February 14, 2006

ENGROSSED
SENATE BILL No. 41

DIGEST OF SB 41 (Updated February 13, 2006 11:39 am - DI 77)

Citations Affected: Numerous provisions throughout the Indiana code.

Synopsis: Division of aging. Establishes the division of aging as a division separate from the division of disability and rehabilitative services. Reestablishes the self-directed in-home care program (program) that expired July 1, 2005. Provides that home health agencies and personal services agencies that are licensed by the department of health are automatically certified to provide services under certain federal waivers. Requires that 51% of a center for independent living's board must have a significant disability to be considered to have consumer control. Requires the statewide independent living council to perform certain duties. Requires the office of the secretary of family and social services to report to the legislative council before November 1, 2009, on the implementation and outcome of the program. Removes obsolete references. Makes conforming amendments. (The introduced version of this bill was prepared by the FSSA evaluation committee.)

Effective: Upon passage; July 1, 2006.

Miller

(HOUSE SPONSORS — BROWN T, BROWN C)

January 9, 2006, read first time and referred to Committee on Health and Provider Services.
January 19, 2006, amended, reported favorably — Do Pass.
January 23, 2006, read second time, ordered engrossed. Engrossed.
January 24, 2006, read third time, passed. Yeas 47, nays 0.

HOUSE ACTION

February 2, 2006, read first time and referred to Committee on Public Health.
February 13, 2006, amended, reported — Do Pass.

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February 14, 2006

Second Regular Session 114th General Assembly (2006)

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 2005 Regular Session of the General Assembly.

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ENGROSSED
SENATE BILL No. 41

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

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

SECTION 1. IC 1-1-3.5-5, AS AMENDED BY P.L.127-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) The governor shall forward a copy of the executive order issued under section 3 of this chapter to:

(1) the director of the Indiana state library;

(2) the election division; and

(3) the Indiana Register.

(b) The director of the Indiana state library, or an employee of the Indiana state library designated by the director to supervise a state data center established under IC 4-23-7.1, shall notify each state agency using population counts as a basis for the distribution of funds or services of the effective date of the tabulation of population or corrected population count.

(c) The agencies that the director of the Indiana state library must notify under subsection (b) include the following:

(1) The auditor of state, for distribution of money from the following:

(A) The cigarette tax fund in accordance with IC 6-7-1-30.1.
(B) Excise tax revenue allocated under IC 7.1-4-7-8.
(C) The local road and street account in accordance with IC 8-14-2-4.
(D) The repayment of loans from the Indiana University permanent endowment funds under IC 21-7-4.

(2) The board of trustees of Ivy Tech Community College of Indiana, for the board's division of Indiana into service regions under IC 20-12-61-9.

(3) The lieutenant governor, for the distribution of money from the rural development fund under IC 4-4-9.

(4) The division of disability ~~aging,~~ and rehabilitative services, for establishing priorities for community residential facilities under IC 12-11-1.1 and IC 12-28-4-12.

(5) The department of state revenue, for distribution of money from the motor vehicle highway account fund under IC 8-14-1-3.

(6) The Indiana economic development corporation, for the evaluation of enterprise zone applications under IC 5-28-15.

(7) The alcohol and tobacco commission, for the issuance of permits under IC 7.1.

(8) The Indiana library and historical board, for distribution of money to eligible public library districts under IC 4-23-7.1-29.

(9) The state board of accounts, for calculating the state share of salaries paid under IC 33-38-5, IC 33-39-6, and IC 33-41-2.

SECTION 2. IC 2-5-27.2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. The commission shall do the following:

(1) Develop a long range plan to stimulate further development of cost effective, innovative models of community based services, including recommendations that identify implementation schedules, plans for resource development, and appropriate regulatory changes.

(2) Review and make recommendations regarding any unmet needs for mental retardation and developmental disability services, including the following:
(A) Community residential and family support services.
(B) Services for aging families caring for their children who are mentally retarded and developmentally disabled adults.
(C) Services for families in emergency or crisis situations.
(D) Services needed to move children and adults from nursing homes and state hospitals to the community.

(3) Study and make recommendations for the state to use state

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employees or contract with a private entity to manage and implement home and community based services waivers under 42 U.S.C. 1396n(c).

(4) Study and make recommendations regarding state funding needed to provide supplemental room and board costs for individuals who otherwise qualify for residential services under the home and community based services waivers.

(5) Monitor and recommend changes for improvements in the implementation of home and community based services waivers managed by the state or by a private entity.

(6) Review and make recommendations regarding the implementation of the comprehensive plan prepared by the developmental disabilities task force established by P.L.245-1997, SECTION 1.

(7) Review and make recommendations regarding the development by the division of disability ~~aging,~~ and rehabilitative services of a statewide plan to address quality assurance in community based services.

(8) Annually review the infants and toddlers with disabilities program established under IC 12-17-15.

SECTION 3. IC 4-1-8-1, AS AMENDED BY HEA 1040-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) No individual may be compelled by any state agency, board, commission, department, bureau, or other entity of state government (referred to as "state agency" in this chapter) to provide the individual's Social Security number to the state agency against the individual's will, absent federal requirements to the contrary. However, the provisions of this chapter do not apply to the following:

(1) Department of state revenue.

(2) Department of workforce development.

(3) The programs administered by:

(A) the division of family and children;

(B) the division of mental health and addiction;

(C) the division of disability ~~aging,~~ and rehabilitative services;

(D) the division of aging; and

~~(D)~~ **(E)** the office of Medicaid policy and planning;

of the office of the secretary of family and social services.

(4) Auditor of state.

(5) State personnel department.

(6) Secretary of state, with respect to the registration of broker-dealers, agents, and investment advisors.

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(7) The legislative ethics commission, with respect to the registration of lobbyists.

(8) Indiana department of administration, with respect to bidders on contracts.

(9) Indiana department of transportation, with respect to bidders on contracts.

(10) Indiana professional licensing agency.

(11) Department of insurance, with respect to licensing of insurance producers.

(12) A pension fund administered by the board of trustees of the public employees' retirement fund.

(13) The Indiana state teachers' retirement fund.

(14) The state police benefit system.

(15) The alcohol and tobacco commission.

(b) The bureau of motor vehicles may, notwithstanding this chapter, require the following:

(1) That an individual include the individual's Social Security number in an application for an official certificate of title for any vehicle required to be titled under IC 9-17.

(2) That an individual include the individual's Social Security number on an application for registration.

(3) That a corporation, limited liability company, firm, partnership, or other business entity include its federal tax identification number on an application for registration.

(c) The Indiana department of administration, the Indiana department of transportation, and the Indiana professional licensing agency may require an employer to provide its federal employer identification number.

(d) The department of correction may require a committed offender to provide the offender's Social Security number for purposes of matching data with the Social Security Administration to determine benefit eligibility.

(e) The Indiana gaming commission may, notwithstanding this chapter, require the following:

(1) That an individual include the individual's Social Security number in any application for a riverboat owner's license, supplier's license, or occupational license.

(2) That a sole proprietorship, a partnership, an association, a fiduciary, a corporation, a limited liability company, or any other business entity include its federal tax identification number on an application for a riverboat owner's license or supplier's license.

(f) Notwithstanding this chapter, the department of education

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established by IC 20-19-3-1 may require an individual who applies to the department for a license or an endorsement to provide the individual's Social Security number. The Social Security number may be used by the department only for conducting a background investigation, if the department is authorized by statute to conduct a background investigation of an individual for issuance of the license or endorsement.

SECTION 4. IC 4-15-2-3.8, AS AMENDED BY HEA 1040-2006, SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3.8. "State service" means public service by:

(1) employees and officers, including the incumbent directors, of the county offices of family and children; and

(2) employees and officers, except members of boards and commissions or individuals hired for or appointed to, after June 30, 1982, positions as appointing authorities, deputies, assistants reporting to appointing authorities, or supervisors of major units within state agencies, irrespective of the title carried by those positions, of the division of disability ~~aging,~~ and rehabilitative services, **division of aging,** Fort Wayne State Developmental Center, ~~Muscatatuck State Developmental Center,~~ division of mental health and addiction, Larue D. Carter Memorial Hospital, Evansville State Psychiatric Treatment Center for Children, Evansville State Hospital, Logansport State Hospital, Madison State Hospital, Richmond State Hospital, state department of health, Indiana School for the Blind and Visually Impaired, Indiana School for the Deaf, Indiana Veterans' Home, Indiana Soldiers' and Sailors' Children's Home, Silvercrest Children's Development Center, department of correction, Westville Correctional Facility, Plainfield Juvenile Correctional Facility, Putnamville Correctional Facility, Indianapolis Juvenile Correctional Facility, Indiana State Prison, Indiana Women's Prison, Pendleton Correctional Facility, Reception and Diagnostic Center, Rockville Correctional Facility, Youth Rehabilitation Facility, Plainfield Correctional Facility, department of homeland security (excluding a county emergency management organization and any other local emergency management organization created under IC 10-14-3), civil rights commission, criminal justice planning agency, department of workforce development, Indiana historical bureau, Indiana state library, division of family and children, Indiana state board of animal health, Federal Surplus Property Warehouse, Indiana education employment relations board, department of labor, Indiana protection and advocacy

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services commission, commission on public records, Indiana horse racing commission, and state personnel department.

SECTION 5. IC 4-15-2-19.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 19.5. (a) As used in this section, "individual with a disability" means an individual:

(1) with a physical or mental impairment that substantially limits one (1) or more of the major life activities of the individual; or

(2) who:

(A) has a record of; or

(B) is regarded as;

having an impairment described in subdivision (1).

(b) Notwithstanding other provisions of this chapter, the director may waive minimum qualifications and an examination for an approved individual upon certification by an Indiana rehabilitation facility or the rehabilitation services bureau of the division of disability ~~aging,~~ and rehabilitative services that the individual:

(1) is an individual with a disability; and

(2) possesses the required knowledge, skill, and ability to perform the essential functions of a position classification with or without reasonable accommodation or with special accommodation for supported employment.

(c) The names of applicants with a disability qualified under subsection (b) shall be certified with or in addition to the names certified on the eligibility list under section 19 of this chapter.

SECTION 6. IC 4-23-20-3, AS AMENDED BY P.L.4-2005, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. The committee consists of at least six (6) members appointed by the governor and must include representatives of the following:

(1) The Indiana economic development corporation.

(2) The department of workforce development.

(3) The division of disability ~~aging,~~ and rehabilitative services.

(4) The commission on vocational and technical education of the department of workforce development.

(5) The state human resource investment council.

(6) The department of education.

SECTION 7. IC 5-1-16-1, AS AMENDED BY P.L.235-2005, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. As used in this chapter:

"Authority" refers to the Indiana health and educational facility financing authority.

"Bonds" includes bonds, refunding bonds, notes, interim

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certificates, bond anticipation notes, and other evidences of indebtedness of the authority, issued under this chapter.

"Building" or "buildings" or similar words mean any building or part of a building or addition to a building for health care purposes. The term includes the site for the building (if a site is to be acquired), equipment, heating facilities, sewage disposal facilities, landscaping, walks, drives, parking facilities, and other structures, facilities, appurtenances, materials, and supplies that may be considered necessary to render a building suitable for use and occupancy for health care purposes.

"Cost" includes the following:

(1) The cost and the incidental and related costs of the acquisition, repair, restoration, reconditioning, refinancing, or installation of health facility property.

(2) The cost of any property interest in health facility property, including an option to purchase a leasehold interest.

(3) The cost of constructing health facility property, or an addition to health facility property, acquiring health facility property, or remodeling health facility property.

(4) The cost of architectural, engineering, legal, trustee, underwriting, and related services; the cost of the preparation of plans, specifications, studies, surveys, and estimates of cost and of revenue; and all other expenses necessary or incident to planning, providing, or determining the need for or the feasibility and practicability of health facility property.

(5) The cost of financing charges, including premiums or prepayment penalties and interest accrued during the construction of health facility property or before the acquisition and installation or refinancing of such health facility property for up to two (2) years after such construction, acquisition, and installation or refinancing and startup costs related to health facility property for up to two (2) years after such construction, acquisition, and installation or refinancing.

(6) The costs paid or incurred in connection with the financing of health facility property, including out-of-pocket expenses, the cost of any policy of insurance; the cost of printing, engraving, and reproduction services; and the cost of the initial or acceptance fee of any trustee or paying agent.

(7) The costs of the authority, incurred in connection with providing health facility property, including reasonable sums to reimburse the authority for time spent by its agents or employees in providing and financing health facility property.

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(8) The cost paid or incurred for the administration of any program for the purchase or lease of or the making of loans for health facility property, by the authority and any program for the sale or lease of or making of loans for health facility property to any participating provider.

"County" means any county in the state that owns and operates a county hospital.

"Health facility property" means any tangible or intangible property or asset owned or used by a participating provider and which:

(1) is determined by the authority to be necessary or helpful, directly or indirectly, to provide:

(A) health care;

(B) medical research;

(C) training or teaching of health care personnel;

(D) habilitation, rehabilitation, or therapeutic services; or

(E) any related supporting services;

regardless of whether such property is in existence at the time of, or is to be provided after the making of, such finding;

(2) is a residential facility for:

(A) the physically, mentally, or emotionally disabled;

(B) the physically or mentally ill; or

(C) the elderly; or

(3) is a licensed child caring institution providing residential care described in IC 12-7-2-29(1) or corresponding provisions of the laws of the state in which the property is located.

"Health facility" means any facility or building that is:

(1) owned or used by a participating provider;

(2) located:

(A) in Indiana; or

(B) outside Indiana, if the participating provider that operates the facility or building, or an affiliate of the participating provider, also operates a substantial health facility or facilities, as determined by the authority, in Indiana; and

(3) utilized, directly or indirectly:

(A) in:

(i) health care;

(ii) habilitation, rehabilitation, or therapeutic services;

(iii) medical research;

(iv) the training or teaching of health care personnel; or

(v) any related supporting services;

(B) to provide a residential facility for:

(i) the physically, mentally, or emotionally disabled;

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(ii) the physically or mentally ill; or
(iii) the elderly; or
(C) as a child caring institution and provides residential care described in IC 12-7-2-29(1) or corresponding provisions of the laws of the state in which the facility or building is located.

"Net revenues" means the revenues of a hospital remaining after provision for proper and reasonable expenses of operation, repair, replacement, and maintenance of the hospital.

"Participating provider" means a person, corporation, municipal corporation, political subdivision, or other entity, public or private, which:

(1) is located in Indiana or outside Indiana;
(2) contracts with the authority for the financing or refinancing of, or the lease or other acquisition of, health facility property that is located:
(A) in Indiana; or
(B) outside Indiana, if the financing, refinancing, lease, or other acquisition also includes a substantial component, as determined by the authority, for the benefit of a health facility or facilities located in Indiana;
(3) is:
(A) licensed under IC 12-25, IC 16-21, IC 16-28, or corresponding laws of the state in which the property is located;
(B) a regional blood center;
(C) a community mental health center or community mental retardation and other developmental disabilities center (as defined in IC 12-7-2-38 and IC 12-7-2-39 or corresponding provisions of laws of the state in which the property is located);
(D) an entity that:
(i) contracts with the division of disability ~~aging,~~ and rehabilitative services or the division of mental health and addiction to provide the program described in IC 12-11-1.1-1(e) or IC 12-22-2; or
(ii) provides a similar program under the laws of the state in which the entity is located;
(E) a vocational rehabilitation center established under IC 12-12-1-4.1(a)(1) or corresponding provisions of the laws of the state in which the property is located;
(F) the owner or operator of a facility that is utilized, directly or indirectly, to provide health care, habilitation, rehabilitation,

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therapeutic services, medical research, the training or teaching of health care personnel, or any related supporting services, or of a residential facility for the physically, mentally, or emotionally disabled, physically or mentally ill, or the elderly;

(G) a licensed child caring institution providing residential care described in IC 12-7-2-29(1) or corresponding provisions of the laws of the state in which the property is located;

(H) an integrated health care system between or among providers, a health care purchasing alliance, a health insurer or third party administrator that is a participant in an integrated health care system, a health maintenance or preferred provider organization, or a foundation that supports a health care provider; or

(I) an individual, a business entity, or a governmental entity that owns an equity or membership interest in any of the organizations described in clauses (A) through (H); and

(4) in the case of a person, corporation, municipal corporation, political subdivision, or other entity located outside Indiana, is owned or controlled by, under common control with, affiliated with, or part of an obligated group that includes an entity that provides one (1) or more of the following services or facilities in Indiana:

(A) A facility that provides:

(i) health care;

(ii) habilitation, rehabilitation, or therapeutic services;

(iii) medical research;

(iv) training or teaching of health care personnel; or

(v) any related supporting services.

(B) A residential facility for:

(i) the physically, mentally, or emotionally disabled;

(ii) the physically or mentally ill; or

(iii) the elderly.

(C) A child caring institution providing residential care described in IC 12-7-2-29(1).

"Regional blood center" means a nonprofit corporation or corporation created under 36 U.S.C. 1 that:

(1) is:

(A) accredited by the American Association of Blood Banks; or

(B) registered or licensed by the Food and Drug Administration of the Department of Health and Human Services; and

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(2) owns and operates a health facility that is primarily engaged in:

(A) drawing, testing, processing, and storing human blood and providing blood units or components to hospitals; or

(B) harvesting, testing, typing, processing, and storing human body tissue and providing this tissue to hospitals.

SECTION 8. IC 5-20-4-15, AS AMENDED BY HEA 1040-2006, SECTION 121, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 15. (a) The housing trust fund advisory committee is established.

(b) The committee consists of ~~sixteen (16)~~ **seventeen (17)** members to be appointed by the governor as follows:

(1) One (1) member of the division of mental health and addiction.

(2) One (1) member of the division of family and children.

(3) One (1) member of the division of disability ~~aging,~~ and rehabilitative services.

(4) One (1) member of the division of aging.

~~(4)~~ **(5)** One (1) member of the office of the lieutenant governor.

~~(5)~~ **(6)** One (1) member to represent residential real estate developers.

~~(6)~~ **(7)** One (1) member to represent construction trades.

~~(7)~~ **(8)** One (1) member to represent banks and other lending institutions.

~~(8)~~ **(9)** One (1) member to represent the interests of persons with disabilities.

~~(9)~~ **(10)** One (1) member to represent service providers.

~~(10)~~ **(11)** Two (2) members to represent neighborhood groups.

~~(11)~~ **(12)** One (1) member to represent low income families.

~~(12)~~ **(13)** One (1) member to represent nonprofit community based organizations and community development corporations.

~~(13)~~ **(14)** One (1) member to represent real estate brokers or salespersons.

~~(14)~~ **(15)** One (1) member to represent the Indiana Apartment Owner's Association.

~~(15)~~ **(16)** One (1) member to represent the manufactured housing industry.

At least three (3) members of the committee shall be from a city with a population of less than thirty-five thousand (35,000), a town, or a rural area.

(c) Members of the advisory committee shall serve a term of three (3) years. However, the governor may remove for cause an appointed

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member of the advisory committee and fill vacancies of appointed members on the advisory committee.

(d) The advisory committee shall make recommendations to the housing and community development authority regarding:

(1) the development of policies and procedures under section 14 of this chapter; and

(2) long term sources to capitalize the housing trust fund, including the following:

(A) Revenue from development ordinances, fees, or taxes.

(B) Market based or private revenue.

(C) Revenue generated from government programs, foundations, private individuals, or corporations.

(e) The advisory committee shall prepare and present an annual report that:

(1) describes disbursements under the housing trust fund; and

(2) makes recommendations to the board of the Indiana housing and community development authority regarding long term sources to capitalize the housing trust fund.

SECTION 9. IC 5-22-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. As used in this chapter, "bureau" refers to the rehabilitation services bureau of the division of disability ~~aging,~~ and rehabilitative services established under IC 12-12-1-1.

SECTION 10. IC 6-1.1-12-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 12. (a) Except as provided in section 17.8 of this chapter, a person who desires to claim the deduction provided in section 11 of this chapter must file an application on forms prescribed by the department of local government finance with the auditor of the county in which the real property, mobile home not assessed as real property, or manufactured home not assessed as real property is located. With respect to real property, the application must be filed during the twelve (12) months before May 11 of each year for which the individual wishes to obtain the deduction. With respect to a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property, the application must be filed during the twelve (12) months before March 2 of each year for which the individual wishes to obtain the deduction. The application may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing.

(b) Proof of blindness may be supported by:

(1) the records of a county office of family and children, the division of family and children, or the division of disability ~~aging,~~

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and rehabilitative services; or

(2) the written statement of a physician who is licensed by this state and skilled in the diseases of the eye or of a licensed optometrist.

