home health agency in the
- 6 temporary or permanent residence of a patient or client of the
- 7 home health agency; **and**
- 8 **(3) personal services.**

9 SECTION 12. IC 16-27-2-3 IS AMENDED TO READ AS  
10 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) A person may not  
11 operate a home health agency **or a personal services agency** if the  
12 person has been convicted of any of the following:

- 13 (1) Rape (IC 35-42-4-1).
- 14 (2) Criminal deviate conduct (IC 35-42-4-2).
- 15 (3) Exploitation of an endangered adult (IC 35-46-1-12).
- 16 (4) Failure to report battery, neglect, or exploitation of an
- 17 endangered adult (IC 35-46-1-13).
- 18 (5) Theft (IC 35-43-4), if the person's conviction for theft
- 19 occurred less than ten (10) years before the date of submission by
- 20 the person of an application for licensure as a home health agency
- 21 under IC 16-27-1 **or as a personal services agency under**
- 22 **IC 16-27-4.**

23 (b) A person who knowingly or intentionally violates this section  
24 commits a Class A misdemeanor.

25 SECTION 13. IC 16-27-2-4 IS AMENDED TO READ AS  
26 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) A person who  
27 operates a home health agency **under IC 16-27-1 or a personal**  
28 **services agency under IC 16-27-4** shall apply, not more than three (3)  
29 business days after the date that an employee begins to provide services  
30 in a patient's temporary or permanent residence, for a copy of the  
31 employee's limited criminal history from the Indiana central repository  
32 for criminal history information under IC 10-13-3.

33 (b) A home health agency **or personal services agency** may not  
34 employ a person to provide services in a patient's or client's temporary  
35 or permanent residence for more than three (3) business days without  
36 applying for that person's limited criminal history as required by  
37 subsection (a).

38 SECTION 14. IC 16-27-2-5 IS AMENDED TO READ AS  
39 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) Except as  
40 provided in subsection (b), a person who operates a home health  
41 agency **under IC 16-27-1 or a personal services agency under**  
42 **IC 16-27-4** may not employ a person to provide services in a patient's

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1 or client's temporary or permanent residence if that person's limited  
2 criminal history indicates that the person has been convicted of any of  
3 the following:

- 4 (1) Rape (IC 35-42-4-1).
- 5 (2) Criminal deviate conduct (IC 35-42-4-2).
- 6 (3) Exploitation of an endangered adult (IC 35-46-1-12).
- 7 (4) Failure to report battery, neglect, or exploitation of an  
8 endangered adult (IC 35-46-1-13).
- 9 (5) Theft (IC 35-43-4), if the conviction for theft occurred less  
10 than ten (10) years before the person's employment application  
11 date.

12 (b) A home health agency **or personal services agency** may not  
13 employ a person to provide services in a patient's or client's temporary  
14 or permanent residence for more than twenty-one (21) calendar days  
15 without receipt of that person's limited criminal history required by  
16 section 4 of this chapter, unless the Indiana central repository for  
17 criminal history information under IC 10-13-3 is solely responsible for  
18 failing to provide the person's limited criminal history to the home  
19 health agency **or personal services agency** within the time required  
20 under this subsection.

21 SECTION 15. IC 16-27-2-6 IS AMENDED TO READ AS  
22 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) A person who  
23 operates a home health agency **or a personal services agency under**  
24 **IC 16-27-4** is responsible for the payment of fees under IC 10-13-3-30  
25 and other fees required under section 4 of this chapter.

26 (b) A home health agency **or personal services agency** may require  
27 a person who applies to the home health agency **or personal services**  
28 **agency** for employment to provide services in a patient's or client's  
29 temporary or permanent residence:

- 30 (1) to pay the cost of fees described in subsection (a) to the home  
31 health agency **or personal services agency** at the time the person  
32 submits an application for employment; or
- 33 (2) to reimburse the home health agency **or personal services**  
34 **agency** for the cost of fees described in subsection (a).

35 SECTION 16. IC 16-27-2-7 IS AMENDED TO READ AS  
36 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. A person who:

- 37 (1) operates a home health agency **or personal services agency**;
  - 38 and
  - 39 (2) violates section 4 or 5 of this chapter;
- 40 commits a Class A infraction.

41 SECTION 17. IC 16-27-4 IS ADDED TO THE INDIANA CODE  
42 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2005]:

**Chapter 4. Licensure of Personal Services Agencies**

**Sec. 1. As used in this chapter, "client" means an individual who has been accepted to receive personal services from a personal services agency.**

**Sec. 2. As used in this chapter, "parent personal services agency" means the personal services agency that develops and maintains administrative and fiscal control over a branch office.**

**Sec. 3. As used in this chapter, "personal representative" means a person who has legal authority to act on behalf of the client with regard to the action to be taken.**

**Sec. 4. (a) As used in this chapter, "personal services" means:**

- (1) attendant care services;**
- (2) homemaker services that assist with or perform household tasks, including housekeeping, shopping, laundry, meal planning and preparation, and cleaning; and**
- (3) companion services that provide fellowship, care, and protection for a client, including transportation, letter writing, mail reading, and escort services;**

**that are provided to a client at the client's residence.**

**(b) The term does not apply to the following:**

- (1) Incidental services provided by a licensed health facility to patients of the licensed health facility.**
- (2) Services provided by employers or membership organizations for their employees, members, and families of the employees or members if the services are not the predominant purpose of the employer or the membership organization's business.**
- (3) Services that are allowed to be performed by a personal services attendant under IC 12-10-17.**
- (4) Services that require the order of a health care professional for the services to be lawfully performed in Indiana.**

**Sec. 5. (a) As used in this chapter, "personal services agency" means a person that provides or offers to provide a personal service for compensation, whether through the agency's own employees or by arrangement with another person.**

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

- (1) An individual who provides personal services only to the individual's family and to not more than two (2) individuals per residence and not more than a total of six (6) clients concurrently. As used in this subdivision, "family" means the**

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1 individual's spouse, children, parent, parent-in-law,  
2 grandparent, grandchild, brother, brother-in-law, sister,  
3 sister-in-law, aunt, aunt-in-law, uncle, uncle-in-law, niece, and  
4 nephew.

5 (2) A local health department as described in IC 16-20 or  
6 IC 16-22-8.

7 (3) A person that:

8 (A) is approved by the division of disability, aging, and  
9 rehabilitative services to provide supported living services  
10 or supported living support to individuals with  
11 developmental disabilities;

12 (B) is subject to rules adopted under IC 12-11-2.1; and

13 (C) serves only individuals with developmental disabilities  
14 who are in a placement authorized under IC 12-11-2.1-4.

15 Sec. 6. (a) To operate a personal services agency, a person must  
16 obtain a license from the state health commissioner. A personal  
17 services agency may not be opened, operated, managed,  
18 maintained, or conduct business without a license from the state  
19 department. Each parent personal services agency must obtain a  
20 separate license.

21 (b) A parent personal services agency may maintain branch  
22 offices that operate under the license of the parent personal  
23 services agency. Each branch office must be:

24 (1) at a location or site from which the personal services  
25 agency provides services;

26 (2) owned and controlled by the parent personal services  
27 agency; and

28 (3) located within a radius of one hundred twenty (120) miles  
29 of the parent personal services agency.

30 (c) A license is required for any personal services agency  
31 providing services in Indiana. An out-of-state personal services  
32 agency must be authorized by the secretary of state to conduct  
33 business in Indiana and have a branch office located in Indiana.

34 (d) Application for a license to operate a personal services  
35 agency must be made on a form provided by the state department  
36 and must be accompanied by a nonrefundable fee established by  
37 the state department. The application may not require any  
38 information except as required under this chapter.

39 (e) After receiving a completed application that demonstrates  
40 prima facie compliance with the requirements of this chapter and  
41 the fee required by subsection (d), the state department shall issue  
42 a temporary license to operate a personal services agency for a

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1 period of up to ninety (90) days pending an onsite inspection by the  
2 state department.

3 (f) The state department may extend the ninety (90) day period  
4 for the temporary license set in subsection (e) for a total period of  
5 one hundred twenty (120) days based on the circumstances  
6 warranting the extension. Each extension may not exceed fifteen  
7 (15) days. In the event the state department fails to complete the  
8 onsite inspection or notify the applicant of the inspection results  
9 within that ninety (90) period set in subsection (e), the state  
10 department shall extend the ninety (90) day period until the state  
11 department has completed the onsite inspection and notified the  
12 applicant of the results of the inspection. The personal services  
13 agency must provide at least three (3) documented clients for  
14 review, which may include open and closed client files. If the state  
15 department approves the application, the state department shall  
16 issue a license to the applicant.

17 (g) Subject to subsection (h), in conducting an onsite inspection,  
18 the state department shall receive copies of all documents  
19 necessary to make a determination of the personal services  
20 agency's compliance with the requirements of this chapter. The  
21 personal services agency must produce documents requested by the  
22 inspection surveyor within twenty-four (24) hours after the  
23 documents are requested.

24 (h) The state department's consideration of the application for  
25 licensure, an application for license renewal, or an investigation  
26 and its onsite reviews in conjunction with those actions are limited  
27 to determining the personal service agency's compliance with the  
28 requirements of this chapter or permitting or aiding an illegal act  
29 in a personal services agency.