(c) The application required by this section must contain the record number and page where the contract or memorandum of the contract is recorded if the individual is buying the real property, mobile home, or manufactured home on a contract that provides that ~~he~~ **the individual** is to pay property taxes on the real property, mobile home, or manufactured home.

SECTION 11. IC 11-13-1-8, AS AMENDED BY P.L.1-2005, SECTION 125, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) As used in this section, "board" refers to the board of directors of the judicial conference of Indiana established by IC 33-38-9-3.

(b) The board shall adopt rules consistent with this chapter, prescribing minimum standards concerning:

(1) educational and occupational qualifications for employment as a probation officer;

(2) compensation of probation officers;

(3) protection of probation records and disclosure of information contained in those records; and

(4) presentence investigation reports.

(c) The conference shall prepare a written examination to be used in establishing lists of persons eligible for appointment as probation officers. The conference shall prescribe the qualifications for entrance to the examination and establish a minimum passing score and rules for the administration of the examination after obtaining recommendations on these matters from the probation standards and practices advisory committee. The examination must be offered at least once every other month.

(d) The conference shall, by its rules, establish an effective date for the minimum standards and written examination for probation officers.

(e) The conference shall provide probation departments with training and technical assistance for:

(1) the implementation and management of probation case classification; and

(2) the development and use of workload information.

The staff of the Indiana judicial center may include a probation case management coordinator and probation case management assistant.

(f) The conference shall, in cooperation with the division of family and children and the department of education, provide probation

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departments with training and technical assistance relating to special education services and programs that may be available for delinquent children or children in need of services. The subjects addressed by the training and technical assistance must include the following:

(1) Eligibility standards.

(2) Testing requirements and procedures.

(3) Procedures and requirements for placement in programs provided by school corporations or special education cooperatives under IC 20-35-5.

(4) Procedures and requirements for placement in residential special education institutions or facilities under IC 20-35-6-2 and 511 IAC 7-27-12.

(5) Development and implementation of individual education programs for eligible children in:

(A) accordance with applicable requirements of state and federal laws and rules; and

(B) in coordination with:

(i) individual case plans; and

(ii) informal adjustment programs or dispositional decrees entered by courts having juvenile jurisdiction under IC 31-34 and IC 31-37.

(6) Sources of federal, state, and local funding that is or may be available to support special education programs for children for whom proceedings have been initiated under IC 31-34 and IC 31-37.

Training for probation departments may be provided jointly with training provided to child welfare caseworkers relating to the same subject matter.

(g) The conference shall, in cooperation with the division of mental health and addiction (IC 12-21) and the division of disability ~~aging,~~ and rehabilitative services (IC 12-9-1), provide probation departments with training and technical assistance concerning mental illness, addictive disorders, mental retardation, and developmental disabilities.

(h) The conference shall make recommendations to courts and probation departments concerning:

(1) selection, training, distribution, and removal of probation officers;

(2) methods and procedure for the administration of probation, including investigation, supervision, workloads, record keeping, and reporting; and

(3) use of citizen volunteers and public and private agencies.

(i) The conference may delegate any of the functions described in

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this section to the advisory committee or the Indiana judicial center.

SECTION 12. IC 12-7-2-14.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14.7. "Ancillary services", for purposes of ~~IC 12-10-17,~~ **IC 12-10-17.1,** has the meaning set forth in ~~IC 12-10-17-2.~~ **IC 12-10-17.1-2.**

SECTION 13. IC 12-7-2-18.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18.3. "Attendant care services", for purposes of ~~IC 12-10-17,~~ **IC 12-10-17.1,** has the meaning set forth in ~~IC 12-10-17-3.~~ **IC 12-10-17.1-3.**

SECTION 14. IC 12-7-2-20.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20.7. "Basic services", for purposes of ~~IC 12-10-17,~~ **IC 12-10-17.1,** has the meaning set forth in ~~IC 12-10-17-4.~~ **IC 12-10-17.1-4.**

SECTION 15. IC 12-7-2-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 24. "Bureau" means the following:

(1) For purposes of IC 12-10, the bureau of aging and in-home services established by IC 12-10-1-1.

(2) For purposes of IC 12-11, the bureau of developmental disabilities services established by IC 12-11-1.1-1.

(3) For purposes of IC 12-12, the rehabilitation services bureau of the division of disability ~~aging,~~ and rehabilitative services established by IC 12-12-1-1.

(4) For purposes of IC 12-12.5, the bureau of quality improvement services established by IC 12-12.5-1-1.

(5) For purposes of IC 12-17-2, the meaning set forth in IC 12-17-2-1.

SECTION 16. IC 12-7-2-39 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 39. "Community mental retardation and other developmental disabilities centers", for purposes of IC 12-29 (except as provided in IC 12-29-3-6), means a program of services that meets the following conditions:

(1) Is approved by the division of disability ~~aging,~~ and rehabilitative services.

(2) Is organized for the purpose of providing multiple services for persons with developmental disabilities.

(3) Is operated by one (1) of the following or any combination of the following:

(A) A city, a town, a county, or another political subdivision of Indiana.

(B) An agency of the state.

(C) An agency of the United States.

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(D) A political subdivision of another state.
(E) A hospital owned or operated by a unit of government described in clauses (A) through (D).
(F) A building authority organized for the purpose of constructing facilities to be leased to units of government.
(G) A corporation incorporated under IC 23-7-1.1 (before its repeal August 1, 1991) or IC 23-17.
(H) A nonprofit corporation incorporated in another state.
(I) A university or college.

(4) Is accredited for the services provided by one (1) of the following organizations:
(A) The Commission on Accreditation of Rehabilitation Facilities (CARF), or its successor.
(B) The Council on Quality and Leadership in Supports for People with Disabilities, or its successor.
(C) The Joint Commission on Accreditation of Healthcare Organizations (JCAHO), or its successor.
(D) The National Commission on Quality Assurance, or its successor.
(E) An independent national accreditation organization approved by the secretary.

SECTION 17. IC 12-7-2-64, AS AMENDED BY P.L.234-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 64. "Director" refers to the following:

(1) With respect to a particular division, the director of the division.
(2) With respect to a particular state institution, the director who has administrative control of and responsibility for the state institution.
(3) For purposes of IC 12-10-15, the term refers to the director of the division of ~~disability~~ aging. ~~and rehabilitative services.~~
(4) For purposes of IC 12-19-5, the term refers to the director of the department of child services established by IC 31-33-1.5-2.
(5) For purposes of IC 12-25, the term refers to the director of the division of mental health and addiction.
(6) For purposes of IC 12-26, the term:
(A) refers to the director who has administrative control of and responsibility for the appropriate state institution; and
(B) includes the director's designee.
(7) If subdivisions (1) through (6) do not apply, the term refers to the director of any of the divisions.

SECTION 18. IC 12-7-2-69, AS AMENDED BY P.L.234-2005,

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SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 69. (a) "Division", except as provided in subsections (b) and (c), refers to any of the following:

(1) The division of disability ~~aging,~~ and rehabilitative services established by IC 12-9-1-1.

(2) The division of aging established by IC 12-9.1-1-1.

~~(2)~~ **(3)** The division of family resources established by IC 12-13-1-1.

~~(3)~~ **(4)** The division of mental health and addiction established by IC 12-21-1-1.

(b) The term refers to the following:

(1) For purposes of the following statutes, the division of disability ~~aging,~~ and rehabilitative services established by IC 12-9-1-1:

(A) IC 12-9.

~~(B) IC 12-10.~~

~~(C)~~ **(B)** IC 12-11.

~~(D)~~ **(C)** IC 12-12.

~~(E)~~ **(D)** IC 12-12.5.

(2) For purposes of the following statutes, the division of aging established by IC 12-9.1-1-1:

(A) IC 12-9.1.

(B) IC 12-10.

~~(2)~~ **(3)** For purposes of the following statutes, the division of family resources established by IC 12-13-1-1:

(A) IC 12-13.

(B) IC 12-14.

(C) IC 12-15.

(D) IC 12-16.

(E) IC 12-17.2.

(F) IC 12-18.

(G) IC 12-19.

(H) IC 12-20.

~~(3)~~ **(4)** For purposes of the following statutes, the division of mental health and addiction established by IC 12-21-1-1:

(A) IC 12-21.

(B) IC 12-22.

(C) IC 12-23.

(D) IC 12-25.

(c) With respect to a particular state institution, the term refers to the division whose director has administrative control of and responsibility for the state institution.

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(d) For purposes of IC 12-24, IC 12-26, and IC 12-27, the term refers to the division whose director has administrative control of and responsibility for the appropriate state institution.

SECTION 19. IC 12-7-2-99 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 99. "A person with a disability" means, for purposes of the following statutes, an individual who has a physical or mental disability and meets the program eligibility requirements of the division of disability ~~aging,~~ and rehabilitative services:

(1) IC 12-8-1-11.

(2) IC 12-12-1.

(3) IC 12-12-6.

SECTION 20. IC 12-7-2-103.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 103.5. "Health related services":

(1) for purposes of IC 12-10-15, has the meaning set forth in IC 12-10-15-2; and

(2) for purposes of ~~IC 12-10-17,~~ **IC 12-10-17.1,** has the meaning set forth in ~~IC 12-10-17-5.~~ **IC 12-10-17.1-5.**

SECTION 21. IC 12-7-2-117.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 117.1. "Individual in need of self-directed in-home care", for purposes of ~~IC 12-10-17,~~ **IC 12-10-17.1,** has the meaning set forth in ~~IC 12-10-17-6.~~ **IC 12-10-17.1-6.**

SECTION 22. IC 12-7-2-122.9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 122.9. "Licensed health professional", for purposes of ~~IC 12-10-17,~~ **IC 12-10-17.1,** has the meaning set forth in ~~IC 12-10-17-7.~~ **IC 12-10-17.1-7.**

SECTION 23. IC 12-7-2-137.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 137.3. "Personal services attendant", for purposes of ~~IC 12-10-17,~~ **IC 12-10-17.1,** has the meaning set forth in ~~IC 12-10-17-8.~~ **IC 12-10-17.1-8.**

SECTION 24. IC 12-7-2-138 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 138. "Physician" means the following:

(1) For purposes of ~~IC 12-10-17~~ **IC 12-10-17.1** and IC 12-15-35, an individual who is licensed to practice medicine in Indiana under IC 25-22.5.

(2) For purposes of IC 12-26, either of the following:

(A) An individual who holds a license to practice medicine under IC 25-22.5.

(B) A medical officer of the United States government who is

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in Indiana performing the officer's official duties.

SECTION 25. IC 12-7-2-174.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 174.5. "Self-directed in-home health care", for purposes of ~~IC 12-10-17,~~ **IC 12-10-17.1,** has the meaning set forth in ~~IC 12-10-17-9.~~ **IC 12-10-17.1-9.**

SECTION 26. IC 12-7-2-184 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 184. (a) "State institution" means an institution:

(1) owned or operated by the state;

(2) for the observation, care, treatment, or detention of an individual; and

(3) under the administrative control of a division.

(b) The term includes the following:

~~(1) Central State Hospital.~~

~~(2)~~ **(1)** Evansville State Hospital.

~~(3)~~ **(2)** Evansville State Psychiatric Treatment Center for Children.

~~(4)~~ **(3)** Fort Wayne State Developmental Center.

~~(5)~~ **(4)** Larue D. Carter Memorial Hospital.

~~(6)~~ **(5)** Logansport State Hospital.

~~(7)~~ **(6)** Madison State Hospital.

~~(8) Muscatatuck State Developmental Center.~~

~~(9)~~ **(7)** Richmond State Hospital.

SECTION 27. IC 12-8-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) The secretary and the commissioner of the state department of health shall cooperate to coordinate family and social services programs with related programs administered by the state department of health.

(b) The secretary, in cooperation with the commissioner of the state department of health, is accountable for the following:

(1) Resolving administrative, jurisdictional, or policy conflicts between a division and the state department of health.

(2) Formulating overall policy for family, health, and social services in Indiana.

(3) Coordinating activities between the programs of the division of family and children and the maternal and child health programs of the state department of health.

(4) Coordinating activities concerning long term care between the division of disability ~~aging,~~ and rehabilitative services and the state department of health.

(5) Developing and implementing a statewide family, health, and

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social services plan that includes a set of goals and priorities.

SECTION 28. IC 12-8-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. Unless otherwise provided by a statute, this chapter applies to the following:

(1) The family and social services committee established by IC 12-8-3-2.

(2) The following advisory councils:

(A) The division of disability ~~aging,~~ and rehabilitative services advisory council.

(B) The division of family and children advisory council.

(C) The division of mental health and addiction advisory council.

(3) A body:

(A) established by statute for a division; and

(B) whose enabling statute makes this chapter applicable to the body.

SECTION 29. IC 12-8-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. The office and the division of disability ~~aging,~~ and rehabilitative services shall develop a written memorandum of understanding that provides the following:

(1) Program responsibilities for the provision of care and treatment for developmentally disabled and long term care recipients.

(2) Responsibilities to educate and inform vendors of the proper billing procedures.

(3) Responsibilities in administering the state plan.

(4) Responsibilities for Medicaid fiscal and quality accountability and audits for developmentally disabled and long term care services.

(5) That the division shall recommend options and services to be reimbursed under the state plan.

(6) That the office and the division agree that, within the limits of 42 U.S.C. 1396 et seq., developmentally disabled individuals and long term care recipients cannot be excluded from services on the basis of diagnosis unless these services are otherwise provided and reimbursed under the state plan.

(7) That the office shall seek review and comment from the division before the adoption of rules or standards that may affect the service, programs, or providers of medical assistance services for the developmentally disabled and long term care recipients.

(8) That the division shall develop rate setting policies for medical assistance services for the developmentally disabled and

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long term care recipients.

(9) That the office, with the assistance of the division, shall apply for waivers from the United States Department of Health and Human Services to fund community and home based long term care services as alternatives to institutionalization.

(10) Policies to facilitate communication between the office and the division.

(11) Any additional provisions that enhance communication between the office and the division or facilitate more efficient or effective delivery of developmentally disabled or long term care services.

SECTION 30. IC 12-8-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. This chapter applies only to the indicated money of the following state agencies to the extent that the money is used by the agency to obtain services from grantee agencies to carry out the program functions of the agency:

(1) Money appropriated or allocated to a state agency from money received by the state under the **federal** Social Services Block Grant Act (42 U.S.C. 1397 et seq.).

(2) The division of ~~disability~~ aging, ~~and rehabilitative services,~~ except this chapter does not apply to money expended under the following:

(A) The following statutes, unless application of this chapter is required by another subdivision of this section:

(i) IC 12-10-6.

(ii) IC 12-10-12.

(B) Epilepsy services.

(3) The division of family and children, for money expended under the following:

(A) The following statutes:

(i) IC 12-14-10.

(ii) IC 12-14-11.

(iii) IC 12-14-12.

(B) The following programs:

(i) The child development associate scholarship program.

(ii) The dependent care program.

(iii) Migrant day care.

(iv) The youth services bureau.

(v) The project safe program.

(vi) The commodities program.

(vii) The migrant nutrition program.

(viii) Any emergency shelter program.

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(ix) The energy weatherization program.

(x) Programs for individuals with developmental disabilities.

(4) The state department of health, for money expended under the following statutes:

(A) IC 16-19-10.

(B) IC 16-38-3.

(5) The group.

(6) All state agencies, for any other money expended for the purchase of services if all the following apply:

(A) The purchases are made under a contract between the state agency and the office of the secretary.

(B) The contract includes a requirement that the office of the secretary perform the duties and exercise the powers described in this chapter.

(C) The contract is approved by the budget agency.

(7) The division of mental health and addiction.

SECTION 31. IC 12-8-14-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. Services to support families of persons with disabilities and persons with disabilities may include services available within the division of family and children, the division of disability ~~aging,~~ and rehabilitative services, **the division of aging,** the division of mental health and addiction, the state department of health, the department of education, the department of workforce development, and the department of correction, including case management and service coordination.

SECTION 32. IC 12-9-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. The division of disability ~~aging,~~ and rehabilitative services is established.

SECTION 33. IC 12-9-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. The division consists of the following bureaus:

(1) Disability determination bureaus required or permitted under IC 12-9-6.

~~(2) The bureau of aging and in-home services established by IC 12-10-1-1.~~

~~(3)~~ **(2)** The rehabilitation services bureau established by IC 12-12-1-1.

~~(4)~~ **(3)** The bureau of developmental disabilities services established by IC 12-11-1.1-1.

~~(5)~~ **(4)** The bureau of quality improvement services established by IC 12-12.5-1-1.

SECTION 34. IC 12-9-4-1 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. As used in this chapter, "council" refers to the division of disability ~~aging,~~ and rehabilitative services advisory council established by this chapter.

SECTION 35. IC 12-9-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. The division of disability ~~aging,~~ and rehabilitative services advisory council is established.

SECTION 36. IC 12-9-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. The division shall administer money appropriated or allocated to the division by the state, including money appropriated or allocated from the following:

~~(1) The Older Americans Act (42 U.S.C. 3001 et seq.).~~

~~(2) The United States Department of Agriculture (7 U.S.C. 612C et seq.).~~

~~(3)~~ **(1)** The **federal** Vocational Rehabilitation Act (29 U.S.C. 701).

~~(4)~~ **(2) The federal** Social Services Block Grant in-home services for the elderly and disabled (42 U.S.C. 1397 et seq.).

~~(5)~~ **(3) The federal** Randolph Sheppard Act (20 U.S.C. 107 et seq.).

~~(6)~~ **(4)** Medicaid waiver in-home services for the elderly and disabled (42 U.S.C. 1396 et seq.) **for treatment of developmental disabilities.**

~~(7)~~ **(5)** Office of Disability Determination (42 U.S.C. 1302 and 42 U.S.C. 1383).

~~(8)~~ **(6) The federal** Technology Related Assistance to Individuals with Disabilities Act (29 U.S.C. 2201).

~~(9)~~ **(7) The federal** Social Security Act Payments for Vocational Rehabilitation Services (42 U.S.C. 422).

~~(10)~~ **(8)** Money appropriated or allocated to the division to administer a program under this title.

~~(11)~~ **(9)** Other funding sources that are designated by the general assembly or that are available from the federal government under grants that are consistent with the duties of the division.

SECTION 37. IC 12-9-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. The division shall administer the following programs:

(1) Programs established under any of the following statutes:

(A) This article.

~~(B) IC 12-10.~~

~~(C)~~ **(B)** IC 12-11.

~~(D)~~ **(C)** IC 12-12.

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~~(E)~~ **(D)** IC 12-12.5.

(2) Programs under the following statutes, to the extent the division has responsibilities for programs under those statutes:

(A) IC 12-24.

(B) IC 12-26.

(C) IC 12-27.

(D) IC 12-28.

(E) IC 12-29.

~~(F) IC 12-30.~~

(3) Supported employment for a person with developmental disabilities.

(4) Epilepsy service centers program.

(5) Epilepsy clinic program.

(6) Medicaid waivers for in-home services **for treatment of developmental disabilities.**

SECTION 38. IC 12-9-5-5, AS ADDED BY P.L.212-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. **(a)** Notwithstanding any other law:

(1) home health agencies licensed under IC 16-27-1 are ~~approved~~ **automatically certified as providers** to provide home health services; and

(2) personal services agencies licensed under IC 16-27-4 are ~~approved~~ **automatically certified as providers** to provide personal services;

under any federal waiver granted to the state under 42 U.S.C. 1315 or 42 U.S.C. 1396n, **upon the provider furnishing proof of licensure to the agency responsible for certifying the provider under the waiver.**

(b) A provider who is eligible for certification under subsection (a) needs only to obtain and maintain a home health agency license or a personal services agency license through the state department of health to be certified as a:

(1) home health agency provider of home health services; or

(2) personal services agency provider of personal services;

under a federal waiver granted to the state under 42 U.S.C. 1315 or 42 U.S.C. 1396n.

(c) Except for requirements directly related to claims submission and claims payment, a provider that is certified under subsection (a) is exempt from the rules, bulletins, and other regulatory requirements adopted by the office of the secretary.

(d) For purposes of this section, the home health services that a licensed home health agency may provide include the following:

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(1) Respite care services.
(2) Speech language therapy services.
(3) Occupational therapy services.
(4) Physical therapy services.
(5) Nursing services.
(6) Transportation services.
(7) Residential habilitation services.
(8) Community based habilitation services.

(e) For purposes of this section, the personal services that a licensed personal services agency may provide include the following:

(1) Respite care services.
(2) Homemaker services.
(3) Companion services.
(4) Attendant care services.

SECTION 39. IC 12-9.1 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

ARTICLE 9.1. DIVISION OF AGING

Chapter 1. Establishment of Division

Sec. 1. The division of aging is established.

Sec. 2. IC 12-8-8 applies to the division.

Sec. 3. The bureau of aging and in-home services established by IC 12-10-1-1 is part of the division.

Chapter 2. Director of Division

Sec. 1. The division shall be administered by a director appointed under IC 12-8-8-1.

Sec. 2. IC 12-8-8 applies to the director.

Sec. 3. (a) The director may do the following:

(1) Employ experts and consultants to assist the division in carrying out the division's functions.
(2) Use, with their consent, the services and facilities of other state agencies without reimbursement.
(3) Accept in the name of the division, for use in carrying out the functions of the division, money or property received by gift, bequest, or otherwise.
(4) Accept voluntary and uncompensated services.
(5) Expend money made available to the division according to policies enforced by the budget agency.
(6) Adopt rules under IC 4-22-2 necessary to carry out the functions of the division. However, rules adopted by the director must be approved by the family and social services

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committee established by IC 12-8-3-2 before submission to the attorney general under IC 4-22-2-31.

(7) Establish and implement the policies and procedures necessary to carry out the functions of the division.

(8) Perform any other acts necessary to carry out the functions of the division.

(b) The director shall compile information and statistics from each bureau concerning the ethnicity and gender of a program or service recipient. The director may adopt rules under IC 4-22-2 necessary to implement this subsection.

Sec. 4. The director may, with the approval of the budget agency, hire the personnel necessary to perform the duties of the division.

Chapter 3. Personnel of Division

Sec. 1. Except as provided in IC 4-15-2-3.8, IC 4-15-2 applies to all employees of the division.

Sec. 2. (a) If a member, an officer, or an employee of the division is accused of an offense or sued for civil damages because of an act performed:

(1) within the course of the individual's employment; or

(2) under the authority or order of a superior officer;

the attorney general shall defend the individual in an action for civil damages. If the action or proceeding is criminal in nature, the governor shall designate counsel to represent and defend the accused, and the state is financially responsible for the expense of the defense.

(b) This section does not do either of the following:

(1) Deprive an individual of the right to select defense counsel of the individual's choice at the individual's expense.

(2) Relieve any person from responsibility in civil damages.

Chapter 4. Duties of Division

Sec. 1. The division shall administer money appropriated or allocated to the division by the state, including money appropriated or allocated from the following:

(1) The federal Older Americans Act (42 U.S.C. 3001 et seq.).

(2) The United States Department of Agriculture (7 U.S.C. 612C et seq.).

(3) Medicaid waiver in-home services for the elderly and disabled (42 U.S.C. 1396 et seq.) for treatment of medical conditions.

(4) Money appropriated or allocated to the division to administer a program under this title.

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(5) Other funding sources that are designated by the general assembly or available from the federal government under grants that are consistent with the duties of the division.

Sec. 2. The division shall administer the following programs:

(1) Programs established under any of the following statutes:

(A) This article.

(B) IC 12-10.

(2) Programs under IC 12-30, to the extent the division has responsibilities for programs under IC 12-30.

(3) Medicaid waivers for in-home services for treatment of medical conditions.

Sec. 3. Notwithstanding any other law:

(1) home health agencies licensed under IC 16-27-1 are approved to provide home health services; and

(2) personal services agencies licensed under IC 16-27-4 are approved to provide personal services;

under any federal waiver granted to the state under 42 U.S.C. 1315 or 42 U.S.C. 1396n that provides services for treatment of medical conditions.

SECTION 40. IC 12-10-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. The bureau shall administer the following programs:

(1) **The federal** Older Americans Act under ~~IC 12-9-5-1.~~ **IC 12-9.1-4-1.**

(2) Area agencies on aging services under this article.

(3) Adult protective services under IC 12-10-3.

(4) Room and board assistance and assistance to residents in county homes under IC 12-10-6.

(5) Adult guardianship program under IC 12-10-7.

(6) Community and home options for the elderly and disabled under IC 12-10-10.

(7) Nursing home preadmission screening under IC 12-10-12.

(8) Long term care advocacy under IC 12-10-13.

(9) Nutrition services and home delivered meals.

(10) Title III B supportive services.

(11) Title III D in-home services.

(12) Aging programs under the Social Services Block Grant.

(13) United States Department of Agriculture elderly feeding program.

(14) Title V senior employment.

(15) PASARR under older adult services.

SECTION 41. IC 12-10-3-29.5 IS ADDED TO THE INDIANA

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CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 29.5. (a) Except as provided in subsection (b), an adult protective services unit or a staff member of the adult protective services unit on the basis of the staff member's employment may not be designated as:**

(1) a personal representative;

(2) a health care representative;

(3) a guardian;

(4) a guardian ad litem; or

(5) any other type of representative;

for an endangered adult.

(b) The:

(1) county prosecutor in the county in which the adult protective services unit is located; or

(2) head of the governmental entity if the adult protective services unit is operated by a governmental entity;

may give written permission for an adult protective services unit or a staff member of the adult protective services unit to be designated as a representative described in subsection (a)(1) through (a)(5).

SECTION 42. IC 12-10-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) An individual who:

(1) is at least sixty-five (65) years of age, blind, or disabled; and

(2) is a resident of a county home;

is eligible to receive assistance payments from the state if the individual would be eligible for assistance under the federal Supplemental Security Income program except for the fact that the individual is residing in a county home.

(b) The amount of nonmedical assistance to be paid on behalf of a resident in a county home must be based on the daily rate established by the division. The rate for facilities under this section and licensed under IC 16-28 may not exceed an upper rate limit established by a rule adopted by the division.

(c) The rate for facilities under this section but not licensed under IC 16-28 must be the lesser of:

(1) an upper rate limit established by a rule adopted by the division; or

(2) a reasonable and adequate rate to meet the costs, determined by generally accepted accounting principles, that are incurred by efficiently and economically operated facilities in order to provide care and services in conformity with quality and safety standards

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and applicable laws and rules.

(d) The recipient shall be paid or allowed to retain from the recipient's income a monthly personal allowance. The amount:

(1) is fifty-two dollars ($52);

(2) is exempt from income eligibility consideration by the division; and

(3) may be exclusively used by the recipient for personal needs.

(e) In addition to the amount that may be retained as a personal allowance under this section, an individual is allowed to retain an amount equal to the individual's state and local income tax liability. The amount that may be retained during a month may not exceed one-third (1/3) of the individual's state and local income tax liability for the calendar quarter in which the month occurs. This amount is exempt from income eligibility consideration by the division. The amount retained shall be used by the individual to pay state or local income taxes owed.

(f) In addition to the amounts that may be retained under subsections (d) and (e), an eligible individual may retain a Holocaust victim's settlement payment. The payment is exempt from income eligibility consideration by the division.

(g) The personal allowance for one (1) month for an individual described in subsection (a) is the amount that an individual would be entitled to retain under subsection (d) plus an amount equal to one-half (1/2) of the remainder of:

(1) gross earned income for that month; minus

(2) the sum of:

(A) sixteen dollars ($16); plus

(B) the amount withheld from the person's paycheck for that month for payment of state income tax, federal income tax, and the tax prescribed by the federal Insurance Contribution Act (26 U.S.C. 3101 et seq.); plus

(C) transportation expenses for that month; plus

(D) any mandatory expenses required by the employer as a condition of employment.

(h) The division, ~~of disability, aging, and rehabilitative services,~~ in cooperation with the state department of health taking into account licensure requirements under IC 16-28, shall adopt rules under IC 4-22-2 governing the reimbursement to facilities under this section. The rules must be designed to determine the costs that must be incurred by efficiently and economically operated facilities to provide room, board, laundry, and other services, along with minimal administrative direction to individuals who receive residential care in the facilities

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under this section. A rule adopted under this subsection by:

(1) the division; or

(2) the state department of health;

must conform to the rules for residential care facilities that are licensed under IC 16-28.

(i) A rate established under this section may be appealed according to the procedures under IC 4-21.5.

(j) The division shall annually review each facility's rate using the following:

(1) Generally accepted accounting principles.

(2) The costs incurred by efficiently and economically operated facilities in order to provide care and services in conformity with quality and safety standards and applicable laws and rules.

SECTION 43. IC 12-10-6-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.1. (a) An individual who is incapable of residing in the individual's own home may apply for residential care assistance under this section. The determination of eligibility for residential care assistance is the responsibility of the division. Except as provided in subsections (g) and (i), an individual is eligible for residential care assistance if the division determines that the individual:

(1) is a recipient of Medicaid or the federal Supplemental Security Income program;

(2) is incapable of residing in the individual's own home because of dementia, mental illness, or a physical disability;

(3) requires a degree of care less than that provided by a health care facility licensed under IC 16-28; and

(4) can be adequately cared for in a residential care setting.

(b) Individuals suffering from mental retardation may not be admitted to a home or facility that provides residential care under this section.

(c) A service coordinator employed by the division may:

(1) evaluate a person seeking admission to a home or facility under subsection (a); or

(2) evaluate a person who has been admitted to a home or facility under subsection (a), including a review of the existing evaluations in the person's record at the home or facility.

If the service coordinator determines the person evaluated under this subsection is mentally retarded, the service coordinator may recommend an alternative placement for the person.

(d) Except as provided in section 5 of this chapter, residential care consists of only room, board, and laundry, along with minimal

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administrative direction. State financial assistance may be provided for such care in a boarding or residential home of the applicant's choosing that is licensed under IC 16-28 or a Christian Science facility listed and certified by the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc., that meets certain life safety standards considered necessary by the state fire marshal. Payment for such care shall be made to the provider of the care according to division directives and supervision. The amount of nonmedical assistance to be paid on behalf of a recipient living in a boarding home, residential home, or Christian Science facility shall be based on the daily rate established by the division. The rate for facilities that are referred to in this section and licensed under IC 16-28 may not exceed an upper rate limit established by a rule adopted by the division. The recipient may retain from the recipient's income a monthly personal allowance of fifty-two dollars ($52). This amount is exempt from income eligibility consideration by the division and may be exclusively used by the recipient for the recipient's personal needs. However, if the recipient's income is less than the amount of the personal allowance, the division shall pay to the recipient the difference between the amount of the personal allowance and the recipient's income. A reserve or an accumulated balance from such a source, together with other sources, may not be allowed to exceed the state's resource allowance allowed for adults eligible for state supplemental assistance or Medicaid as established by the rules of the office of Medicaid policy and planning.

(e) In addition to the amount that may be retained as a personal allowance under this section, an individual shall be allowed to retain an amount equal to the individual's state and local income tax liability. The amount that may be retained during a month may not exceed one-third (1/3) of the individual's state and local income tax liability for the calendar quarter in which that month occurs. This amount is exempt from income eligibility consideration by the division. The amount retained shall be used by the individual to pay any state or local income taxes owed.

(f) In addition to the amounts that may be retained under subsections (d) and (e), an eligible individual may retain a Holocaust victim's settlement payment. The payment is exempt from income eligibility consideration by the division.

(g) The rate of payment to the provider shall be determined in accordance with a prospective prenegotiated payment rate predicated on a reasonable cost related basis, with a growth of profit factor, as determined in accordance with generally accepted accounting

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principles and methods, and written standards and criteria, as established by the division. The division shall establish an administrative appeal procedure to be followed if rate disagreement occurs if the provider can demonstrate to the division the necessity of costs in excess of the allowed or authorized fee for the specific boarding or residential home. The amount may not exceed the maximum established under subsection (d).

(h) The personal allowance for one (1) month for an individual described in subsection (a) is the amount that an individual would be entitled to retain under subsection (d) plus an amount equal to one-half (1/2) of the remainder of:

(1) gross earned income for that month; minus

(2) the sum of:

(A) sixteen dollars ($16); plus

(B) the amount withheld from the person's paycheck for that month for payment of state income tax, federal income tax, and the tax prescribed by the federal Insurance Contribution Act (26 U.S.C. 3101 et seq.); plus

(C) transportation expenses for that month; plus

(D) any mandatory expenses required by the employer as a condition of employment.

(i) An individual who, before September 1, 1983, has been admitted to a home or facility that provides residential care under this section is eligible for residential care in the home or facility.

(j) The director of the division may contract with the division of mental health and addiction or the division of disability ~~aging,~~ and rehabilitative services to purchase services for individuals suffering from mental illness or a developmental disability by providing money to supplement the appropriation for community residential care programs established under IC 12-22-2 or community residential programs established under IC 12-11-1.1-1.

(k) A person with a mental illness may not be placed in a Christian Science facility listed and certified by the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc., unless the facility is licensed under IC 16-28.

SECTION 44. IC 12-10-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter, "community and home care services" means services provided within the limits of available funding to an eligible individual. The term includes the following:

(1) Homemaker services and attendant care, including personal care services.

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(2) Respite care services and other support services for primary or family caregivers.
(3) Adult day care services.
(4) Home health services and supplies.
(5) Home delivered meals.
(6) Transportation.
(7) Attendant care services provided by a registered personal services attendant under ~~IC 12-10-17~~ **IC 12-10-17.1** to persons described in ~~IC 12-10-17-6.~~ **IC 12-10-17.1-6.**
(8) Other services necessary to prevent institutionalization of eligible individuals when feasible.

SECTION 45. IC 12-10-17.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 17.1. Individuals in Need of Self-Directed In-Home Care

Sec. 1. This chapter does not apply to the following:

(1) An individual who provides attendant care services and who is employed by and under the direct control of a home health agency (as defined in IC 12-15-34-1).
(2) An individual who provides attendant care services and who is employed by and under the direct control of a licensed hospice program under IC 16-25.
(3) An individual who provides attendant care services and who is employed by and under the control of an employer that is not the individual who is receiving the services.
(4) A practitioner (as defined in IC 25-1-9-2) who is practicing under the scope of the practitioner's license (as defined in IC 25-1-9-3).

Sec. 2. As used in this chapter, "ancillary services" means services ancillary to the basic services provided to an individual in need of self-directed in-home care who needs at least one (1) of the basic services (as defined in section 4 of this chapter). The term includes the following:

(1) Homemaker services, including shopping, laundry, cleaning, and seasonal chores.
(2) Companion services, including transportation, letter writing, mail reading, and escort services.
(3) Assistance with cognitive tasks, including managing finances, planning activities, and making decisions.

Sec. 3. As used in this chapter, "attendant care services" means those basic and ancillary services that the individual chooses to

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direct and supervise a personal services attendant to perform and that enable an individual in need of self-directed in-home care to live in the individual's home and community rather than in an institution and to carry out functions of daily living, self-care, and mobility.

Sec. 4. As used in this chapter, "basic services" means a function that could be performed by the individual in need of self-directed in-home care if the individual were not physically disabled. The term includes the following:

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

(2) Assistance with routine bodily functions, including:

(A) health related services (as defined in section 5 of this chapter);

(B) bathing and personal hygiene;

(C) dressing and grooming; and

(D) feeding, including preparation and cleanup.

Sec. 5. As used in this chapter, "health related services" means those medical activities that, in the written opinion of the attending physician submitted to the case manager of the individual in need of self-directed in-home care, could be performed by the individual if the individual were physically capable, and if the medical activities can be safely performed in the home, and:

(1) are performed by a person who has been trained or instructed on the performance of the medical activities by an individual in need of self-directed in-home care who is, in the written opinion of the attending physician submitted to the case manager of the individual in need of self-directed in-home care, capable of training or instructing the person who will perform the medical activities; or

(2) are performed by a person who has received training or instruction from a licensed health professional, within the professional's scope of practice, in how to properly perform the medical activity for the individual in need of self-directed in-home care.

Sec. 6. As used in this chapter, "individual in need of self-directed in-home care" means a disabled individual, or person responsible for making health related decisions for the disabled individual, who:

(1) is approved to receive Medicaid waiver services under 42 U.S.C. 1396n(c), or is a participant in the community and home options to institutional care for the elderly and disabled

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program under IC 12-10-10;

(2) is in need of attendant care services because of impairment;

(3) requires assistance to complete functions of daily living, self-care, and mobility, including those functions included in attendant care services;

(4) chooses to self-direct a paid personal services attendant to perform attendant care services; and

(5) assumes the responsibility to initiate self-directed in-home care and exercise judgment regarding the manner in which those services are delivered, including the decision to employ, train, and dismiss a personal services attendant.

Sec. 7. As used in this chapter, "licensed health professional" means any of the following:

(1) A registered nurse.

(2) A licensed practical nurse.

(3) A physician with an unlimited license to practice medicine or osteopathic medicine.

(4) A licensed dentist.

(5) A licensed chiropractor.

(6) A licensed optometrist.

(7) A licensed pharmacist.

(8) A licensed physical therapist.

(9) A certified occupational therapist.

(10) A certified psychologist.

(11) A licensed podiatrist.

(12) A licensed speech-language pathologist or audiologist.

Sec. 8. As used in this chapter, "personal services attendant" means an individual who is registered to provide attendant care services under this chapter and who has entered a contract with an individual and acts under the individual's direction to provide attendant care services that could be performed by the individual if the individual were physically capable.

Sec. 9. As used in this chapter, "self-directed in-home health care" means the process by which an individual, who is prevented by a disability from performing basic and ancillary services that the individual would perform if not disabled, chooses to direct and supervise a paid personal services attendant to perform those services in order for the individual to live in the individual's home and community rather than an institution.

Sec. 10. (a) An individual may not provide attendant care services for compensation from Medicaid or the community and

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home options to institutional care for the elderly and disabled program for an individual in need of self-directed in-home care services unless the individual is registered under section 12 of this chapter.

(b) An individual who is a legally responsible relative of an individual in need of self-directed in-home care, including a parent of a minor individual and a spouse, is precluded from providing attendant care services for compensation under this chapter.

Sec. 11. An individual who desires to provide attendant care services must register with the division or with an organization designated by the division.

Sec. 12. (a) The division shall register an individual who provides the following:

(1) A personal resume containing information concerning the individual's qualifications, work experience, and any credentials the individual may hold. The individual must certify that the information contained in the resume is true and accurate.

(2) The individual's limited criminal history check from the Indiana central repository for criminal history information under IC 10-13-3 or another source allowed by law.

(3) If applicable, the individual's state nurse aide registry report from the state department of health. This subdivision does not require an individual to be a nurse aide.

(4) Three (3) letters of reference.

(5) A registration fee. The division shall establish the amount of the registration fee.

(6) Proof that the individual is at least eighteen (18) years of age.

(7) Any other information required by the division.

(b) A registration is valid for two (2) years. A personal services attendant may renew the personal services attendant's registration by updating any information in the file that has changed and by paying the fee required under subsection (a)(5). The limited criminal history check and report required under subsection (a)(2) and (a)(3) must be updated every two (2) years.

(c) The division and any organization designated under section 11 of this chapter shall maintain a file for each personal services attendant that contains:

(1) comments related to the provision of attendant care services submitted by an individual in need of self-directed in-home care who has employed the personal services

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attendant; and

(2) the items described in subsection (a)(1) through (a)(4).

(d) Upon request, the division shall provide to an individual in need of self-directed in-home care the following:

(1) Without charge, a list of personal services attendants who are registered with the division and available within the requested geographic area.

(2) A copy of the information of a specified personal services attendant who is on file with the division under subsection (c). The division may charge a fee for shipping, handling, and copying expenses.

Sec. 13. The case manager of an individual in need of self-directed in-home care shall maintain an attending physician's written opinion submitted under section 5 of this chapter in a case file that is maintained for the individual by the case manager.

Sec. 14. (a) A personal services attendant who is hired by the individual in need of self-directed in-home care is an employee of the individual in need of self-directed in-home care.

(b) The division is not liable for any actions of a personal services attendant or an individual in need of self-directed in-home care.

(c) A personal services attendant and an individual in need of self-directed in-home care are each liable for any negligent or wrongful act or omission in which the person personally participates.

Sec. 15. (a) Except as provided in subsection (b), an individual in need of self-directed in-home care is responsible for recruiting, hiring, training, paying, certifying any employment related documents, dismissing, and supervising in the individual's home during service hours a personal services attendant who provides attendant care services for the individual.

(b) If an individual in need of self-directed in-home care is:

(1) less than twenty-one (21) years of age; or

(2) unable to direct in-home care because of a brain injury or mental deficiency;

the individual's parent, spouse, legal guardian, or a person possessing a valid power of attorney may make employment, care, and training decisions and certify any employment related documents on behalf of the individual.