30 (i) A license expires three (3) years from the date of issuance of  
31 the temporary license under subsection (e). However, the state  
32 department may issue an initial license for a period of less than  
33 three (3) years to stagger the expiration dates. The licensee shall  
34 notify the state department in writing at least thirty (30) days in  
35 advance of closing or selling the personal services agency.

36 (j) A personal services agency license may not be transferred or  
37 assigned. Upon sale, assignment, lease, or other transfer, including  
38 transfers that qualify as a change in ownership, the new owner or  
39 person in interest must obtain a license from the state department  
40 under this chapter before maintaining, operating, or conducting  
41 the personal services agency.

42 (k) A personal services agency that is operated by a home health

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1 agency licensed under IC 16-27-1 is subject to the requirements of  
2 this chapter and not IC 16-27-1. The home health agency is not  
3 subject to the requirements of this chapter. A home health agency  
4 that is licensed under IC 16-27-1 is not required to obtain a license  
5 under this chapter.

6 (l) If a person who is licensed to operate a personal services  
7 agency is also licensed to operate a home health agency under  
8 IC 16-27-1, an onsite inspection for renewal of the person's  
9 personal services agency license must, to the extent feasible, be  
10 conducted at the same time as an onsite inspection of the home  
11 health agency license.

12 Sec. 7. (a) The state department shall investigate a report of an  
13 unlicensed personal services agency operation and report its  
14 findings to the attorney general.

15 (b) The attorney general may do the following:

16 (1) Seek an injunction in the circuit or superior court of the  
17 county in which the unlicensed home health agency is located.

18 (2) Prosecute violations under section 23 of this chapter.

19 Sec. 8. (a) If a personal services agency is aware that the client's  
20 medical or health condition has become unstable or unpredictable,  
21 the personal services agency shall notify the client, the client's  
22 personal representative, a family member, other relative of the  
23 client, or other person identified by the client of the need for a  
24 referral for medical or health services. The notification may be  
25 given in writing or orally and must be documented in the client's  
26 record with the personal services agency.

27 (b) The personal services agency may continue to provide  
28 personal services for a client with an unstable or unpredictable  
29 medical or health condition but may not manage or represent itself  
30 as able to manage the client's medical or health condition.

31 Sec. 9. (a) A personal services agency shall employ an individual  
32 to act as the personal services agency's manager. The manager is  
33 responsible for the organization and daily operation of the personal  
34 services agency.

35 (b) The manager may designate in writing one (1) or more  
36 individuals to act on behalf of or to perform any or all of the  
37 responsibilities of the personal services agency's manager under  
38 this chapter.

39 Sec. 10. The personal services agency's manager or the  
40 manager's designee shall prepare a service plan for a client before  
41 providing personal services for the client. A permanent change to  
42 the service plan requires a written change to the service plan. The

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**service plan must:**

- (1) be in writing, dated, and signed by the individual who prepared it;**
- (2) list the types and schedule of services to be provided; and**
- (3) state that the services to be provided to the client are subject to the client's right to temporarily suspend, permanently terminate, temporarily add, or permanently add the provision of any service. All permanent changes require a change in the written service plan.**

**Sec. 11. The personal services agency's manager or the manager's designee shall conduct a client satisfaction review with the client every seventy-six (76) to one hundred four (104) days to discuss the services being provided and determine if any change in the plan of services should occur. The review with the client may be in person or by telephone. This client satisfaction review must:**

- (1) be put in writing; and**
- (2) be signed and dated by the individual conducting the review.**

**Sec. 12. The personal services agency shall provide the client or the client's personal representative with the personal services agency's written statement of client rights before or within seven (7) days of providing services to the client. The statement of client rights must include the following information:**

- (1) The client has the right to have the client's property treated with respect.**
- (2) The client has the right to temporarily suspend, permanently terminate, temporarily add, or permanently add services in the service plan.**
- (3) The client has the right to file grievances regarding services furnished or regarding the lack of respect for property by the personal services agency and is not subject to discrimination or reprisal for filing a grievance.**
- (4) The client has the right to be free from verbal, physical, and psychological abuse and to be treated with dignity.**
- (5) A statement that it is not within the scope of the personal services agency's license to manage the medical and health conditions of the client if a condition becomes unstable or unpredictable.**
- (6) The charges for services provided by the personal services agency.**
- (7) The personal services agency's policy for notifying the client of any increase in the cost of services.**

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**(8) The hours the personal services agency's office is open for business.**