(c) An individual in need of self-directed in-home care or an individual under subsection (b) and the individual's case manager shall develop an authorized care plan. The authorized care plan

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must include a list of weekly services or tasks that must be performed to comply with the authorized care plan.

Sec. 16. The division shall adopt rules under IC 4-22-2 concerning:

(1) the method of payment to a personal services attendant who provides authorized services under this chapter; and

(2) record keeping requirements for personal attendant services.

Sec. 17. The individual in need of self-directed in-home care and the personal services attendant must each sign a contract, in a form approved by the division, that includes, at a minimum, the following provisions:

(1) The responsibilities of the personal services attendant.

(2) The frequency the personal services attendant will provide attendant care services.

(3) The duration of the contract.

(4) The hourly wage of the personal services attendant. The wage may not be less than the federal minimum wage or more than the rate that the recipient is eligible to receive under a Medicaid home and community based services waiver or the community and home options to institutional care for the elderly and disabled program for attendant care services.

(5) Reasons and notice agreements for early termination of the contract.

Sec. 18. (a) The office shall amend the home and community based services waiver program under the state Medicaid plan to provide for the payment for attendant care services provided by a personal services attendant for an individual in need of self-directed in-home care under this chapter, including any related record keeping and employment expenses.

(b) The office shall not, to the extent permitted by federal law, consider as income money paid under this chapter to or on behalf of an individual in need of self-directed in-home care to enable the individual to employ registered personal services attendants, for purposes of determining the individual's income eligibility for services under this chapter.

Sec. 19. The division may:

(1) initiate demonstration projects to test new ways of providing attendant care services; and

(2) research ways to best provide attendant care services in urban and rural areas.

Sec. 20. (a) The division and office may adopt rules under

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IC 4-22-2 that are necessary to implement this chapter.

(b) The office shall apply for any federal waivers necessary to implement this chapter.

Sec. 21. The division shall adopt rules under IC 4-22-2 concerning the following:

(1) The receipt, review, and investigation of complaints concerning the:

(A) neglect;

(B) abuse;

(C) mistreatment; or

(D) misappropriation of property;

of an individual in need of self-directed in-home care by a personal services attendant.

(2) Establishing notice and administrative hearing procedures in accordance with IC 4-21.5.

(3) Appeal procedures, including judicial review of administrative hearings.

(4) Procedures to place a personal services attendant who has been determined to have been guilty of:

(A) neglect;

(B) abuse;

(C) mistreatment; or

(D) misappropriation of property;

of an individual in need of self-directed in-home care on the state nurse aide registry.

SECTION 46. IC 12-10.5-1-4, AS AMENDED BY P.L.37-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) The division of ~~disability,~~ aging ~~and rehabilitative services~~ established by ~~IC 12-9-1-1~~ **IC 12-9.1-1-1** shall administer the caretaker support program established under this chapter.

(b) The division of ~~disability,~~ aging ~~and rehabilitative services~~ shall do the following:

(1) Subject to section 9 of this chapter, adopt rules under IC 4-22-2 for the coordination and administration of the caretaker support program.

(2) Administer any money for the caretaker support program that is appropriated by the general assembly.

SECTION 47. IC 12-12-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) The commission consists of at least fourteen (14) members appointed by the governor as follows:

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(1) Three (3) members representing advocacy groups for:
(A) individuals with:
(i) physical;
(ii) cognitive;
(iii) sensory; and
(iv) mental;
disabilities; or
(B) parents, guardians, or advocates of individuals with disabilities who have difficulty or who are unable to represent themselves.
(2) At least one (1) member representing current or former applicants for vocational rehabilitation services or recipients of vocational rehabilitation services.
(3) At least one (1) representative of the statewide Independent Living Council.
(4) At least one (1) representative of a parent training and information center established by the individuals with disabilities education act.
(5) At least one (1) representative of the Indiana protection and advocacy services agency.
(6) At least one (1) representative of community rehabilitation program service providers.
(7) Four (4) representatives of business, industry, and labor.
(8) The director of the division of disability ~~aging,~~ and rehabilitative services shall serve as an ex officio member.
(9) A vocational rehabilitation counselor shall serve as an ex officio nonvoting member.

(b) Not more than seven (7) members of the commission may be from the same political party.

(c) At least fifty-one percent (51%) of the commission must be persons with disabilities who are not employees of the division of disability ~~aging,~~ and rehabilitative services.

SECTION 48. IC 12-12-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. The commission shall do the following:
(1) Advise the division concerning the division's performance in the following areas:
(A) Eligibility and order of selection.
(B) Scope, extent, and effectiveness of services.
(C) Functions of state agencies in addition to vocational rehabilitation affecting individuals in achieving rehabilitation goals.

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(2) Advise the secretary of family and social services and the division of disability ~~aging,~~ and rehabilitative services concerning the state plan, applications, and the strategic plan.

(3) Review and analyze the effectiveness and consumer satisfaction with the functions of the agencies dealing with persons with disabilities and with vocational rehabilitation services.

(4) Prepare and submit an annual report to the governor and the rehabilitation services administration commissioner on the status of vocational rehabilitation programs in Indiana.

(5) Coordinate with other councils in Indiana.

(6) Advise and provide for coordination and working relationships between the state agency and the Independent Living Council and Independent Living centers.

SECTION 49. IC 12-12-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. The commission, in conjunction with the division of disability ~~aging,~~ and rehabilitative services, may employ staff and other personnel as necessary.

SECTION 50. IC 12-12-8-2, AS AMENDED BY P.L.217-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. As used in this chapter, "consumer control" means, with respect to a center for independent living or an eligible agency: ~~that:~~

(1) **that** the center or eligible agency vests power and authority in individuals with disabilities, including individuals who are or have been recipients of independent living services; and

(2) **that:**

(A) at least fifty-one percent (51%) of the **members of the** center's board **have significant disabilities;** and

(B) a majority of the center's staff **and employees in decision making positions** are individuals with disabilities.

SECTION 51. IC 12-12-8-3.8, AS ADDED BY P.L.217-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3.8. As used in this chapter, "state plan" means the materials jointly developed and submitted by the council and the division to the commissioner containing the state's proposals for the following:

(1) The ~~provision of statewide~~ **proposal for providing** independent living services **with federal funds under Title VII, Part B of the federal act.**

(2) The development and support of a statewide network of centers for independent living.

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(3) Working relationships among:

(A) programs providing independent living services and independent living centers; and

(B) the vocational rehabilitation program administered by the division under the federal act and other programs providing services for individuals with disabilities.

SECTION 52. IC 12-12-8-5, AS ADDED BY P.L.217-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. The division is designated as the state unit under Title VII of the federal act and has the following responsibilities:

(1) To receive, account for, and disburse funds received by the state under the federal act based on the state plan.

(2) To provide administrative **assistance to** support ~~services to~~ **independent living programs and the activities of** centers ~~for independent living programs.~~ **under Title VII, Part B of the federal act.**

(3) To keep records and take actions with respect to the records as required by the commissioner.

(4) To submit additional information or provide assurances with respect to the independent living programs as required by the commissioner.

SECTION 53. IC 12-12-8-6, AS ADDED BY P.L.217-2005, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) There is established a statewide independent living council. The council is not a part of a state agency.

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

(1) Each director of a center for independent living located in Indiana.

(2) Nonvoting members from state agencies that provide services for individuals with disabilities.

(3) Other members, who may include the following:

(A) Representatives of centers for independent living.

(B) Parents and guardians of individuals with disabilities.

(C) Advocates for individuals with disabilities.

(D) Representatives from private business.

(E) ~~Representative~~ **Representatives** of organizations that provide services for individuals with disabilities.

(F) Other appropriate individuals.

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

(1) provide statewide representation;

(2) represent a broad range of individuals with disabilities from

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diverse backgrounds;

(3) be knowledgeable about centers for independent living and independent living services; and

(4) include a majority of members who:

(A) are individuals with ~~significant~~ disabilities; and

(B) are not employed by a state agency or a center for independent living.

SECTION 54. IC 12-12-8-10, AS ADDED BY P.L.217-2005, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. (a) The council has the powers and duties specified in this chapter.

(b) The council ~~may~~ **shall** do the following:

(1) Jointly develop and sign the state plan in conjunction with the designated state unit.

(2) Monitor, review, and evaluate the implementation of the state plan.

(3) Coordinate activities with the state rehabilitation council and other councils that address the needs of specific disability issues.

(4) Submit periodic reports to the funding sources and provide access to the records that are necessary to verify contents of the reports.

(5) Do other things necessary and proper to implement this chapter.

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

SECTION 55. IC 12-12-8-11, AS ADDED BY P.L.217-2005, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. The division **and the council** shall **jointly** prepare the state plan that must be submitted to the commissioner.

SECTION 56. IC 12-12-9-2, AS AMENDED BY P.L.218-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. The office of the secretary shall, on the first business day of each month, send a copy of a report filed under section 1 of this chapter to the following persons:

(1) For persons less than seventeen (17) years of age, to the following:

(A) The Indiana School for the Blind and Visually Impaired.

(B) The division of disability ~~aging,~~ and rehabilitative services.

(C) The division of special education of the department of education.

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(2) For persons at least seventeen (17) years of age, to the following:

(A) The division of disability ~~aging,~~ and rehabilitative services.

(B) On request, organizations serving the blind or visually impaired and the state department of health.

SECTION 57. IC 12-12-9-4, AS AMENDED BY P.L.218-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) On receiving a report under this chapter, the division of disability ~~aging,~~ and rehabilitative services shall provide information to the visually impaired individual designated in the report concerning available state and local services.

(b) For a visually impaired individual less than seventeen (17) years of age, the Indiana School for the Blind and Visually Impaired:

(1) has the primary duty of initially contacting the visually impaired individual or the individual's family; and

(2) shall notify the division of disability ~~aging,~~ and rehabilitative services and the department of education of the school's findings.

SECTION 58. IC 12-15-32-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. (a) An applicant for Medicaid who desires to be placed in a community residential facility must first receive a diagnostic evaluation to be provided by the division of disability ~~aging,~~ and rehabilitative services.

(b) Subsequent diagnostic evaluations by the division of disability ~~aging,~~ and rehabilitative services shall be provided at least every twelve (12) months to review the individual's need for services.

(c) The office shall consider the evaluations in determining the appropriateness of placement.

SECTION 59. IC 12-16-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. As used in this chapter, "affected agency" means any of the following:

(1) The department of correction.

(2) The state department of health.

(3) The division of mental health and addiction.

(4) The division of disability ~~aging,~~ and rehabilitative services.

SECTION 60. IC 12-16-2.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. The hospital care for the indigent program does not apply to inmates and patients of institutions of the department of correction, the state department of health, the division of mental health and addiction, **the division of aging,** or the division of disability ~~aging,~~ and rehabilitative services.

SECTION 61. IC 12-16-10.5-1 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. The division shall, with the advice of the division's medical staff, the division of mental health and addiction, **the division of aging,** the division of disability ~~aging,~~ and rehabilitative services, and other individuals selected by the director of the division, adopt rules under IC 4-22-2 to do the following:

(1) Provide for review and approval of services paid under the hospital care for the indigent program.

(2) Establish limitations consistent with medical necessity on the duration of services to be provided.

(3) Specify the amount of and method for reimbursement for services.

(4) Specify the conditions under which payments will be denied and improper payments will be recovered.

SECTION 62. IC 12-17-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. As used in this chapter, "agency" means a department, a commission, a council, a board, a bureau, a division, a service, an office, or an administration that is responsible for providing services to infants and toddlers with disabilities and their families, including the following:

(1) The division of mental health and addiction.

(2) The state department of health.

(3) The division of family and children.

(4) The division of disability ~~aging,~~ and rehabilitative services.

(5) The department of education.

SECTION 63. IC 12-20-16-3, AS AMENDED BY P.L.73-2005, SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) The township trustee may, in cases of necessity, authorize the payment from township assistance money for essential utility services, including the following:

(1) Water services.

(2) Gas services.

(3) Electric services.

(4) Fuel oil services for fuel oil used for heating or cooking.

(5) Coal, wood, or liquid propane used for heating or cooking.

(b) The township trustee may authorize the payment of delinquent bills for the services listed in subsection (a)(1) through (a)(5) when necessary to prevent the termination of the services or to restore terminated service if the delinquency has lasted not longer than twenty-four (24) months. The township trustee has no obligation to pay a delinquent bill for the services or materials listed in subsection (a)(1) through (a)(5) if the delinquency has lasted longer than twenty-four

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(24) months.

(c) The township trustee is not required to pay for any utility service:

(1) that is not properly charged to:

(A) an adult member of a household;

(B) an emancipated minor who is head of the household; or

(C) a landlord or former member of the household if the applicant proves that the applicant:

(i) received the services as a tenant residing at the service address at the time the cost was incurred; and

(ii) is responsible for payment of the bill;

(2) received as a result of a fraudulent act by any adult member of a household requesting township assistance; or

(3) that includes the use of township assistance funds for the payment of:

(A) a security deposit; or

(B) damages caused by a township assistance applicant to utility company property.

(d) The amount paid by the township trustee, as administrator of township assistance, and the amount charged for water services may not exceed the minimum rate charged for the service as fixed by the Indiana utility regulatory commission.

(e) This subsection applies only during the part of each year when applications for assistance are accepted by the division under IC 12-14-11. A township trustee may not provide assistance to make any part of a payment for heating fuel or electric services for more than thirty (30) days unless the individual files an application with the township trustee that includes the following:

(1) Evidence of application for assistance for heating fuel or electric services from the division under IC 12-14-11.

(2) The amount of assistance received or the reason for denial of assistance.

The township trustee shall inform an applicant for assistance for heating fuel or electric services that assistance for heating fuel and electric services may be available from the division under IC 12-14-11 and that the township trustee may not provide assistance to make any part of a payment for those services for more than thirty (30) days unless the individual files an application for assistance for heating fuel or electric services under IC 12-14-11. However, if the applicant household is eligible under criteria established by the division of disability ~~aging,~~ and rehabilitative services for energy assistance under IC 12-14-11, the trustee may certify the applicant as eligible for that

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assistance by completing an application form prescribed by the state board of accounts and forwarding the eligibility certificate to the division of disability ~~aging,~~ and rehabilitative services within the period established for the acceptance of applications. If the trustee follows this certification procedure, no other application is required for assistance under IC 12-14-11.

(f) If an individual or a member of an individual's household has received assistance under subsection (b), the individual must, before the individual or the member of the individual's household may receive further assistance under subsection (b), certify whether the individual's or household's income, resources, or household size has changed since the individual filed the most recent application for township assistance. If the individual or a member of the individual's household certifies that the income, resources, or household size has changed, the township trustee shall review the individual's or household's eligibility and may make any necessary adjustments in the level of assistance provided to the individual or to a member of the individual's household.

SECTION 64. IC 12-24-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. The director of the division of disability ~~aging,~~ and rehabilitative services has administrative control of and responsibility for the following state institutions:

(1) Fort Wayne State Developmental Center.

~~(2) Muscatatuck State Developmental Center.~~

~~(3)~~ **(2)** Any other state owned or operated developmental center.

SECTION 65. IC 12-24-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) The director of the division of mental health and addiction has administrative control of and responsibility for the following state institutions:

~~(1) Central State Hospital.~~

~~(2)~~ **(1)** Evansville State Hospital.

~~(3)~~ **(2)** Evansville State Psychiatric Treatment Center for Children.

~~(4)~~ **(3)** Larue D. Carter Memorial Hospital.

~~(5)~~ **(4)** Logansport State Hospital.

~~(6)~~ **(5)** Madison State Hospital.

~~(7)~~ **(6)** Richmond State Hospital.

~~(8)~~ **(7)** Any other state owned or operated mental health institution.

(b) Subject to the approval of the director of the budget agency and the governor, the director of the division of mental health and addiction may contract for the management and clinical operation of Larue D.

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Carter Memorial Hospital.

(c) The following applies only to the institutions described in subsection ~~(a)(2)~~ **(a)(1)** and ~~(a)(3).~~ **(a)(2):**

(1) Notwithstanding any other statute or policy, the division of mental health and addiction may not do the following after December 31, 2001, unless specifically authorized by a statute enacted by the general assembly:

(A) Terminate, in whole or in part, normal patient care or other operations at the facility.

(B) Reduce the staffing levels and classifications below those in effect at the facility on January 1, 2002.

(C) Terminate the employment of an employee of the facility except in accordance with IC 4-15-2.

(2) The division of mental health and addiction shall fill a vacancy created by a termination described in subdivision (1)(C) so that the staffing levels at the facility are not reduced below the staffing levels in effect on January 1, 2002.

(3) Notwithstanding any other statute or policy, the division of mental health and addiction may not remove, transfer, or discharge any patient at the facility unless the removal, transfer, or discharge is in the patient's best interest and is approved by:

(A) the patient or the patient's parent or guardian;

(B) the individual's gatekeeper; and

(C) the patient's attending physician.

(d) The Evansville State Psychiatric Treatment Center for Children shall remain independent of Evansville State Hospital and the southwestern Indiana community mental health center, and the Evansville State Psychiatric Treatment Center for Children shall continue to function autonomously unless a change in administration is specifically authorized by an enactment of the general assembly.

SECTION 66. IC 12-24-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) Each state institution shall post a notice that a resident, the legal representative of the resident, or another individual designated by the resident may request from the individual in charge of each shift information that designates the names of all nursing personnel or direct care staff on duty by job classification for the:

(1) wing;

(2) unit; or

(3) other area as routinely designated by the state institution;

where the resident resides.

(b) The notice required under subsection (a) must meet the

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following conditions:

(1) Be posted in a conspicuous place that is readily accessible to residents and the public.

(2) Be at least 24 point font size on a poster that is at least eleven (11) inches wide and seventeen (17) inches long.

(3) Contain the:

(A) business telephone number of the superintendent of the state institution; and

(B) toll free telephone number for filing complaints with the division that is administratively in charge of the state institution.

(4) State that if a resident, the legal representative of the resident, or another individual designated by the resident is unable to obtain the information described in subsection (a) from the individual in charge of each shift, the resident, the legal representative of the resident, or other individual designated by the resident may do any of the following:

(A) Contact the superintendent of the state institution.

(B) File a complaint with the division that is administratively in charge of the state institution by using the division's toll free telephone number.

(c) The director of the:

(1) division of disability ~~aging,~~ and rehabilitative services; and

(2) division of mental health and addiction;

may adopt rules under IC 4-22-2 to carry out this section.

SECTION 67. IC 12-24-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) A director shall produce a statistical report semiannually for each state institution that is under the director's administrative control. The statistical report must list the following information:

(1) The number of total hours worked in the state institution by each classification of personnel for which the director maintains data.

(2) The resident census of the state institution for which the director maintains data.

(b) The director shall provide a compilation of the statistical reports prepared under subsection (a) to the following:

(1) Each state institution that is under the director's administrative control.

(2) The adult protective services unit under IC 12-10-3.

(c) Each state institution shall:

(1) make available in a place that is readily accessible to residents

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and the public a copy of the compilation of statistical reports provided under this section; and

(2) post a notice that a copy of the compilation of statistical reports may be requested from the individual in charge of each shift.

(d) The notice required under subsection (c)(2) must meet the following conditions:

(1) Be posted in a conspicuous place that is readily accessible to residents and the public.

(2) Be at least 24 point font size on a poster that is at least eleven (11) inches wide and seventeen (17) inches long.

(3) Contain the:

(A) business telephone number of the superintendent of the state institution; and

(B) toll free telephone number for filing complaints with the division that is administratively in charge of the state institution.

(4) State that if a resident, the legal representative of the resident, or another individual designated by the resident is unable to obtain the compilation of statistical reports from the individual in charge of each shift, the resident, the legal representative of the resident, or other individual designated by the resident may do any of the following:

(A) Contact the superintendent of the state institution.

(B) File a complaint with the division that is administratively in charge of the state institution by using the division's toll free telephone number.

(e) The director of the:

(1) division of disability ~~aging,~~ and rehabilitative services; and

(2) division of mental health and addiction;

may adopt rules under IC 4-22-2 to carry out this section.

SECTION 68. IC 12-24-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) This section applies to an individual who has a primary diagnosis of developmental disability.

(b) Action contemplated by a patient under this section includes action by the patient's parent or guardian if the patient is not competent.

(c) If a patient is admitted to a state institution, the staff of the state institution shall, before the patient is discharged, ask the patient whether the patient's medical and treatment records may be sent to a service coordinator employed by the division of disability ~~aging,~~ and rehabilitative services under IC 12-11-2.1 so the service coordinator

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may send the records to local agencies serving the needs of developmentally disabled individuals in the area in which the patient will reside.