**(9) That on request the personal services agency will make available to the client a written list of the names and addresses of all persons having at least a five percent (5%) ownership or controlling interest in the personal services agency.**

**(10) The procedures for contacting the personal services agency's manager, or the manager's designee, while the personal services agency's office is open or closed.**

**(11) The procedure and telephone number to call to file a complaint with the personal services agency.**

**(12) The procedure and telephone number to call to file a complaint with the state department along with the business hours of the state department.**

**Sec. 13. A personal services agency shall investigate a complaint made by a client, the client's family, or the client's personal representative regarding:**

- (1) service that is or fails to be furnished; and**
- (2) the lack of respect for the client's property by anyone furnishing services on behalf of the personal services agency.**

**The personal services agency shall document the complaint and the resolution of the complaint.**

**Sec. 14. The personal services agency's manager or the manager's designee shall be available to respond to client telephone calls twenty-four (24) hours a day.**

**Sec. 15. An employee or agent of a personal services agency who will have direct client contact must complete a tuberculosis test in the same manner as required by the state department for licenced home health agency employees and agents.**

**Sec. 16. (a) The competency of an employee or agent of a personal services agency who will perform attendant care services at the client's residence must be evaluated by the agency or the agency's designee for each attendant care services task that the personal services agency chooses to have that employee or agent perform. The agency has the sole discretion to determine if an employee or agent is competent to perform an attendant care services task.**

**(b) After an evaluation an employee or agent shall be trained in the attendant care services tasks the personal services agency believes require improvement. The employee or agent shall be reevaluated following any training. The evaluation of the employee**

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or agent and determination by the agency that the employee or agent is competent to perform the attendant care services task must occur before the employee or agent performs that task for a client without direct agency supervision.

(c) The content of the evaluation and training conducted under this section, including the date and the signature of the person conducting the evaluation and training, must be documented for each employee or agent who performs personal services.

Sec. 17. (a) Disclosure of ownership and management information must be made to the state department:

- (1) at the time of the personal services agency's request for licensure;
- (2) during each survey of the personal services agency; and
- (3) when there is a change in the management or in an ownership interest of more than five percent (5%) of the personal services agency.

(b) The disclosure under subsection (a) must include the following:

- (1) The name and address of all persons having at least five percent (5%) ownership or controlling interest in the personal services agency.
- (2) The name and address of each person who is an officer, a director, a managing agent, or a managing employee of the personal services agency.
- (3) The name and address of the person responsible for the management of the personal services agency.
- (4) The name and address of the chief executive officer and the chairperson (or holder of the equivalent position) of the governing body that is responsible for the person identified under subdivision (3).

(c) The determination of an ownership interest and the percentage of an ownership interest under this chapter must be determined under 45 CFR 420.201 and 45 CFR 420.202, as in effect on July 1, 2005.

Sec. 18. A personal services agency shall document evidence of compliance with the requirements of this chapter and document services provided to clients. The documentation or copies of the documentation must be maintained or be electronically accessible at a personal services agency's office in Indiana for not less than seven (7) years.

Sec. 19. (a) The state health commissioner may take one (1) or more of the following actions on any ground listed in subsection

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- (b):**
- (1) Issue a probationary license.**
- (2) Conduct a resurvey.**
- (3) Deny renewal of a license.**
- (4) Revoke a license.**
- (5) Impose a civil penalty in an amount not to exceed one thousand dollars (\$1,000).**

**(b) The state health commissioner may take action under subsection (a) on any of the following grounds:**

- (1) Violation of a provision of this chapter or a rule adopted under this chapter.**
- (2) Permitting, aiding, or abetting the commission of an illegal act in a personal services agency.**

**(c) IC 4-21.5 applies to an action under this section.**

**Sec. 20. (a) The state department shall adopt rules under IC 4-22-2 to govern the procedure for issuing, renewing, denying, or revoking a personal services agency license.**

**(b) The state department may not add to the substantive or procedural requirements in this chapter.**

**Sec. 21. A licensee or an applicant for a license aggrieved by an action under this chapter may request a review under IC 4-21.5.**

**Sec. 22. (a) In response to a request for review of an order referred to in subsection (c), the executive board shall appoint an appeals panel that consists of three (3) members as follows:**

- (1) One (1) member of the executive board.**
- (2) One (1) attorney admitted to the practice of law in Indiana.**
- (3) One (1) individual with qualifications determined by the executive board.**

**(b) An employee of the state department may not be a member of the panel.**

**(c) The panel shall conduct proceedings for review of an order issued by an administrative law judge under this chapter. The panel is the ultimate authority under IC 4-21.5.**

**Sec. 23. A person who knowingly or intentionally:**

- (1) operates a personal services agency; or**
  - (2) advertises the operation of a personal services agency;**
- that is not licensed under this chapter commits a Class A misdemeanor.**

**SECTION 18. IC 22-1-5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:**

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**Chapter 5. Home Care Consumers and Worker Protection**

**Sec. 1. As used in this chapter, "attendant care services" has the meaning set forth in IC 16-27-1-0.5.**

**Sec. 2. As used in this chapter, "companion type services" has the meaning set forth in IC 12-10-17-2(2).**

**Sec. 3. As used in this chapter, "consumer" means an individual who:**

**(1) receives home care services given by a home care services worker in the individual's residence; or**

**(2) pays for and directs the home care services for another individual.**

**Sec. 4. As used in this chapter, "consumer notice" means the notice described in section 14 of this chapter.**

**Sec. 5. As used in this chapter, "department" means the department of labor created under IC 22-1-1-1.**

**Sec. 6. As used in this chapter, "home care services" means skilled and unskilled services provided to an individual at the individual's residence to enable the individual to remain in the residence safely and comfortably. The provision of at least two (2) of the following is included in home care services:**

**(1) Nursing.**

**(2) Therapy.**

**(3) Attendant care.**

**(4) Companion type services.**

**(5) Homemaker services.**

**Sec. 7. As used in this chapter, "home care services worker" means an individual performing home care services for compensation.**

**Sec. 8. As used in this chapter, "homemaker services" means assistance with or performing household tasks that include housekeeping, shopping, laundry, meal planning and preparation, handyman services, and seasonal chores.**

**Sec. 9. As used in this chapter, "placement agency" means a person engaged in the business of securing home care services employment for an individual or securing a home care services worker for a consumer. The term:**

**(1) includes an employment agency, a nurse registry, and an entity that places a home care services worker for compensation by a consumer in the consumer's residence to provide home care services; and**

**(2) does not include a worker who solely and personally provides home care services to another individual at the**

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residence of that individual.

**Sec. 10.** As used in this chapter, "skilled services" means services provided by a:

- (1) registered nurse (as defined in IC 25-23-1-1.1(a));
- (2) licensed practical nurse (as defined in IC 25-23-1-1.2); or
- (3) health care professional listed in IC 16-27-1-1.

**Sec. 11.** As used in this chapter, "worker notice" means the statement described in section 17 of this chapter.

**Sec. 12.** This chapter applies to a placement agency, but does not apply to a:

- (1) hospital (as defined in IC 16-18-2-179);
- (2) health facility (as defined in IC 16-18-2-167(a)); or
- (3) home health agency (as defined in IC 16-18-2-173).

**Sec. 13.** A placement agency:

- (1) must provide a consumer with a consumer notice each time a home care services worker is placed in the home of the consumer; but
- (2) is not required to provide a consumer notice when a new or different home care services worker is substituting for the regular home care services worker placed with the consumer.

**Sec. 14.** A consumer notice must include the following:

- (1) The duties, responsibilities and obligations of the placement agency to the:
  - (A) home care services worker; and
  - (B) consumer.
- (2) A statement identifying the placement agency as:
  - (A) an employer;
  - (B) a joint employer;
  - (C) a leasing employer; or
  - (D) not an employer.
- (3) A statement that notwithstanding the employment status of the placement agency, the consumer:
  - (A) may be considered an employer under state and federal employment laws; and
  - (B) may be responsible for:
    - (i) payment of local, state, or federal employment taxes;
    - (ii) payment for Social Security and Medicare contributions;
    - (iii) ensuring payment of at least the minimum wage;
    - (iv) overtime payment;
    - (v) unemployment contributions under IC 22-4-11; or
    - (vi) worker's compensation insurance as required by

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IC 22-3-2-5 and IC 22-3-7-34;  
of the home care services worker.

(4) The appropriate telephone number, address, and electronic mail address of the department for inquiries regarding the contents of the notice.

The department shall determine the content and format of the consumer notice.

Sec. 15. The failure of a placement agency to provide a consumer notice to the consumer at the time a home care services worker is placed in the consumer's home does not relieve a consumer from the duties or obligations as an employer. If a placement agency fails to provide a consumer notice and the consumer is liable for payment of wages, taxes, worker's compensation insurance premiums, or unemployment compensation employer contributions, the consumer has a right of indemnification against the placement agency, which includes the actual amounts paid to or on behalf of the home care services worker as well as the consumer's attorney's fees and costs.

Sec. 16. A placement agency that will not be the actual employer of the home care services worker shall provide a worker notice as set forth in section 17 of this chapter to a home care services worker who is placed with a consumer. The worker notice must:

- (1) be provided to the home care services worker upon placement in the consumer's home; and
- (2) specify the home care services worker's legal relationship with the placement agency and the consumer.