(d) If a patient agrees to release the records, the patient shall sign a form permitting the state institution to release to a service coordinator employed by the division of disability ~~aging,~~ and rehabilitative services under IC 12-11-2.1 a copy of the patient's medical and treatment records to forward to local agencies serving the needs of developmentally disabled individuals in the area in which the patient will reside. The form must read substantially as follows:

AUTHORIZATION TO RELEASE
MEDICAL AND TREATMENT
RECORDS

I agree to permit _____
(name of state institution)
to release a copy of the medical and treatment records of

_____	to_____
(patient's name)	(name of local agency serving the needs of developmentally disabled individuals)
_____	_____
(date)	(signature)
	_____
	(address)
_____	_____
(signature of individual securing release of medical and treatment records)	(relationship to patient if signature is not that of the patient)

(e) If a patient knowingly signs the form for the release of medical records under subsection (d), a service coordinator employed by the division of disability ~~aging,~~ and rehabilitative services under IC 12-11-2.1 shall allow local agencies serving the needs of developmentally disabled individuals in the area in which the patient will reside to obtain the following:

(1) The patient's name.
(2) The address of the patient's intended residence.
(3) The patient's medical records.
(4) A complete description of the treatment the patient was receiving at the state institution at the time of the patient's discharge.

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(f) If the local agency does not obtain a patient's records, the state institution shall deliver the medical records to the local agency before or at the time the patient is discharged.

(g) If a patient does not agree to permit the release of the patient's medical and treatment records, the service coordinator shall deliver:

(1) the patient's name; and

(2) the address of the patient's intended residence;

to local agencies serving the needs of developmentally disabled individuals in the area in which the patient will reside before or at the time the patient is discharged.

SECTION 69. IC 12-24-12-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. (a) Upon admission to a state institution administered by the division of mental health and addiction, the gatekeeper is one (1) of the following:

(1) For an individual with a psychiatric disorder, the community mental health center that submitted the report to the committing court under IC 12-26.

(2) For an individual with a developmental disability, a division of disability ~~aging,~~ and rehabilitative services service coordinator under IC 12-11-2.1.

(3) For an individual entering an addictions program, an addictions treatment provider that is certified by the division of mental health and addiction.

(b) The division is the gatekeeper for the following:

(1) An individual who is found to have insufficient comprehension to stand trial under IC 35-36-3.

(2) An individual who is found to be not guilty by reason of insanity under IC 35-36-2-4 and is subject to a civil commitment under IC 12-26.

(3) An individual who is immediately subject to a civil commitment upon the individual's release from incarceration in a facility administered by the department of correction or the Federal Bureau of Prisons, or upon being charged with or convicted of a forcible felony under IC 35-41-1.

(4) An individual placed under the supervision of the division for addictions treatment under IC 12-23-7 and IC 12-23-8.

(5) An individual transferred from the department of correction under IC 11-10-4.

SECTION 70. IC 12-26-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) If, upon the completion of the hearing and consideration of the record, the court finds that the individual is mentally ill and either dangerous or gravely

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disabled, the court may order the individual to:

(1) be committed to an appropriate facility; or

(2) enter an outpatient treatment program under IC 12-26-14 for a period of not more than ninety (90) days.

(b) The court's order must require that the superintendent of the facility or the attending physician file a treatment plan with the court within fifteen (15) days of the individual's admission to the facility under a commitment order.

(c) If the commitment ordered under subsection (a) is to a state institution administered by the division of mental health and addiction, the record of commitment proceedings must include a report from a community mental health center stating both of the following:

(1) That the community mental health center has evaluated the individual.

(2) That commitment to a state institution administered by the division of mental health and addiction under this chapter is appropriate.

(d) The physician who makes the statement required by section 2(c) of this chapter may be affiliated with the community mental health center that submits to the court the report required by subsection (c).

(e) If the commitment is of an adult to a research bed at Larue D. Carter Memorial Hospital as set forth in IC 12-21-2-3, the report from a community mental health center is not required.

(f) If a commitment ordered under subsection (a) is to a state institution administered by the division of disability ~~aging,~~ and rehabilitative services, the record of commitment proceedings must include a report from a service coordinator employed by the division of disability ~~aging,~~ and rehabilitative services stating that, based on a diagnostic assessment of the individual, commitment to a state institution administered by the division of disability ~~aging,~~ and rehabilitative services under this chapter is appropriate.

SECTION 71. IC 12-26-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) A petition filed under section 2 of this chapter must include a physician's written statement that states both of the following:

(1) The physician has examined the individual within the past thirty (30) days.

(2) The physician believes that the individual is:

(A) mentally ill and either dangerous or gravely disabled; and

(B) in need of custody, care, or treatment in a facility for a period expected to be more than ninety (90) days.

(b) Except as provided in subsection (d), if the commitment is to a

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state institution administered by the division of mental health and addiction, the record of the proceedings must include a report from a community mental health center stating both of the following:

(1) The community mental health center has evaluated the individual.

(2) Commitment to a state institution administered by the division of mental health and addiction under this chapter is appropriate.

(c) The physician who makes the statement required by subsection (a) may be affiliated with the community mental health center that makes the report required by subsection (b).

(d) If the commitment is of an adult to a research bed at Larue D. Carter Memorial Hospital, as set forth in IC 12-21-2-3, the report from a community mental health center is not required.

(e) If a commitment ordered under subsection (a) is to a state institution administered by the division of disability ~~aging,~~ and rehabilitative services, the record of commitment proceedings must include a report from a service coordinator employed by the division of disability ~~aging,~~ and rehabilitative services stating that, based on a diagnostic assessment of the individual, commitment to a state institution administered by the division of disability ~~aging,~~ and rehabilitative services under this chapter is appropriate.

SECTION 72. IC 12-28-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. For residential facilities for the developmentally disabled that are certified for financial participation under the Medicaid program, the division of disability ~~aging,~~ and rehabilitative services shall recommend staffing limitations consistent with the program needs of the residents as a part of the office of Medicaid policy and planning's rate setting procedures.

SECTION 73. IC 12-28-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. For residential facilities for the developmentally disabled that are not certified for financial participation under the Medicaid program, the division of disability ~~aging,~~ and rehabilitative services shall approve appropriate staffing limitations consistent with the program needs of the residents as a part of the division's rate setting procedures.

SECTION 74. IC 12-28-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. The office of Medicaid policy and planning and the division of disability ~~aging,~~ and rehabilitative services shall enter into a memorandum of agreement that defines the staffing limitations to be used by the office of Medicaid policy and planning in establishing reimbursement rates. The staffing limitations under section 5 of this chapter may not exceed the staffing

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limitations defined by the memorandum of agreement between the office of Medicaid policy and planning and the division of disability ~~aging,~~ and rehabilitative services under section 4 of this chapter.

SECTION 75. IC 12-28-4-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 12. (a) Subject to the availability of money and consistent with needs assessment, the division of disability ~~aging,~~ and rehabilitative services shall give priority to the establishment of residential facilities, other than the facilities described in section 3 of this chapter, in counties in which the ratio of the number of residential facility beds to county population is in the lowest twenty-five percent (25%) when compared to all other Indiana counties. The division of disability ~~aging,~~ and rehabilitative services may operate residential facilities established under this section.

(b) Before the division of disability ~~aging,~~ and rehabilitative services takes any steps to establish a residential facility under this section, the division shall place at least two (2) legal advertisements in a newspaper having a general circulation in the county. These advertisements must be aimed at recruiting private parties to serve as operators of residential facilities in the county. The advertisements must be published at intervals at least one (1) month apart.

SECTION 76. IC 12-28-4-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 13. (a) The division of disability ~~aging,~~ and rehabilitative services may operate a program known as the development and lease effort. Under the program, the division of disability ~~aging,~~ and rehabilitative services may develop contracts under which the state agrees to lease buildings from private parties for use as residential facilities for mentally ill individuals or autistic or other developmentally disabled individuals. Notwithstanding any other law, each contract may include provisions that ensure the following:

(1) That the state will lease a building for not more than ten (10) years for use as a residential facility for autistic individuals.

(2) That the state will retain the right to extend the term of the lease for not more than ten (10) years at the conclusion of the first ten (10) years.

(3) That the state will retain the right to sublease the building to a person who agrees to operate the building as a residential facility for autistic individuals under this chapter.

(b) Leases entered into under this section are subject to the approval of the Indiana department of administration, the attorney general, the governor, and the budget agency, as provided by law.

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SECTION 77. IC 12-28-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) The community residential facilities council is established. The council consists of the following members appointed by the governor:

(1) One (1) professional possessing specialized training in the field of human development.

(2) One (1) member of the professional staff of the division of disability ~~aging,~~ and rehabilitative services.

(3) One (1) member of the professional staff of the office of Medicaid policy and planning.

(4) One (1) member of the professional staff of the state department of health.

(5) One (1) individual possessing a special interest in developmentally disabled individuals.

(6) One (1) individual possessing a special interest in mentally ill individuals.

(7) One (1) individual who is the chief executive officer of a facility providing both day services and residential services for developmentally disabled individuals.

(8) One (1) individual who is the chief executive officer of a facility providing residential services only for developmentally disabled individuals.

(9) One (1) individual who is a member of the professional staff of the Indiana protection and advocacy services commission. The individual appointed under this subdivision is an ex officio member of the council.

(10) One (1) individual who is the chief executive officer of an entity providing only supported living services.

(11) One (1) individual who is receiving services through the bureau of developmental disabilities services.

(12) Two (2) members of the public. One (1) member appointed under this subdivision may be a member of a representative organization of state employees.

(b) Except for the members designated by subsection (a)(7), (a)(8), and (a)(10), a member of the council may not have an indirect or a direct financial interest in a residential facility for the developmentally disabled.

SECTION 78. IC 12-28-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. In conjunction with the division of disability ~~aging,~~ and rehabilitative services, the council shall do the following:

(1) Determine the current and projected needs of each geographic

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area of Indiana for residential services for developmentally disabled individuals.

(2) Determine how the provision of developmental or vocational services for residents in these geographic areas affects the availability of developmental or vocational services to developmentally disabled individuals living in their own homes.

(3) Develop standards for licensure of supervised group living facilities regarding the following:

(A) A sanitary and safe environment for residents and employees.

(B) Classification of supervised group living facilities.

(C) Any other matters that will ensure that the residents will receive a residential environment.

(4) Develop standards for the approval of entities providing supported living services.

(5) Recommend social and habilitation programs to the Indiana health facilities council for developmentally disabled individuals who reside in health facilities licensed under IC 16-28.

(6) Develop and update semiannually a report that identifies the numbers of developmentally disabled individuals who live in health facilities licensed under IC 16-28. The Indiana health facilities council shall assist in developing and updating this report.

SECTION 79. IC 12-28-5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 15. The division of disability ~~aging,~~ and rehabilitative services shall provide the staff for the council to accomplish the council's functions. The council may require any other agency of state government to assist the council in performing a review of a supervised group living facility to determine if the supervised group living facility should be licensed.

SECTION 80. IC 12-28-5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 16. The division of disability ~~aging,~~ and rehabilitative services is the primary state agency responsible for planning, developing, coordinating, and implementing the plan and program of supervised group living facilities and services, including developmental and vocational services, needed for developmentally disabled individuals residing in those facilities. Other state agencies authorized by law or rule to carry out activities and control money that have a direct bearing upon the provision of supervised group living services shall enter into memoranda of understanding or contracts with the division of disability ~~aging,~~ and rehabilitative services to ensure a coordinated utilization of resources

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and responsibilities.

SECTION 81. IC 12-29-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. (a) On the first Monday in October, the county auditor shall certify to:

(1) the division of disability ~~aging,~~ and rehabilitative services, for a community mental retardation and other developmental disabilities center; and

(2) the president of the board of directors of each center;

the amount of money that will be provided to the center under this chapter.

(b) The county payment to the center shall be paid by the county treasurer to the treasurer of each center's board of directors in the following manner:

(1) One-half (1/2) of the county payment to the center shall be made on the second Monday in July.

(2) One-half (1/2) of the county payment to the center shall be made on the second Monday in December.

(c) Payments by the county fiscal body are in place of grants from agencies supported within the county solely by county tax money.

SECTION 82. IC 12-29-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) As used in this section, "community mental retardation and other developmental disabilities center" means a community center that is:

(1) incorporated under IC 23-7-1.1 (before its repeal August 1, 1991) or IC 23-17;

(2) organized for the purpose of providing services for mentally retarded and other individuals with a developmental disability;

(3) approved by the division of disability ~~aging,~~ and rehabilitative services; and

(4) accredited for the services provided by one (1) of the following organizations:

(A) The Commission on Accreditation of Rehabilitation Facilities (CARF), or its successor.

(B) The Council on Quality and Leadership in Supports for People with Disabilities, or its successor.

(C) The Joint Commission on Accreditation of Healthcare Organizations (JCAHO), or its successor.

(D) The National Commission on Quality Assurance, or its successor.

(E) An independent national accreditation organization approved by the secretary.

(b) The county executive of a county may authorize the furnishing

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of financial assistance to a community mental retardation and other developmental disabilities center serving the county.

(c) Upon the request of the county executive, the county fiscal body may appropriate annually, from the general fund of the county, money to provide financial assistance in an amount not to exceed the amount that could be collected from the annual tax levy of sixty-seven hundredths of one cent ($0.0067) on each one hundred dollars ($100) of taxable property.

SECTION 83. IC 16-27-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) As used in this chapter, "home health agency" means a person that provides or offers to provide only a home health service for compensation.

(b) The term does not include the following:

(1) An individual health care professional who provides professional services to a patient in the temporary or permanent residence of the patient.

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

(3) A person that:

(A) is approved by the division of disability ~~aging,~~ and rehabilitative services to provide supported living services or supported living supports to individuals with developmental disabilities;

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

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

SECTION 84. IC 16-27-1-5, AS AMENDED BY P.L.212-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) As used in this chapter, "home health services" means services that:

(1) are provided to a patient by:

(A) a home health agency; or

(B) another person under an arrangement with a home health agency;

in the temporary or permanent residence of the patient; and

(2) either, are required by law to be:

(A) ordered by a licensed physician, a licensed dentist, a licensed chiropractor, a licensed podiatrist, or a licensed optometrist for the service to be performed; or

(B) performed only by a health care professional.

(b) The term includes the following:

(1) Nursing treatment and procedures.

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(2) Physical therapy.
(3) Occupational therapy.
(4) Speech therapy.
(5) Medical social services.
(6) Home health aide services.
(7) Other therapeutic services.

(c) The term does not apply to the following:
(1) Services provided by a physician licensed under IC 25-22.5.
(2) Incidental services provided by a licensed health facility to patients of the licensed health facility.
(3) Services provided by employers or membership organizations using health care professionals for their employees, members, and families of the employees or members if the health or home care services are not the predominant purpose of the employer or a membership organization's business.
(4) Nonmedical nursing care given in accordance with the tenets and practice of a recognized church or religious denomination to a patient who depends upon healing by prayer and spiritual means alone in accordance with the tenets and practices of the patient's church or religious denomination.
(5) Services that are allowed to be performed by an attendant under IC 16-27-1-10.
(6) Authorized services provided by a personal services attendant under ~~IC 12-10-17.~~ **IC 12-10-17.1.**

SECTION 85. IC 16-27-4-4, AS ADDED BY P.L.212-2005, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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

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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.~~ **IC 12-10-17.1.**

(4) Services that require the order of a health care professional for the services to be lawfully performed in Indiana.

(5) Assisted living Medicaid waiver services.

(6) Services that are performed by a facility described in IC 12-10-15.

SECTION 86. IC 16-27-4-5, AS ADDED BY P.L.212-2005, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: 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 or to not more than three (3) individuals per residence and not more than a total of seven (7) individuals concurrently. As used in this subdivision, "family" means the individual's spouse, child, 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.

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

(3) A person that:

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

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

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

SECTION 87. IC 16-28-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) The Indiana health facilities council is created. The council consists of fourteen (14) members as follows:

(1) One (1) licensed physician.

(2) Two (2) administrators, licensed under IC 25-19-1, of a proprietary health facility licensed under this article.

(3) One (1) administrator, licensed under IC 25-19-1, of a nonproprietary health facility licensed under this article.

(4) One (1) registered nurse licensed under IC 25-23.

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(5) One (1) registered pharmacist licensed under IC 25-26.
(6) Two (2) citizens having knowledge or experience in the field of gerontology.
(7) One (1) representative of a statewide senior citizens organization.
(8) One (1) citizen having knowledge or experience in the field of mental health.
(9) One (1) nurse-educator of a practical nurse program.
(10) The commissioner.
(11) The director of the division of family and children or the director's designee.
(12) The director of the division of ~~disability,~~ aging ~~and rehabilitative services~~ or the director's designee.

(b) The members of the council designated by subsection (a)(1) through (a)(9) shall be appointed by the governor.

(c) Except for the members of the council designated by subsection (a)(10) through (a)(12), all appointments are for four (4) years. If a vacancy occurs, the appointee serves for the remainder of the unexpired term. A vacancy is filled from the same group that was represented by the outgoing member.

(d) Except for the members of the council designated by subsection (a)(2) through (a)(3), a member of the council may not have a pecuniary interest in the operation of or provide professional services through employment or under contract to a facility licensed under this article.

SECTION 88. IC 16-28-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) As used in this chapter, "other unlicensed employee" means:

(1) an employee of a health facility;
(2) a hospital based health facility; or
(3) a personal services attendant (as defined ~~by IC 12-10-17-8),~~ **in IC 12-10-17.1-8);**

who is not licensed (as defined in IC 25-1-9-3) by a board (as defined in IC 25-1-9-1).

(b) The term does not include an employee of an ambulatory outpatient surgical center, a home health agency, a hospice program, or a hospital that is not licensed (as defined in IC 25-1-9-3) by a board (as defined in IC 25-1-9-1).

SECTION 89. IC 16-32-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. The committee shall be composed of the following members:

(1) The director of the division of disability ~~aging,~~ and

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rehabilitative services or the director's designee.

(2) The commissioner of the Indiana department of administration or the commissioner's designee.

(3) The executive director of the governor's planning council on people with disabilities.

(4) The director of the division of mental health and addiction or the director's designee.

(5) The commissioner of the state department of health or the commissioner's designee.

(6) Three (3) members appointed by the governor to represent the public at large.

SECTION 90. IC 16-32-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. The members of the committee shall be reimbursed for expenses at a rate equal to that of state employees on a per diem basis by the division of disability ~~aging,~~ and rehabilitative services.

SECTION 91. IC 16-32-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. The director of the division of disability ~~aging,~~ and rehabilitative services shall designate a staff member to act as executive secretary to the committee.

SECTION 92. IC 16-36-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. The superintendent shall compile a report of all medically necessary treatments approved under this chapter during each calendar quarter and send the report to the director of the division of mental health and addiction or the director of the division of disability ~~aging,~~ and rehabilitative services not more than one (1) month after the end of that quarter. The report must contain the following information:

(1) The name of the patient.

(2) The type of action taken.

(3) The date of the action.

(4) The reason for the action.

(5) The names of the treating physician, the physician independent of the appropriate facility, and any other physician who entered an opinion that was contrary to the treating physician's opinion.

SECTION 93. IC 16-39-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. A record for each patient receiving mental health services shall be maintained by the provider. The mental health record must contain the information that the division of mental health and addiction, the division of disability ~~aging,~~ and rehabilitative services, or the state department requires by

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rule. The provider is:

(1) the owner of the mental health record;

(2) responsible for the record's safekeeping; and

(3) entitled to retain possession of the record.

The information contained in the mental health record belongs to the patient involved as well as to the provider. The provider shall maintain the original mental health record or a microfilm of the mental health record for at least seven (7) years.

SECTION 94. IC 16-39-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) Without the consent of the patient, the patient's mental health record may only be disclosed as follows:

(1) To individuals who meet the following conditions:

(A) Are employed by:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) the information to be released is limited to medications currently prescribed for the patient or to the patient's history of adverse medication reactions; and

(ii) the provider determines that the release of the medication information will assist in protecting the health, safety, or welfare of the patient.

Mental health records released under this clause must be maintained in confidence by the law enforcement agency receiving them.

(8) To a coroner or medical examiner, in the performance of the individual's duties.

(9) To a school in which the patient is enrolled if the superintendent of the facility determines that the information will assist the school in meeting educational needs of a person with a disability under 20 U.S.C. 1400 et seq.

(10) To the extent necessary to satisfy reporting requirements under the following statutes:

(A) IC 12-10-3-10.

~~(B) IC 12-17-2-16.~~

~~(C)~~ **(B)** IC 12-24-17-5.

~~(D)~~ **(C)** IC 16-41-2-3.

~~(E)~~ **(D)** IC 31-33-5-4.

~~(F)~~ **(E)** IC 34-30-16-2.

~~(G)~~ **(F)** IC 35-46-1-13.

(11) To the extent necessary to satisfy release of information requirements under the following statutes:

(A) IC 12-24-11-2.

(B) IC 12-24-12-3, IC 12-24-12-4, and IC 12-24-12-6.

(C) IC 12-26-11.

(12) To another health care provider in a health care emergency.

(13) For legitimate business purposes as described in IC 16-39-5-3.

(14) Under a court order under IC 16-39-3.

(15) With respect to records from a mental health or developmental disability facility, to the United States Secret

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Service if the following conditions are met:

(A) The request does not apply to alcohol or drug abuse records described in 42 U.S.C. 290dd-2 unless authorized by a court order under 42 U.S.C. 290dd-2(b)(2)(c).

(B) The request relates to the United States Secret Service's protective responsibility and investigative authority under 18 U.S.C. 3056, 18 U.S.C. 871, or 18 U.S.C. 879.

(C) The request specifies an individual patient.

(D) The director or superintendent of the facility determines that disclosure of the mental health record may be necessary to protect a person under the protection of the United States Secret Service from serious bodily injury or death.

(E) The United States Secret Service agrees to only use the mental health record information for investigative purposes and not disclose the information publicly.

(F) The mental health record information disclosed to the United States Secret Service includes only:

(i) the patient's name, age, and address;

(ii) the date of the patient's admission to or discharge from the facility; and

(iii) any information that indicates whether or not the patient has a history of violence or presents a danger to the person under protection.

(16) To the statewide waiver ombudsman established under IC 12-11-13, in the performance of the ombudsman's duties.

(b) After information is disclosed under subsection (a)(15) and if the patient is evaluated to be dangerous, the records shall be interpreted in consultation with a licensed mental health professional on the staff of the United States Secret Service.

(c) A person who discloses information under subsection (a)(7) or (a)(15) in good faith is immune from civil and criminal liability.

SECTION 95. IC 16-40-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) Except as provided in subsection (b), each:

(1) physician;

(2) superintendent of a hospital;

(3) director of a local health department;

(4) director of a county office of family and children;

(5) director of the division of disability ~~aging,~~ and rehabilitative services;

(6) superintendent of a state institution serving the handicapped; or

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(7) superintendent of a school corporation;

who diagnoses, treats, provides, or cares for a person with a disability shall report the disabling condition to the state department within sixty (60) days.

(b) Each:

(1) physician holding an unlimited license to practice medicine; or

(2) optometrist licensed under IC 25-24-1;

shall file a report regarding a blind or visually impaired person with the office of the secretary of family and social services in accordance with IC 12-12-9.

SECTION 96. IC 20-26-11-8, AS AMENDED BY P.L.89-2005, SECTION 4, AND AS AMENDED BY P.L.231-2005, SECTION 33, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) A student who is placed in a state licensed private or public health care facility, child care facility, or foster family home:

(1) by or with the consent of the division of family and children;

(2) by a court order; or

(3) by a child placing agency licensed by the division of family and children;

may attend school in the school corporation in which the home or facility is located. If the school corporation in which the home or facility is located is not the school corporation in which the student has legal settlement, the school corporation in which the student has legal settlement shall pay the transfer tuition of the student.

(b) A student who is placed in a state licensed private or public health care or child care facility by a parent may attend school in the school corporation in which the facility is located if:

(1) the placement is necessary for the student's physical or emotional health and well-being and, if the placement is in a health care facility, is recommended by a physician; and

(2) the placement is projected to be for not less than fourteen (14) consecutive calendar days or a total of twenty (20) calendar days.

The school corporation in which the student has legal settlement shall pay the transfer tuition of the student. The parent of the student shall notify the school corporation in which the facility is located and the school corporation of the student's legal settlement, if identifiable, of the placement. Not later than thirty (30) days after this notice, the school corporation of legal settlement shall either pay the transfer tuition of the transferred student or appeal the payment by notice to the department. The acceptance or notice of appeal by the school

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corporation must be given by certified mail to the parent or guardian of the student and any affected school corporation. In the case of a student who is not identified as disabled under IC 20-35, the state board shall make a determination on transfer tuition according to the procedures in section 15 of this chapter. In the case of a student who has been identified as disabled under IC 20-35, the determination on transfer tuition shall be made under this subsection and the procedures adopted by the state board under ~~*IC 20-35-2-1(c)(5).*~~ *IC 20-35-2-1(b)(5).*

(c) A student who is placed in:

(1) an institution operated by the division of disability ~~aging,~~ and rehabilitative services or the division of mental health and addiction; or

(2) an institution, a public or private facility, a home, a group home, or an alternative family setting by the division of disability ~~aging,~~ and rehabilitative services or the division of mental health and addiction;

may attend school in the school corporation in which the institution is located. The state shall pay the transfer tuition of the student, unless another entity is required to pay the transfer tuition as a result of a placement described in subsection (a) or (b) or another state is obligated to pay the transfer tuition.

(d) A student:

(1) who is placed in a facility, home, or institution described in subsection (a), (b), or (c); and

(2) for whom there is no other entity or person required to pay transfer tuition;

may attend school in the school corporation in which the facility, home, or institution is located. The department shall conduct an investigation and determine whether any other entity or person is required to pay transfer tuition. If the department determines that no other entity or person is required to pay transfer tuition, the state shall pay the transfer tuition for the student out of the funds appropriated for tuition support.

SECTION 97. IC 20-34-3-15, AS ADDED BY P.L.1-2005, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 15. (a) Whenever the test required under section 14 of this chapter discloses that the hearing of a student is impaired and the student cannot be taught advantageously in regular classes, the governing body of the school corporation shall provide appropriate remedial measures and correctional devices. The governing body shall advise the student's parent of the proper medical care, attention, and treatment needed. The governing body shall provide approved

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mechanical auditory devices and prescribe courses in lip reading by qualified, competent, and approved instructors. The state superintendent and the director of the rehabilitation services bureau of the division of disability ~~aging,~~ and rehabilitative services shall:

(1) cooperate with school corporations to provide assistance under this section; and

(2) provide advice and information to assist school corporations in complying with this section.

The governing body may adopt rules for the administration of this section.

(b) Each school corporation may receive and accept bequests and donations for immediate use or as trusts or endowments to assist in meeting costs and expenses incurred in complying with this section. When funds for the full payment of the expenses are not otherwise available in a school corporation, an unexpended balance in the state treasury that is available for the use of local schools and is otherwise unappropriated may be loaned to the school corporation for that purpose by the governor. A loan made by the governor under this section shall be repaid to the fund in the state treasury from which the loan came not more than two (2) years after the date it was advanced. Loans under this section shall be repaid through the levying of taxes in the borrowing school corporation.

SECTION 98. IC 20-35-2-1, AS ADDED BY P.L.218-2005, SECTION 79, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) There is established under the state board a division of special education. The division shall exercise all the power and duties set out in this chapter, IC 20-35-3 through IC 20-35-6, and IC 20-35-8.

(b) The governor shall appoint, upon the recommendation of the state superintendent, a director of special education who serves at the pleasure of the governor. The amount of compensation of the director shall be determined by the budget agency with the approval of the governor. The director has the following duties:

(1) To do the following:

(A) Have general supervision of all programs, classes, and schools for children with disabilities, including those conducted by public schools, the Indiana School for the Blind and Visually Impaired, the Indiana School for the Deaf, the department of correction, the state department of health, the division of disability ~~aging,~~ and rehabilitative services, and the division of mental health and addiction.

(B) Coordinate the work of schools described in clause (A).

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For programs for preschool children with disabilities as required under IC 20-35-4-9, have general supervision over programs, classes, and schools, including those conducted by the schools or other state or local service providers as contracted for under IC 20-35-4-9. However, general supervision does not include the determination of admission standards for the state departments, boards, or agencies authorized to provide programs or classes under this chapter.

(2) To adopt, with the approval of the state board, rules governing the curriculum and instruction, including licensing of personnel in the field of education, as provided by law.

(3) To inspect and rate all schools, programs, or classes for children with disabilities to maintain proper standards of personnel, equipment, and supplies.

(4) With the consent of the state superintendent and the budget agency, to appoint and determine salaries for any assistants and other personnel needed to enable the director to accomplish the duties of the director's office.

(5) To adopt, with the approval of the state board, the following:

(A) Rules governing the identification and evaluation of children with disabilities and their placement under an individualized education program in a special education program.

(B) Rules protecting the rights of a child with a disability and the parents of the child with a disability in the identification, evaluation, and placement process.

(6) To make recommendations to the state board concerning standards and case load ranges for related services to assist each teacher in meeting the individual needs of each child according to that child's individualized education program. The recommendations may include the following:

(A) The number of teacher aides recommended for each exceptionality included within the class size ranges.

(B) The role of the teacher aide.

(C) Minimum training recommendations for teacher aides and recommended procedures for the supervision of teacher aides.

(7) To cooperate with the interagency coordinating council established by IC 12-17-15-7 to ensure that the preschool special education programs required IC 20-35-4-9 are consistent with the early intervention services program described in IC 12-17-15.

(c) The director or the state board may exercise authority over vocational programs for children with disabilities through a letter of

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agreement with the department of workforce development.

SECTION 99. IC 20-35-3-1, AS ADDED BY P.L.218-2005, SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) The state superintendent shall appoint a state advisory council on the education of children with disabilities. The state advisory council's duties consist of providing policy guidance concerning special education and related services for children with disabilities. The state superintendent shall appoint at least seventeen (17) members who serve for a term of four (4) years. Vacancies shall be filled in the same manner for the unexpired balance of the term.

(b) The members of the state advisory council must be:

(1) citizens of Indiana;

(2) representative of the state's population; and

(3) selected on the basis of their involvement in or concern with the education of children with disabilities.

(c) A majority of the members of the state advisory council must be individuals with disabilities or the parents of children with disabilities. Members must include the following:

(1) Parents of children with disabilities.

(2) Individuals with disabilities.

(3) Teachers.

(4) Representatives of higher education institutions that prepare special education and related services personnel.

(5) State and local education officials.

(6) Administrators of programs for children with disabilities.

(7) Representatives of state agencies involved in the financing or delivery of related services to children with disabilities, including the following:

(A) The commissioner of the state department of health or the commissioner's designee.

(B) The director of the division of disability ~~aging,~~ and rehabilitative services or the director's designee.

(C) The director of the division of mental health and addiction or the director's designee.

(D) The director of the division of family and children or the director's designee.

(8) Representatives of nonpublic schools and freeway schools.

(9) One (1) or more representatives of vocational, community, or business organizations concerned with the provision of transitional services to children with disabilities.

(10) Representatives of the department of correction.

(11) A representative from each of the following:

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(A) The Indiana School for the Blind and Visually Impaired board.

(B) The Indiana School for the Deaf board.

(d) The responsibilities of the state advisory council are as follows:

(1) To advise the state superintendent and the state board regarding all rules pertaining to children with disabilities.

(2) To recommend approval or rejection of completed comprehensive plans submitted by school corporations acting individually or on a joint school services program basis with other corporations.

(3) To advise the department of unmet needs within Indiana in the education of children with disabilities.

(4) To provide public comment on rules proposed by the state board regarding the education of children with disabilities.

(5) To advise the department in developing evaluations and reporting data to the United States Secretary of Education under 20 U.S.C. 1418.

(6) To advise the department in developing corrective action plans to address findings identified in federal monitoring reports under 20 U.S.C. 1400 et seq.

(7) To advise the department in developing and implementing policies related to the coordination of services for children with disabilities.

(e) The state advisory council shall do the following:

(1) Organize with a chairperson selected by the state superintendent.

(2) Meet as often as necessary to conduct the council's business at the call of the chairperson, upon ten (10) days written notice, but not less than four (4) times a year.

(f) Members of the state advisory council are entitled to reasonable amounts for expenses necessarily incurred in the performance of their duties.

(g) The state superintendent shall do the following:

(1) Designate the director to act as executive secretary of the state advisory council.

(2) Furnish all professional and clerical assistance necessary for the performance of the state advisory council's powers and duties.

(h) The affirmative votes of a majority of the members appointed to the state advisory council are required for the state advisory council to take action.

SECTION 100. IC 20-35-4-10, AS AMENDED BY HEA 1040-2006, SECTION 335, IS AMENDED TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 2006]: Sec. 10. (a) For purposes of this section, "comprehensive plan" means a plan for educating the following:

(1) All children with disabilities that a school corporation is required to educate under sections 8 through 9 of this chapter.

(2) The additional children with disabilities that the school corporation elects to educate.

(b) For purposes of this section, "school corporation" includes the following:

(1) The Indiana School for the Blind and Visually Impaired board.

(2) The Indiana School for the Deaf board.

(c) The state board shall adopt rules under IC 4-22-2 detailing the contents of the comprehensive plan. Each school corporation shall complete and submit to the state superintendent a comprehensive plan. School corporations operating cooperative or joint special education services may submit a single comprehensive plan. In addition, if a school corporation enters into a contractual agreement as permitted under section 9 of this chapter, the school corporation shall collaborate with the service provider in formulating the comprehensive plan.

(d) Notwithstanding the age limits set out in IC 20-35-1-2, the state board may:

(1) conduct a program for the early identification of children with disabilities, between the ages of birth and less than twenty-two (22) years of age not served by the public schools or through a contractual agreement under section 9 of this chapter; and

(2) use agencies that serve children with disabilities other than the public schools.

(e) The state board shall adopt rules under IC 4-22-2 requiring the:

(1) department of correction;

(2) state department of health;

(3) division of disability ~~aging,~~ and rehabilitative services;

(4) Indiana School for the Blind and Visually Impaired board;

(5) Indiana School for the Deaf board; and

(6) division of mental health and addiction;

to submit to the state superintendent a plan for the provision of special education for children in programs administered by each respective agency who are entitled to a special education.

(f) The state superintendent shall furnish professional consultant services to school corporations and the entities listed in subsection (e) to aid them in fulfilling the requirements of this section.

SECTION 101. IC 20-35-7-4, AS ADDED BY P.L.1-2005, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. As used in this chapter, "public agency" means

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a public or private entity that has direct or delegated authority to provide special education and related services, including the following:

(1) Public school corporations that operate programs individually or cooperatively with other school corporations.

(2) Community agencies operated or supported by the office of the secretary of family and social services.

(3) State developmental centers operated by the division of disability ~~aging,~~ and rehabilitative services.

(4) State hospitals operated by the division of mental health and addiction.

(5) State schools and programs operated by the state department of health.

(6) Programs operated by the department of correction.

(7) Private schools and facilities that serve students referred or placed by a school corporation, the division of special education, the division of family and children, or other public entity.

SECTION 102. IC 20-35-7-8, AS ADDED BY P.L.1-2005, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) The division of disability ~~aging,~~ and rehabilitative services, the division of mental health and addiction, and the department of workforce development shall provide each school corporation with written material describing the following:

(1) The adult services available to students.

(2) The procedures to be used to access those services.

(b) The material shall be provided in sufficient numbers to allow each student and, if the student's parent is involved, each student's parent to receive a copy at the annual case review if the purpose of the meeting is to discuss transition services.

SECTION 103. IC 20-35-7-11, AS ADDED BY P.L.1-2005, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. (a) The division shall monitor public agency compliance with the requirements of this chapter as part of the division's ongoing program monitoring responsibilities.

(b) The division of disability ~~aging,~~ and rehabilitative services shall monitor compliance with this chapter by vocational rehabilitation services programs.

(c) The division and the division of disability ~~aging,~~ and rehabilitative services shall confer, at least annually, to do the following:

(1) Review compliance with the requirements of this chapter.

(2) Ensure that students with disabilities are receiving appropriate and timely access to services.

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SECTION 104. IC 20-35-8-2, AS ADDED BY P.L.218-2005, SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) The state board shall adopt rules under IC 4-22-2 to establish limits on the amount of transportation that may be provided in the student's individualized education program. Unless otherwise specially shown to be essential by the child's individualized education program, in case of residency in a public or private facility, these rules must limit the transportation required by the student's individualized education program to the following:

(1) The student's first entrance and final departure each school year.

(2) Round trip transportation each school holiday period.

(3) Two (2) additional round trips each school year.

(b) If a student is a transfer student receiving special education in a public school, the state or school corporation responsible for the payment of transfer tuition under IC 20-26-11-1 through IC 20-26-11-4 shall pay the cost of transportation required by the student's individualized education program. However, if a transfer student was counted as an eligible student for purposes of a distribution in a calendar year under IC 21-3-3.1, the transportation costs that the transferee school may charge for a school year ending in the calendar year shall be reduced by the sum of the following:

(1) The quotient of:

(A) the amount of money that the transferee school is eligible to receive under IC 21-3-3.1-2.1 for the calendar year in which the school year ends; divided by

(B) the number of eligible students for the transferee school for the calendar year (as determined under IC 21-3-3.1-2.1).

(2) The amount of money that the transferee school is eligible to receive under IC 21-3-3.1-4 for the calendar year in which the school year ends for the transportation of the transfer student during the school year.

(c) If a student receives a special education:

(1) in a facility operated by:

(A) the state department of health;

(B) the division of disability ~~aging,~~ and rehabilitative services; or

(C) the division of mental health and addiction;

(2) at the Indiana School for the Blind and Visually Impaired; or

(3) at the Indiana School for the Deaf;

the school corporation in which the student has legal settlement shall pay the cost of transportation required by the student's individualized

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education program. However, if the student's legal settlement cannot be ascertained, the state board shall pay the cost of transportation required by the student's individualized education program.

(d) If a student is placed in a private facility under IC 20-35-6-2 in order to receive a special education because the student's school corporation cannot provide an appropriate special education program, the school corporation in which the student has legal settlement shall pay the cost of transportation required by the student's individualized education program. However, if the student's legal settlement cannot be ascertained, the state board shall pay the cost of transportation required by the student's individualized education program.

SECTION 105. IC 22-1-5-2, AS ADDED BY P.L.212-2005, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter, "companion type services" refers to services described in ~~IC 12-10-17-2(2).~~ **IC 12-10-17.1-2(2).**

SECTION 106. IC 22-3-2-2.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.3. (a) As used in this section, "volunteer worker" means a person who:

(1) performs services:

(A) for a state institution (as defined in IC 12-7-2-184); and

(B) for which the person does not receive compensation of any nature; and

(2) has been approved and accepted as a volunteer worker by the director of:

(A) the division of disability ~~aging,~~ and rehabilitative services; or

(B) the division of mental health and addiction.

(b) Services of any nature performed by a volunteer worker for a state institution (as defined in IC 12-7-2-184) are governmental services. A volunteer worker is subject to the medical benefits described under this chapter through IC 22-3-6. However, a volunteer worker is not under this chapter through IC 22-3-6.

SECTION 107. IC 22-3-12-2, AS AMENDED BY P.L.2-2005, SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. When any compensable injury requires the filing of a first report of injury by an employer, the employer's worker's compensation insurance carrier or the self-insured employer shall forward a copy of the report to the central office of the division of disability ~~aging,~~ and rehabilitative services, rehabilitation services bureau at the earlier of the following occurrences:

(1) When the compensable injury has resulted in temporary total

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disability of longer than twenty-one (21) days.

(2) When it appears that the compensable injury may be of such a nature as to permanently prevent the injured employee from returning to the injured employee's previous employment.

SECTION 108. IC 25-22.5-1-2, AS AMENDED BY P.L.212-2005, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) This article, as it relates to the unlawful or unauthorized practice of medicine or osteopathic medicine, does not apply to any of the following:

(1) A student in training in a medical school approved by the board, or while performing duties as an intern or a resident in a hospital under the supervision of the hospital's staff or in a program approved by the medical school.

(2) A person who renders service in case of emergency where no fee or other consideration is contemplated, charged, or received.

(3) A paramedic (as defined in IC 16-18-2-266), an emergency medical technician-basic advanced (as defined in IC 16-18-2-112.5), an emergency medical technician-intermediate (as defined in IC 16-18-2-112.7), an emergency medical technician (as defined in IC 16-18-2-112), or a person with equivalent certification from another state who renders advanced life support (as defined in IC 16-18-2-7) or basic life support (as defined in IC 16-18-2-33.5):

(A) during a disaster emergency declared by the governor under IC 10-14-3-12 in response to an act that the governor in good faith believes to be an act of terrorism (as defined in IC 35-41-1-26.5); and

(B) in accordance with the rules adopted by the Indiana emergency medical services commission or the disaster emergency declaration of the governor.