Sec. 17. The worker notice must contain the following:

- (1) The duties, responsibilities, and obligations of the placement agency, the consumer, and the home care services worker if the home care services worker is determined to be an independent contractor, including:
  - (A) a statement of the party responsible for the payment of the home care services worker's wages, taxes, Social Security and Medicare contributions, unemployment contributions, and worker's compensation insurance premiums; and
  - (B) a statement identifying the party responsible for the home care services worker's hiring, firing, discipline, day to day supervision, assignment of duties, and provision of equipment or materials for use by the home care services worker.
- (2) The telephone number, address, and electronic mail

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address of the department for inquiries regarding the contents of the notice.

The department shall determine the content and format of the consumer notice.

Sec. 18. The department may at any time and upon receiving a complaint from an interested person investigate an alleged violation of this chapter by a placement agency.

Sec. 19. The department may impose a civil penalty not to exceed one thousand dollars (\$1,000) against a placement agency that fails to provide a worker notice or a consumer notice at the times required under section 13 or 16 of this chapter. The civil penalty may be assessed by the department and, if necessary, shall be recovered by the prosecuting attorney of the county in which the violation has occurred or by the attorney general, as provided in IC 22-1-1-18.

SECTION 19. [EFFECTIVE JULY 1, 2005]: IC 16-27-1-0.5 IS REPEALED.

SECTION 20. [EFFECTIVE JULY 1, 2005] (a) The definitions in IC 16-27-4, as added by this act, apply to this SECTION.

(b) Notwithstanding IC 16-27-4, as added by this act, a person is not required to be licensed by the state department of health to operate a personal services agency before January 1, 2006.

(c) This SECTION expires January 1, 2006.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1750, 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 5, between lines 15 and 16, begin a new paragraph and insert:

"SECTION 4. IC 16-18-2-56.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOW** [EFFECTIVE JULY 1, 2005]: **Sec. 56.5. "Client", for purposes of IC 16-27-4, has the meaning set forth in IC 16-27-4-1.**"

Page 5, line 26, delete "IC 16-27-4-1." and insert "**IC 16-27-4-2.**".

Page 5, delete lines 27 through 39 begin a new paragraph and insert:

"SECTION 6. IC 16-18-2-277.6 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2005]: **Sec. 277.6. "Personal representative", for purposes of IC 16-27-4, has the meaning set forth in IC 16-27-4-3.**"

Page 6, delete lines 7 through 14.

Page 6, line 23, delete "either:" and insert "**either, are required by law to be:**".

Page 6, line 24, delete "are required by law to be".

Page 6, line 28, delete "may be".

Page 7, line 24, after "agency" insert "**or a personal services agency**".

Page 9, between lines 15 and 16, begin a new paragraph and insert:

**"Sec. 1. As used in this chapter, "client" means an individual who has been accepted to receive personal services from a personal services agency."**

Page 9, line 16, delete "1." and insert "**2.**".

Page 9, delete lines 19 through 21, begin a new paragraph and insert:

**"Sec. 3. As used in this chapter, "personal representative" means a person who has legal authority to act on behalf of the client with regard to the action to be taken."**

Page 9, line 22, delete "3." and insert "**4.**".

Page 9, line 23, after "attendant" insert "**care**".

Page 9, line 28, delete "patient," and insert "**client,**".

Page 9, line 30, delete "patient at the patient's" and insert "**client at the client's**".

Page 10, line 2, delete "4." and insert "**5.**".

Page 10, line 7, after "services" insert "**only to the individual's**

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**family and".**

Page 10, line 8, delete "patients concurrently at the patient's residence." and insert **"individuals per residence and not more than a total of six (6) clients concurrently. As used in this subdivision, "family" means the individual's spouse, children, parent, parent-in-law, grandparent, grandchild, brother, brother-in-law, sister, sister-in-law, aunt, aunt-in-law, uncle, uncle-in-law, niece, and nephew."**

Page 10, delete lines 19 through 26.

Page 10, line 40, after "within" insert **"a radius of"**.

Page 10, line 40, delete "minutes driving" and insert **"miles"**.

Page 10, line 41, delete "time".

Page 11, line 25, delete "patients" and insert **"clients"**.

Page 11, line 26, delete "patient files." and insert **"client files. If the state department approves the application, the state department shall issue a license to the applicant."**

Page 11, delete lines 35 through 39 and insert **"licensure, an application for license renewal, or an investigation and its onsite reviews in conjunction with those actions are limited to determining the personal service agency's compliance with the requirements of this chapter or permitting or aiding an illegal act in a personal services agency."**

Page 11, line 41, after "(e)." insert **"However, the state department may issue an initial license for a period of less than three (3) years to stagger the expiration dates."**

Page 12, between lines 7 and 8, begin a new paragraph and insert: **"(k) A personal services agency that is operated by a home health agency licensed under IC 16-27-1 is subject to the requirements of this chapter and not IC 16-27-1. The home health agency is not subject to the requirements of this chapter. A home health agency that is licensed under IC 16-27-1 is not required to obtain a license under this chapter."**

Page 12, line 8, delete "(k)" and insert **"(l)"**.

Page 12, line 22, delete "patient's" and insert **"client's"**.

Page 12, line 23, delete "patient," and insert **"client,"**.

Page 12, line 24, delete "patient's" and insert **"client's personal"**.

Page 12, line 25, delete "patient," and insert **"client,"**.

Page 12, line 25, delete "patient" and insert **"client"**.

Page 12, line 27, delete "patient's" and insert **"client's"**.

Page 12, line 30, delete "patient" and insert **"client"**.

Page 12, line 32, delete "patient's" and insert **"client's"**.

Page 12, line 42, delete "patient" and insert **"client"**.

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- Page 13, line 1, delete "patient." and insert "**client.**".
- Page 13, line 7, delete "patient" and insert "**client**".
- Page 13, line 8, delete "patient's" and insert "**client's**".
- Page 13, line 13, delete "patient" and insert "**client**".
- Page 13, line 14, delete "patient" and insert "**client**".
- Page 13, line 16, delete "patient" and insert "**client**".
- Page 13, line 17, delete "patient" and insert "**client**".
- Page 13, line 22, delete "patient" and insert "**client**".
- Page 13, line 23, delete "patient's" and insert "**client's personal**".
- Page 13, line 24, delete "patient" and insert "**client**".
- Page 13, line 25, delete "patient." and insert "**client.**".
- Page 13, line 25, delete "patient" and insert "**client**".
- Page 13, line 27, delete "patient" and insert "**client**".
- Page 13, line 27, delete "patient's" and insert "**client's**".
- Page 13, line 29, delete "patient" and insert "**client**".
- Page 13, line 32, delete "patient" and insert "**client**".
- Page 13, line 36, delete "patient" and insert "**client**".
- Page 13, line 40, delete "patient" and insert "**client**".
- Page 14, line 3, delete "patient" and insert "**client**".
- Page 14, line 7, delete "patient" and insert "**client**".
- Page 14, line 20, delete "patient, the patient's family, or the patient's" and insert "**client, the client's family, or the client's personal**".
- Page 14, line 23, delete "patient's" and insert "**client's**".
- Page 14, line 28, delete "patient" and insert "**client**".
- Page 14, line 31, delete "patient" and insert "**client**".
- Page 14, line 36, delete "patient's" and insert "**client's**".
- Page 15, line 6, delete "performing" and insert "**performs**".
- Page 15, line 7, delete "patient" and insert "**client**".
- Page 15, line 39, delete "chapter." and insert "**chapter and document services provided to clients.**".
- Page 15, line 40, after "documentation" insert "**or copies of the documentation**".
- Page 15, line 40, after "maintained" insert "**or be electronically accessible**".
- Page 16, between lines 40 and 41, begin a new paragraph and insert:  
 "SECTION 18. IC 22-1-5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:  
**Chapter 5. Home Care Consumers and Worker Protection**  
**Sec. 1. As used in this chapter, "attendant care services" has the meaning set forth in IC 16-27-1-0.5.**

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**Sec. 2.** As used in this chapter, "companion type services" has the meaning set forth in IC 12-10-17-2(2).

**Sec. 3.** As used in this chapter, "consumer" means an individual who:

- (1) receives home care services given by a home care services worker in the individual's residence; or
- (2) pays for and directs the home care services for another individual.

**Sec. 4.** As used in this chapter, "consumer notice" means the notice described in section 14 of this chapter.

**Sec. 5.** As used in this chapter, "department" means the department of labor created under IC 22-1-1-1.

**Sec. 6.** As used in this chapter, "home care services" means skilled and unskilled services provided to an individual at the individual's residence to enable the individual to remain in the residence safely and comfortably. The provision of at least two (2) of the following is included in home care services:

- (1) Nursing.
- (2) Therapy.
- (3) Attendant care.
- (4) Companion type services.
- (5) Homemaker services.

**Sec. 7.** As used in this chapter, "home care services worker" means an individual performing home care services for compensation.