(4) Commissioned medical officers or medical service officers of the armed forces of the United States, the United States Public Health Service, and medical officers of the United States Department of Veterans Affairs in the discharge of their official duties in Indiana.

(5) An individual who is not a licensee who resides in another state or country and is authorized to practice medicine or osteopathic medicine there, who is called in for consultation by an individual licensed to practice medicine or osteopathic medicine in Indiana.

(6) A person administering a domestic or family remedy to a member of the person's family.

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(7) A member of a church practicing the religious tenets of the church if the member does not make a medical diagnosis, prescribe or administer drugs or medicines, perform surgical or physical operations, or assume the title of or profess to be a physician.

(8) A school corporation and a school employee who acts under IC 34-30-14 (or IC 34-4-16.5-3.5 before its repeal).

(9) A chiropractor practicing the chiropractor's profession under IC 25-10 or to an employee of a chiropractor acting under the direction and supervision of the chiropractor under IC 25-10-1-13.

(10) A dental hygienist practicing the dental hygienist's profession under IC 25-13.

(11) A dentist practicing the dentist's profession under IC 25-14.

(12) A hearing aid dealer practicing the hearing aid dealer's profession under IC 25-20.

(13) A nurse practicing the nurse's profession under IC 25-23. However, a registered nurse may administer anesthesia if the registered nurse acts under the direction of and in the immediate presence of a physician and holds a certificate of completion of a course in anesthesia approved by the American Association of Nurse Anesthetists or a course approved by the board.

(14) An optometrist practicing the optometrist's profession under IC 25-24.

(15) A pharmacist practicing the pharmacist's profession under IC 25-26.

(16) A physical therapist practicing the physical therapist's profession under IC 25-27.

(17) A podiatrist practicing the podiatrist's profession under IC 25-29.

(18) A psychologist practicing the psychologist's profession under IC 25-33.

(19) A speech-language pathologist or audiologist practicing the pathologist's or audiologist's profession under IC 25-35.6.

(20) An employee of a physician or group of physicians who performs an act, a duty, or a function that is customarily within the specific area of practice of the employing physician or group of physicians, if the act, duty, or function is performed under the direction and supervision of the employing physician or a physician of the employing group within whose area of practice the act, duty, or function falls. An employee may not make a diagnosis or prescribe a treatment and must report the results of an examination of a patient conducted by the employee to the

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employing physician or the physician of the employing group under whose supervision the employee is working. An employee may not administer medication without the specific order of the employing physician or a physician of the employing group. Unless an employee is licensed or registered to independently practice in a profession described in subdivisions (9) through (18), nothing in this subsection grants the employee independent practitioner status or the authority to perform patient services in an independent practice in a profession.

(21) A hospital licensed under IC 16-21 or IC 12-25.

(22) A health care organization whose members, shareholders, or partners are individuals, partnerships, corporations, facilities, or institutions licensed or legally authorized by this state to provide health care or professional services as:

(A) a physician;

(B) a psychiatric hospital;

(C) a hospital;

(D) a health maintenance organization or limited service health maintenance organization;

(E) a health facility;

(F) a dentist;

(G) a registered or licensed practical nurse;

(H) a midwife;

(I) an optometrist;

(J) a podiatrist;

(K) a chiropractor;

(L) a physical therapist; or

(M) a psychologist.

(23) A physician assistant practicing the physician assistant's profession under IC 25-27.5.

(24) A physician providing medical treatment under IC 25-22.5-1-2.1.

(25) An attendant who provides attendant care services (as defined in IC 16-18-2-28.5).

(26) A personal services attendant providing authorized attendant care services under ~~IC 12-10-17.~~ **IC 12-10-17.1.**

(b) A person described in subsection (a)(9) through (a)(18) is not excluded from the application of this article if:

(1) the person performs an act that an Indiana statute does not authorize the person to perform; and

(2) the act qualifies in whole or in part as the practice of medicine or osteopathic medicine.

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(c) An employment or other contractual relationship between an entity described in subsection (a)(21) through (a)(22) and a licensed physician does not constitute the unlawful practice of medicine under this article if the entity does not direct or control independent medical acts, decisions, or judgment of the licensed physician. However, if the direction or control is done by the entity under IC 34-30-15 (or IC 34-4-12.6 before its repeal), the entity is excluded from the application of this article as it relates to the unlawful practice of medicine or osteopathic medicine.

(d) This subsection does not apply to a prescription or drug order for a legend drug that is filled or refilled in a pharmacy owned or operated by a hospital licensed under IC 16-21. A physician licensed in Indiana who permits or authorizes a person to fill or refill a prescription or drug order for a legend drug except as authorized in IC 16-42-19-11 through IC 16-42-19-19 is subject to disciplinary action under IC 25-1-9. A person who violates this subsection commits the unlawful practice of medicine under this chapter.

(e) A person described in subsection (a)(8) shall not be authorized to dispense contraceptives or birth control devices.

SECTION 109. IC 25-23-1-27.1, AS AMENDED BY P.L.212-2005, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27.1. (a) As used in this section, "licensed health professional" means:

(1) a registered nurse;
(2) a licensed practical nurse;
(3) a physician with an unlimited license to practice medicine or osteopathic medicine;
(4) a licensed dentist;
(5) a licensed chiropractor;
(6) a licensed optometrist;
(7) a licensed pharmacist;
(8) a licensed physical therapist;
(9) a licensed psychologist;
(10) a licensed podiatrist; or
(11) a licensed speech-language pathologist or audiologist.

(b) This chapter does not prohibit:

(1) furnishing nursing assistance in an emergency;
(2) the practice of nursing by any student enrolled in a board approved nursing education program where such practice is incidental to the student's program of study;
(3) the practice of any nurse who is employed by the government of the United States or any of its bureaus, divisions, or agencies

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while in the discharge of the nurse's official duties;

(4) the gratuitous care of sick, injured, or infirm individuals by friends or the family of that individual;

(5) the care of the sick, injured, or infirm in the home for compensation if the person assists only:

(A) with personal care;

(B) in the administration of a domestic or family remedy; or

(C) in the administration of a remedy that is ordered by a licensed health professional and that is within the scope of practice of the licensed health professional under Indiana law;

(6) performance of tasks by persons who provide health care services which are delegated or ordered by licensed health professionals, if the delegated or ordered tasks do not exceed the scope of practice of the licensed health professionals under Indiana law;

(7) a physician with an unlimited license to practice medicine or osteopathic medicine in Indiana, a licensed dentist, chiropractor, dental hygienist, optometrist, pharmacist, physical therapist, podiatrist, psychologist, speech-language pathologist, or audiologist from practicing the person's profession;

(8) a school corporation or school employee from acting under IC 34-30-14;

(9) a personal services attendant from providing authorized attendant care services under ~~IC 12-10-17,~~ **IC 12-10-17.1;** or

(10) an attendant who provides attendant care services (as defined in IC 16-18-2-28.5).

SECTION 110. IC 25-23.6-1-3.9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3.9. "Governmental employee" means an individual employed by the office of the secretary of family and social services, the division of family and children, the division of mental health and addiction, the division of disability ~~aging,~~ and rehabilitative services, **the division of aging,** the department of correction, or the state department of health in one (1) of the following classifications:

(1) 2AA3 Behavioral clinician 3.

(2) 2AA4 Behavioral clinician 4.

(3) 2AA5 Clinical associate 5.

(4) 2FL1 Mental health administrator 1.

(5) 2FL2 Mental health administrator 2.

(6) 2FL3 Mental health administrator 3.

(7) 2AN3 Substance abuse counselor 3.

(8) 2AN4 Substance abuse counselor 4.

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(9) 2AN5 Substance abuse counselor 5.
(10) 2AH2 Social services specialist 2.
(11) 2AH3 Social services specialist 3.
(12) 2AH4 Social services specialist 4.
(13) 2AI1 Psychiatric services director 1.
(14) 2AE2 Psychiatric social services specialist 2.
(15) 2AE3 Psychiatric social services specialist 3.

SECTION 111. IC 27-8-12-7.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7.1. The department of insurance shall adopt rules under IC 4-22-2 that establish standards for the qualification of a long term care policy under IC 12-15-39.6. The rules must include the following:

(1) The standards adopted under section 7 of this chapter.
(2) The requirement that an insurer or other person who issues a qualified long term care policy must at a minimum offer to each policyholder or prospective policyholder a policy that provides both:
(A) long term care facility coverage; and
(B) home and community care coverage.
(3) A provision that an insurer or other person who complies with subdivision (2) may elect to also offer a qualified long term care policy that provides only long term care facility coverage.
(4) The submission of data by insurers that will allow the department of insurance, the office of Medicaid policy and planning, and the division of ~~disability~~ aging ~~and rehabilitative services~~ to administer the Indiana long term care program under IC 12-15-39.6.
(5) Other standards needed to administer the Indiana long term care program.

SECTION 112. IC 29-3-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. The chief of social services (or a person designated by the chief of social services) at any institution under the control of the division of mental health and addiction or the division of disability ~~aging,~~ and rehabilitative services may execute the necessary documents to make applications on behalf of a patient in the institution to receive public assistance or to transfer the patient to an alternate care facility without the appointment of a guardian or other order of court.

SECTION 113. IC 34-30-2-43.9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 43.9. ~~IC 12-10-17-13(b)~~ **IC 12-10-17.1-14(b)** (Concerning actions of a personal services attendant).

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SECTION 114. IC 35-46-1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 13. (a) A person who:

(1) believes or has reason to believe that an endangered adult is the victim of battery, neglect, or exploitation as prohibited by this chapter, IC 35-42-2-1(a)(2)(C), or IC 35-42-2-1(a)(2)(E); and

(2) knowingly fails to report the facts supporting that belief to the division of disability ~~aging,~~ and rehabilitative services, **the division of aging,** the adult protective services unit designated under IC 12-10-3, or a law enforcement agency having jurisdiction over battery, neglect, or exploitation of an endangered adult;

commits a Class B misdemeanor.

(b) An officer or employee of the division or adult protective services unit who unlawfully discloses information contained in the records of the division of ~~disability~~ aging ~~and rehabilitative services~~ under IC 12-10-3-12 through IC 12-10-3-16 commits a Class C infraction.

(c) A law enforcement agency that receives a report that an endangered adult is or may be a victim of battery, neglect, or exploitation as prohibited by this chapter, IC 35-42-2-1(a)(2)(C), or IC 35-42-2-1(a)(2)(E) shall immediately communicate the report to the adult protective services unit designated under IC 12-10-3.

(d) An individual who discharges, demotes, transfers, prepares a negative work performance evaluation, reduces benefits, pay, or work privileges, or takes other action to retaliate against an individual who in good faith makes a report under IC 12-10-3-9 concerning an endangered individual commits a Class A infraction.

SECTION 115. IC 36-2-14-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 18. (a) Notwithstanding IC 5-14-3-4(b)(1), when a coroner investigates a death, the office of the coroner is required to make available for public inspection and copying the following:

(1) The name, age, address, sex, and race of the deceased.

(2) The address where the dead body was found, or if there is no address the location where the dead body was found and, if different, the address where the death occurred, or if there is no address the location where the death occurred.

(3) The name of the agency to which the death was reported and the name of the person reporting the death.

(4) The name of any public official or governmental employee present at the scene of the death and the name of the person certifying or pronouncing the death.

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(5) Information regarding an autopsy (requested or performed) limited to the date, the person who performed the autopsy, where the autopsy was performed, and a conclusion as to:

(A) the probable cause of death;

(B) the probable manner of death; and

(C) the probable mechanism of death.

(6) The location to which the body was removed, the person determining the location to which the body was removed, and the authority under which the decision to remove the body was made.

(7) The records required to be filed by a coroner under section 6 of this chapter and the verdict and the written report required under section 10 of this chapter.

(b) A county coroner or a coroner's deputy who receives an investigatory record from a law enforcement agency shall treat the investigatory record with the same confidentiality as the law enforcement agency would treat the investigatory record.

(c) Notwithstanding any other provision of this section, a coroner shall make available a full copy of an autopsy report, other than a photograph, video recording, or audio recording of the autopsy, upon the written request of the next of kin of the decedent or of an insurance company investigating a claim arising from the death of the individual upon whom the autopsy was performed. The insurance company is prohibited from publicly disclosing any information contained in the report beyond that information that may otherwise be disclosed by a coroner under this section. This prohibition does not apply to information disclosed in communications in conjunction with the investigation, settlement, or payment of the claim.

(d) Notwithstanding any other provision of this section, a coroner shall make available a full copy of an autopsy report, other than a photograph, video recording, or audio recording of the autopsy, upon the written request of:

(1) the director of the division of disability ~~aging,~~ and rehabilitative services established by IC 12-9-1-1; ~~or~~

(2) the director of the division of mental health and addiction established by IC 12-21-1-1; **or**

(3) the director of the division of aging established by IC 12-9.1-1-1;

in connection with a division's review of the circumstances surrounding the death of an individual who received services from a division or through a division at the time of the individual's death.

SECTION 116. [EFFECTIVE JULY 1, 2006] **(a) As used in this SECTION, "program" refers to the self-directed in-home care**

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program under IC 12-10-17.1, as added by this act.

(b) The office of the secretary of family and social services established by IC 12-8-1-1 shall submit a report in electronic format under IC 5-14-6 to the legislative council before November 1, 2009 concerning the:

(1) implementation; and

(2) outcome;

of the program.

(c) This SECTION expires December 31, 2010.

SECTION 117. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2006]: IC 12-10-17; IC 12-24-1-10.

SECTION 118. **An emergency is declared for this act.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 41, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 5, line 21, strike "Muscatatuck State Developmental Center,".

Page 15, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 12. IC 12-7-2-14.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14.7. "Ancillary services", for purposes of ~~IC 12-10-17,~~ **IC 12-10-17.1,** has the meaning set forth in ~~IC 12-10-17-2.~~ **IC 12-10-17.1-2.**

SECTION 13. IC 12-7-2-18.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18.3. "Attendant care services", for purposes of ~~IC 12-10-17,~~ **IC 12-10-17.1,** has the meaning set forth in ~~IC 12-10-17-3.~~ **IC 12-10-17.1-3.**

SECTION 14. IC 12-7-2-20.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20.7. "Basic services", for purposes of ~~IC 12-10-17,~~ **IC 12-10-17.1,** has the meaning set forth in ~~IC 12-10-17-4.~~ **IC 12-10-17.1-4.**".

Page 18, between lines 2 and 3, begin a new paragraph and insert:

"SECTION 20. IC 12-7-2-103.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 103.5. "Health related services":

(1) for purposes of IC 12-10-15, has the meaning set forth in IC 12-10-15-2; and

(2) for purposes of ~~IC 12-10-17,~~ **IC 12-10-17.1,** has the meaning set forth in ~~IC 12-10-17-5.~~ **IC 12-10-17.1-5.**

SECTION 21. IC 12-7-2-117.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 117.1. "Individual in need of self-directed in-home care", for purposes of ~~IC 12-10-17,~~ **IC 12-10-17.1,** has the meaning set forth in ~~IC 12-10-17-6.~~ **IC 12-10-17.1-6.**

SECTION 22. IC 12-7-2-122.9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 122.9. "Licensed health professional", for purposes of ~~IC 12-10-17,~~ **IC 12-10-17.1,** has the meaning set forth in ~~IC 12-10-17-7.~~ **IC 12-10-17.1-7.**

SECTION 23. IC 12-7-2-137.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 137.3. "Personal services attendant", for purposes of ~~IC 12-10-17,~~ **IC 12-10-17.1,** has the meaning set forth in ~~IC 12-10-17-8.~~ **IC 12-10-17.1-8.**

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SECTION 24. IC 12-7-2-138 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 138. "Physician" means the following:

(1) For purposes of ~~IC 12-10-17~~ **IC 12-10-17.1** and IC 12-15-35, an individual who is licensed to practice medicine in Indiana under IC 25-22.5.

(2) For purposes of IC 12-26, either of the following:

(A) An individual who holds a license to practice medicine under IC 25-22.5.

(B) A medical officer of the United States government who is in Indiana performing the officer's official duties.

SECTION 25. IC 12-7-2-174.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 174.5. "Self-directed in-home health care", for purposes of ~~IC 12-10-17,~~ **IC 12-10-17.1,** has the meaning set forth in ~~IC 12-10-17-9.~~ **IC 12-10-17.1-9.**

SECTION 26. IC 12-7-2-184 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 184. (a) "State institution" means an institution:

(1) owned or operated by the state;

(2) for the observation, care, treatment, or detention of an individual; and

(3) under the administrative control of a division.

(b) The term includes the following:

~~(1) Central State Hospital.~~

~~(2)~~ **(1)** Evansville State Hospital.

~~(3)~~ **(2)** Evansville State Psychiatric Treatment Center for Children.

~~(4)~~ **(3)** Fort Wayne State Developmental Center.

~~(5)~~ **(4)** Larue D. Carter Memorial Hospital.

~~(6)~~ **(5)** Logansport State Hospital.

~~(7)~~ **(6)** Madison State Hospital.

~~(8) Muscatatuck State Developmental Center.~~

~~(9)~~ **(7)** Richmond State Hospital.".

Page 19, line 40, strike "disability".

Page 19, line 40, reset in roman "aging,".

Page 19, line 40, strike "and rehabilitative services,".

Page 20, line 41, after "services," insert "**the division of aging,**".

Page 25, between lines 29 and 30, begin a new paragraph and insert:

"SECTION 40. IC 12-10-3-29.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 29.5. (a) Except as provided in**

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subsection (b), an adult protective services unit or a staff member of the adult protective services unit on the basis of the staff member's employment may not be designated as:

(1) a personal representative;

(2) a health care representative;

(3) a guardian;

(4) a guardian ad litem; or

(5) any other type of representative;

for an endangered adult.

(b) The:

(1) county prosecutor in the county in which the adult protective services unit is located; or

(2) head of the governmental entity if the adult protective services unit is operated by a governmental entity;

may give written permission for an adult protective services unit or a staff member of the adult protective services unit to be designated as a representative described in subsection (a)(1) through (a)(5).".

Page 30, between lines 2 and 3, begin a new paragraph and insert:

"SECTION 43. IC 12-10-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter, "community and home care services" means services provided within the limits of available funding to an eligible individual. The term includes the following:

(1) Homemaker services and attendant care, including personal care services.

(2) Respite care services and other support services for primary or family caregivers.

(3) Adult day care services.

(4) Home health services and supplies.

(5) Home delivered meals.

(6) Transportation.

(7) Attendant care services provided by a registered personal services attendant under ~~IC 12-10-17~~ **IC 12-10-17.1** to persons described in ~~IC 12-10-17-6.~~ **IC 12-10-17.1-6.**

(8) Other services necessary to prevent institutionalization of eligible individuals when feasible.

SECTION 44. IC 12-10-17.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 17.1. Individuals in Need of Self-Directed In-Home Care

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Sec. 1. This chapter does not apply to the following:

(1) An individual who provides attendant care services and who is employed by and under the direct control of a home health agency (as defined in IC 12-15-34-1).

(2) An individual who provides attendant care services and who is employed by and under the direct control of a licensed hospice program under IC 16-25.

(3) An individual who provides attendant care services and who is employed by and under the control of an employer that is not the individual who is receiving the services.

(4) A practitioner (as defined in IC 25-1-9-2) who is practicing under the scope of the practitioner's license (as defined in IC 25-1-9-3).

Sec. 2. As used in this chapter, "ancillary services" means services ancillary to the basic services provided to an individual in need of self-directed in-home care who needs at least one (1) of the basic services (as defined in section 4 of this chapter). The term includes the following:

(1) Homemaker services, including shopping, laundry, cleaning, and seasonal chores.

(2) Companion services, including transportation, letter writing, mail reading, and escort services.

(3) Assistance with cognitive tasks, including managing finances, planning activities, and making decisions.

Sec. 3. As used in this chapter, "attendant care services" means those basic and ancillary services that the individual chooses to direct and supervise a personal services attendant to perform and that enable an individual in need of self-directed in-home care to live in the individual's home and community rather than in an institution and to carry out functions of daily living, self-care, and mobility.

Sec. 4. As used in this chapter, "basic services" means a function that could be performed by the individual in need of self-directed in-home care if the individual were not physically disabled. The term includes the following:

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

(2) Assistance with routine bodily functions, including:

(A) health related services (as defined in section 5 of this chapter);

(B) bathing and personal hygiene;

(C) dressing and grooming; and

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(D) feeding, including preparation and cleanup.