**Sec. 8.** As used in this chapter, "homemaker services" means assistance with or performing household tasks that include housekeeping, shopping, laundry, meal planning and preparation, handyman services, and seasonal chores.

**Sec. 9.** As used in this chapter, "placement agency" means a person engaged in the business of securing home care services employment for an individual or securing a home care services worker for a consumer. The term:

- (1) includes an employment agency, a nurse registry, and an entity that places a home care services worker for compensation by a consumer in the consumer's residence to provide home care services; and
- (2) does not include a worker who solely and personally provides home care services to another individual at the residence of that individual.

**Sec. 10.** As used in this chapter, "skilled services" means services provided by a:

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- (1) registered nurse (as defined in IC 25-23-1-1.1(a));
- (2) licensed practical nurse (as defined in IC 25-23-1-1.2); or
- (3) health care professional listed in IC 16-27-1-1.

Sec. 11. As used in this chapter, "worker notice" means the statement described in section 17 of this chapter.

Sec. 12. This chapter applies to a placement agency, but does not apply to a:

- (1) hospital (as defined in IC 16-18-2-179);
- (2) health facility (as defined in IC 16-18-2-167(a)); or
- (3) home health agency (as defined in IC 16-18-2-173).

Sec. 13. A placement agency:

- (1) must provide a consumer with a consumer notice each time a home care services worker is placed in the home of the consumer; but
- (2) is not required to provide a consumer notice when a new or different home care services worker is substituting for the regular home care services worker placed with the consumer.

Sec. 14. A consumer notice must include the following:

- (1) The duties, responsibilities and obligations of the placement agency to the:
  - (A) home care services worker; and
  - (B) consumer.
- (2) A statement identifying the placement agency as:
  - (A) an employer;
  - (B) a joint employer;
  - (C) a leasing employer; or
  - (D) not an employer.
- (3) A statement that notwithstanding the employment status of the placement agency, the consumer:
  - (A) may be considered an employer under state and federal employment laws; and
  - (B) may be responsible for:
    - (i) payment of local, state, or federal employment taxes;
    - (ii) payment for Social Security and Medicare contributions;
    - (iii) ensuring payment of at least the minimum wage;
    - (iv) overtime payment;
    - (v) unemployment contributions under IC 22-4-11; or
    - (vi) worker's compensation insurance as required by IC 22-3-2-5 and IC 22-3-7-34;of the home care services worker.
- (4) The appropriate telephone number, address, and

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electronic mail address of the department for inquiries regarding the contents of the notice.

The department shall determine the content and format of the consumer notice.

Sec. 15. The failure of a placement agency to provide a consumer notice to the consumer at the time a home care services worker is placed in the consumer's home does not relieve a consumer from the duties or obligations as an employer. If a placement agency fails to provide a consumer notice and the consumer is liable for payment of wages, taxes, worker's compensation insurance premiums, or unemployment compensation employer contributions, the consumer has a right of indemnification against the placement agency, which includes the actual amounts paid to or on behalf of the home care services worker as well as the consumer's attorney's fees and costs.

Sec. 16. A placement agency that will not be the actual employer of the home care services worker shall provide a worker notice as set forth in section 17 of this chapter to a home care services worker who is placed with a consumer. The worker notice must:

- (1) be provided to the home care services worker upon placement in the consumer's home; and
- (2) specify the home care services worker's legal relationship with the placement agency and the consumer.

Sec. 17. The worker notice must contain the following:

- (1) The duties, responsibilities, and obligations of the placement agency, the consumer, and the home care services worker if the home care services worker is determined to be an independent contractor, including:

- (A) a statement of the party responsible for the payment of the home care services worker's wages, taxes, Social Security and Medicare contributions, unemployment contributions, and worker's compensation insurance premiums; and
- (B) a statement identifying the party responsible for the home care services worker's hiring, firing, discipline, day to day supervision, assignment of duties, and provision of equipment or materials for use by the home care services worker.

- (2) The telephone number, address, and electronic mail address of the department for inquiries regarding the contents of the notice.

The department shall determine the content and format of the

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consumer notice.

**Sec. 18. The department may at any time and upon receiving a complaint from an interested person investigate an alleged violation of this chapter by a placement agency.**

**Sec. 19. The department may impose a civil penalty not to exceed one thousand dollars (\$1,000) against a placement agency that fails to provide a worker notice or a consumer notice at the times required under section 13 or 16 of this chapter. The civil penalty may be assessed by the department and, if necessary, shall be recovered by the prosecuting attorney of the county in which the violation has occurred or by the attorney general, as provided in IC 22-1-1-18."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1750 as introduced.)

BECKER, Chair

Committee Vote: yeas 10, nays 0.

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