Sec. 5. As used in this chapter, "health related services" means those medical activities that, in the written opinion of the attending physician submitted to the case manager of the individual in need of self-directed in-home care, could be performed by the individual if the individual were physically capable, and if the medical activities can be safely performed in the home, and:

(1) are performed by a person who has been trained or instructed on the performance of the medical activities by an individual in need of self-directed in-home care who is, in the written opinion of the attending physician submitted to the case manager of the individual in need of self-directed in-home care, capable of training or instructing the person who will perform the medical activities; or

(2) are performed by a person who has received training or instruction from a licensed health professional, within the professional's scope of practice, in how to properly perform the medical activity for the individual in need of self-directed in-home care.

Sec. 6. As used in this chapter, "individual in need of self-directed in-home care" means a disabled individual, or person responsible for making health related decisions for the disabled individual, who:

(1) is approved to receive Medicaid waiver services under 42 U.S.C. 1396n(c), or is a participant in the community and home options to institutional care for the elderly and disabled program under IC 12-10-10;

(2) is in need of attendant care services because of impairment;

(3) requires assistance to complete functions of daily living, self-care, and mobility, including those functions included in attendant care services;

(4) chooses to self-direct a paid personal services attendant to perform attendant care services; and

(5) assumes the responsibility to initiate self-directed in-home care and exercise judgment regarding the manner in which those services are delivered, including the decision to employ, train, and dismiss a personal services attendant.

Sec. 7. As used in this chapter, "licensed health professional" means any of the following:

(1) A registered nurse.

(2) A licensed practical nurse.

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(3) A physician with an unlimited license to practice medicine or osteopathic medicine.
(4) A licensed dentist.
(5) A licensed chiropractor.
(6) A licensed optometrist.
(7) A licensed pharmacist.
(8) A licensed physical therapist.
(9) A certified occupational therapist.
(10) A certified psychologist.
(11) A licensed podiatrist.
(12) A licensed speech-language pathologist or audiologist.

Sec. 8. As used in this chapter, "personal services attendant" means an individual who is registered to provide attendant care services under this chapter and who has entered a contract with an individual and acts under the individual's direction to provide attendant care services that could be performed by the individual if the individual were physically capable.

Sec. 9. As used in this chapter, "self-directed in-home health care" means the process by which an individual, who is prevented by a disability from performing basic and ancillary services that the individual would perform if not disabled, chooses to direct and supervise a paid personal services attendant to perform those services in order for the individual to live in the individual's home and community rather than an institution.

Sec. 10. (a) An individual may not provide attendant care services for compensation from Medicaid or the community and home options to institutional care for the elderly and disabled program for an individual in need of self-directed in-home care services unless the individual is registered under section 12 of this chapter.

(b) An individual who is a legally responsible relative of an individual in need of self-directed in-home care, including a parent of a minor individual and a spouse, is precluded from providing attendant care services for compensation under this chapter.

Sec. 11. An individual who desires to provide attendant care services must register with the division or with an organization designated by the division.

Sec. 12. (a) The division shall register an individual who provides the following:

(1) A personal resume containing information concerning the individual's qualifications, work experience, and any credentials the individual may hold. The individual must

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certify that the information contained in the resume is true and accurate.

(2) The individual's limited criminal history check from the Indiana central repository for criminal history information under IC 10-13-3 or another source allowed by law.

(3) If applicable, the individual's state nurse aide registry report from the state department of health. This subdivision does not require an individual to be a nurse aide.

(4) Three (3) letters of reference.

(5) A registration fee. The division shall establish the amount of the registration fee.

(6) Proof that the individual is at least eighteen (18) years of age.

(7) Any other information required by the division.

(b) A registration is valid for two (2) years. A personal services attendant may renew the personal services attendant's registration by updating any information in the file that has changed and by paying the fee required under subsection (a)(5). The limited criminal history check and report required under subsection (a)(2) and (a)(3) must be updated every two (2) years.

(c) The division and any organization designated under section 11 of this chapter shall maintain a file for each personal services attendant that contains:

(1) comments related to the provision of attendant care services submitted by an individual in need of self-directed in-home care who has employed the personal services attendant; and

(2) the items described in subsection (a)(1) through (a)(4).

(d) Upon request, the division shall provide to an individual in need of self-directed in-home care the following:

(1) Without charge, a list of personal services attendants who are registered with the division and available within the requested geographic area.

(2) A copy of the information of a specified personal services attendant who is on file with the division under subsection (c). The division may charge a fee for shipping, handling, and copying expenses.

Sec. 13. The case manager of an individual in need of self-directed in-home care shall maintain an attending physician's written opinion submitted under section 5 of this chapter in a case file that is maintained for the individual by the case manager.

Sec. 14. (a) A personal services attendant who is hired by the

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individual in need of self-directed in-home care is an employee of the individual in need of self-directed in-home care.

(b) The division is not liable for any actions of a personal services attendant or an individual in need of self-directed in-home care.

(c) A personal services attendant and an individual in need of self-directed in-home care are each liable for any negligent or wrongful act or omission in which the person personally participates.

Sec. 15. (a) Except as provided in subsection (b), an individual in need of self-directed in-home care is responsible for recruiting, hiring, training, paying, certifying any employment related documents, dismissing, and supervising in the individual's home during service hours a personal services attendant who provides attendant care services for the individual.

(b) If an individual in need of self-directed in-home care is:

(1) less than twenty-one (21) years of age; or

(2) unable to direct in-home care because of a brain injury or mental deficiency;

the individual's parent, spouse, legal guardian, or a person possessing a valid power of attorney may make employment, care, and training decisions and certify any employment related documents on behalf of the individual.

(c) An individual in need of self-directed in-home care or an individual under subsection (b) and the individual's case manager shall develop an authorized care plan. The authorized care plan must include a list of weekly services or tasks that must be performed to comply with the authorized care plan.

Sec. 16. The division shall adopt rules under IC 4-22-2 concerning:

(1) the method of payment to a personal services attendant who provides authorized services under this chapter; and

(2) record keeping requirements for personal attendant services.

Sec. 17. The individual in need of self-directed in-home care and the personal services attendant must each sign a contract, in a form approved by the division, that includes, at a minimum, the following provisions:

(1) The responsibilities of the personal services attendant.

(2) The frequency the personal services attendant will provide attendant care services.

(3) The duration of the contract.

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(4) The hourly wage of the personal services attendant. The wage may not be less than the federal minimum wage or more than the rate that the recipient is eligible to receive under a Medicaid home and community based services waiver or the community and home options to institutional care for the elderly and disabled program for attendant care services.

(5) Reasons and notice agreements for early termination of the contract.

Sec. 18. (a) The office shall amend the home and community based services waiver program under the state Medicaid plan to provide for the payment for attendant care services provided by a personal services attendant for an individual in need of self-directed in-home care under this chapter, including any related record keeping and employment expenses.

(b) The office shall not, to the extent permitted by federal law, consider as income money paid under this chapter to or on behalf of an individual in need of self-directed in-home care to enable the individual to employ registered personal services attendants, for purposes of determining the individual's income eligibility for services under this chapter.

Sec. 19. The division may:

(1) initiate demonstration projects to test new ways of providing attendant care services; and

(2) research ways to best provide attendant care services in urban and rural areas.

Sec. 20. (a) The division and office may adopt rules under IC 4-22-2 that are necessary to implement this chapter.

(b) The office shall apply for any federal waivers necessary to implement this chapter.

Sec. 21. The division shall adopt rules under IC 4-22-2 concerning the following:

(1) The receipt, review, and investigation of complaints concerning the:

(A) neglect;

(B) abuse;

(C) mistreatment; or

(D) misappropriation of property;

of an individual in need of self-directed in-home care by a personal services attendant.

(2) Establishing notice and administrative hearing procedures in accordance with IC 4-21.5.

(3) Appeal procedures, including judicial review of

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administrative hearings.

(4) Procedures to place a personal services attendant who has been determined to have been guilty of:

(A) neglect;

(B) abuse;

(C) mistreatment; or

(D) misappropriation of property;

of an individual in need of self-directed in-home care on the state nurse aide registry.".

Page 35, strike line 31.

Page 35, line 32, strike "(3)" and insert "**(2)**".

Page 35, between lines 32 and 33, begin a new paragraph and insert:

"SECTION 58. IC 12-24-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) The director of the division of mental health and addiction has administrative control of and responsibility for the following state institutions:

~~(1) Central State Hospital.~~

~~(2)~~ **(1)** Evansville State Hospital.

~~(3)~~ **(2)** Evansville State Psychiatric Treatment Center for Children.

~~(4)~~ **(3)** Larue D. Carter Memorial Hospital.

~~(5)~~ **(4)** Logansport State Hospital.

~~(6)~~ **(5)** Madison State Hospital.

~~(7)~~ **(6)** Richmond State Hospital.

~~(8)~~ **(7)** Any other state owned or operated mental health institution.

(b) Subject to the approval of the director of the budget agency and the governor, the director of the division of mental health and addiction may contract for the management and clinical operation of Larue D. Carter Memorial Hospital.

(c) The following applies only to the institutions described in subsection ~~(a)(2)~~ **(a)(1)** and ~~(a)(3).~~ **(a)(2):**

(1) Notwithstanding any other statute or policy, the division of mental health and addiction may not do the following after December 31, 2001, unless specifically authorized by a statute enacted by the general assembly:

(A) Terminate, in whole or in part, normal patient care or other operations at the facility.

(B) Reduce the staffing levels and classifications below those in effect at the facility on January 1, 2002.

(C) Terminate the employment of an employee of the facility except in accordance with IC 4-15-2.

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(2) The division of mental health and addiction shall fill a vacancy created by a termination described in subdivision (1)(C) so that the staffing levels at the facility are not reduced below the staffing levels in effect on January 1, 2002.

(3) Notwithstanding any other statute or policy, the division of mental health and addiction may not remove, transfer, or discharge any patient at the facility unless the removal, transfer, or discharge is in the patient's best interest and is approved by:

(A) the patient or the patient's parent or guardian;

(B) the individual's gatekeeper; and

(C) the patient's attending physician.

(d) The Evansville State Psychiatric Treatment Center for Children shall remain independent of Evansville State Hospital and the southwestern Indiana community mental health center, and the Evansville State Psychiatric Treatment Center for Children shall continue to function autonomously unless a change in administration is specifically authorized by an enactment of the general assembly.".

Page 37, delete lines 34 through 42.

Delete pages 38 through 39.

Page 40, delete lines 1 through 3.

Page 48, between lines 40 and 41, begin a new paragraph and insert:

"SECTION 77. IC 16-27-1-5, AS AMENDED BY P.L.212-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) As used in this chapter, "home health services" means services that:

(1) are provided to a patient by:

(A) a home health agency; or

(B) another person under an arrangement with a home health agency;

in the temporary or permanent residence of the patient; and

(2) either, are required by law to be:

(A) ordered by a licensed physician, a licensed dentist, a licensed chiropractor, a licensed podiatrist, or a licensed optometrist for the service to be performed; or

(B) performed only by a health care professional.

(b) The term includes the following:

(1) Nursing treatment and procedures.

(2) Physical therapy.

(3) Occupational therapy.

(4) Speech therapy.

(5) Medical social services.

(6) Home health aide services.

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(7) Other therapeutic services.

(c) The term does not apply to the following:

(1) Services provided by a physician licensed under IC 25-22.5.

(2) Incidental services provided by a licensed health facility to patients of the licensed health facility.

(3) Services provided by employers or membership organizations using health care professionals for their employees, members, and families of the employees or members if the health or home care services are not the predominant purpose of the employer or a membership organization's business.

(4) Nonmedical nursing care given in accordance with the tenets and practice of a recognized church or religious denomination to a patient who depends upon healing by prayer and spiritual means alone in accordance with the tenets and practices of the patient's church or religious denomination.

(5) Services that are allowed to be performed by an attendant under IC 16-27-1-10.

(6) Authorized services provided by a personal services attendant under ~~IC 12-10-17.~~ **IC 12-10-17.1.**

SECTION 78. IC 16-27-4-4, AS ADDED BY P.L.212-2005, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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.~~ **IC 12-10-17.1.**

(4) Services that require the order of a health care professional for the services to be lawfully performed in Indiana.

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(5) Assisted living Medicaid waiver services.

(6) Services that are performed by a facility described in IC 12-10-15.".

Page 50, between lines 15 and 16, begin a new paragraph and insert:

"SECTION 81. IC 16-28-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) As used in this chapter, "other unlicensed employee" means:

(1) an employee of a health facility;

(2) a hospital based health facility; or

(3) a personal services attendant (as defined ~~by IC 12-10-17-8);~~ **in IC 12-10-17.1-8);**

who is not licensed (as defined in IC 25-1-9-3) by a board (as defined in IC 25-1-9-1).

(b) The term does not include an employee of an ambulatory outpatient surgical center, a home health agency, a hospice program, or a hospital that is not licensed (as defined in IC 25-1-9-3) by a board (as defined in IC 25-1-9-1).".

Page 63, between lines 30 and 31, begin a new paragraph and insert:

"SECTION 98. IC 22-1-5-2, AS ADDED BY P.L.212-2005, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter, "companion type services" refers to services described in ~~IC 12-10-17-2(2).~~ **IC 12-10-17.1-2(2).**".

Page 64, between lines 18 and 19, begin a new paragraph and insert:

"SECTION 101. IC 25-22.5-1-2, AS AMENDED BY P.L.212-2005, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) This article, as it relates to the unlawful or unauthorized practice of medicine or osteopathic medicine, does not apply to any of the following:

(1) A student in training in a medical school approved by the board, or while performing duties as an intern or a resident in a hospital under the supervision of the hospital's staff or in a program approved by the medical school.

(2) A person who renders service in case of emergency where no fee or other consideration is contemplated, charged, or received.

(3) A paramedic (as defined in IC 16-18-2-266), an emergency medical technician-basic advanced (as defined in IC 16-18-2-112.5), an emergency medical technician-intermediate (as defined in IC 16-18-2-112.7), an emergency medical technician (as defined in IC 16-18-2-112), or a person with equivalent certification from another state who renders advanced life support (as defined in IC 16-18-2-7) or basic life support (as

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defined in IC 16-18-2-33.5):

(A) during a disaster emergency declared by the governor under IC 10-14-3-12 in response to an act that the governor in good faith believes to be an act of terrorism (as defined in IC 35-41-1-26.5); and

(B) in accordance with the rules adopted by the Indiana emergency medical services commission or the disaster emergency declaration of the governor.

(4) Commissioned medical officers or medical service officers of the armed forces of the United States, the United States Public Health Service, and medical officers of the United States Department of Veterans Affairs in the discharge of their official duties in Indiana.

(5) An individual who is not a licensee who resides in another state or country and is authorized to practice medicine or osteopathic medicine there, who is called in for consultation by an individual licensed to practice medicine or osteopathic medicine in Indiana.

(6) A person administering a domestic or family remedy to a member of the person's family.

(7) A member of a church practicing the religious tenets of the church if the member does not make a medical diagnosis, prescribe or administer drugs or medicines, perform surgical or physical operations, or assume the title of or profess to be a physician.

(8) A school corporation and a school employee who acts under IC 34-30-14 (or IC 34-4-16.5-3.5 before its repeal).

(9) A chiropractor practicing the chiropractor's profession under IC 25-10 or to an employee of a chiropractor acting under the direction and supervision of the chiropractor under IC 25-10-1-13.

(10) A dental hygienist practicing the dental hygienist's profession under IC 25-13.

(11) A dentist practicing the dentist's profession under IC 25-14.

(12) A hearing aid dealer practicing the hearing aid dealer's profession under IC 25-20.

(13) A nurse practicing the nurse's profession under IC 25-23. However, a registered nurse may administer anesthesia if the registered nurse acts under the direction of and in the immediate presence of a physician and holds a certificate of completion of a course in anesthesia approved by the American Association of Nurse Anesthetists or a course approved by the board.

(14) An optometrist practicing the optometrist's profession under

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IC 25-24.
(15) A pharmacist practicing the pharmacist's profession under IC 25-26.
(16) A physical therapist practicing the physical therapist's profession under IC 25-27.
(17) A podiatrist practicing the podiatrist's profession under IC 25-29.
(18) A psychologist practicing the psychologist's profession under IC 25-33.
(19) A speech-language pathologist or audiologist practicing the pathologist's or audiologist's profession under IC 25-35.6.
(20) An employee of a physician or group of physicians who performs an act, a duty, or a function that is customarily within the specific area of practice of the employing physician or group of physicians, if the act, duty, or function is performed under the direction and supervision of the employing physician or a physician of the employing group within whose area of practice the act, duty, or function falls. An employee may not make a diagnosis or prescribe a treatment and must report the results of an examination of a patient conducted by the employee to the employing physician or the physician of the employing group under whose supervision the employee is working. An employee may not administer medication without the specific order of the employing physician or a physician of the employing group. Unless an employee is licensed or registered to independently practice in a profession described in subdivisions (9) through (18), nothing in this subsection grants the employee independent practitioner status or the authority to perform patient services in an independent practice in a profession.
(21) A hospital licensed under IC 16-21 or IC 12-25.
(22) A health care organization whose members, shareholders, or partners are individuals, partnerships, corporations, facilities, or institutions licensed or legally authorized by this state to provide health care or professional services as:
(A) a physician;
(B) a psychiatric hospital;
(C) a hospital;
(D) a health maintenance organization or limited service health maintenance organization;
(E) a health facility;
(F) a dentist;
(G) a registered or licensed practical nurse;

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(H) a midwife;
(I) an optometrist;
(J) a podiatrist;
(K) a chiropractor;
(L) a physical therapist; or
(M) a psychologist.

(23) A physician assistant practicing the physician assistant's profession under IC 25-27.5.

(24) A physician providing medical treatment under IC 25-22.5-1-2.1.

(25) An attendant who provides attendant care services (as defined in IC 16-18-2-28.5).

(26) A personal services attendant providing authorized attendant care services under ~~IC 12-10-17.~~ **IC 12-10-17.1.**

(b) A person described in subsection (a)(9) through (a)(18) is not excluded from the application of this article if:

(1) the person performs an act that an Indiana statute does not authorize the person to perform; and

(2) the act qualifies in whole or in part as the practice of medicine or osteopathic medicine.

(c) An employment or other contractual relationship between an entity described in subsection (a)(21) through (a)(22) and a licensed physician does not constitute the unlawful practice of medicine under this article if the entity does not direct or control independent medical acts, decisions, or judgment of the licensed physician. However, if the direction or control is done by the entity under IC 34-30-15 (or IC 34-4-12.6 before its repeal), the entity is excluded from the application of this article as it relates to the unlawful practice of medicine or osteopathic medicine.

(d) This subsection does not apply to a prescription or drug order for a legend drug that is filled or refilled in a pharmacy owned or operated by a hospital licensed under IC 16-21. A physician licensed in Indiana who permits or authorizes a person to fill or refill a prescription or drug order for a legend drug except as authorized in IC 16-42-19-11 through IC 16-42-19-19 is subject to disciplinary action under IC 25-1-9. A person who violates this subsection commits the unlawful practice of medicine under this chapter.

(e) A person described in subsection (a)(8) shall not be authorized to dispense contraceptives or birth control devices.

SECTION 102. IC 25-23-1-27.1, AS AMENDED BY P.L.212-2005, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27.1. (a) As used in this section, "licensed

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health professional" means:

(1) a registered nurse;

(2) a licensed practical nurse;

(3) a physician with an unlimited license to practice medicine or osteopathic medicine;

(4) a licensed dentist;

(5) a licensed chiropractor;

(6) a licensed optometrist;

(7) a licensed pharmacist;

(8) a licensed physical therapist;

(9) a licensed psychologist;

(10) a licensed podiatrist; or

(11) a licensed speech-language pathologist or audiologist.

(b) This chapter does not prohibit:

(1) furnishing nursing assistance in an emergency;

(2) the practice of nursing by any student enrolled in a board approved nursing education program where such practice is incidental to the student's program of study;

(3) the practice of any nurse who is employed by the government of the United States or any of its bureaus, divisions, or agencies while in the discharge of the nurse's official duties;

(4) the gratuitous care of sick, injured, or infirm individuals by friends or the family of that individual;

(5) the care of the sick, injured, or infirm in the home for compensation if the person assists only:

(A) with personal care;

(B) in the administration of a domestic or family remedy; or

(C) in the administration of a remedy that is ordered by a licensed health professional and that is within the scope of practice of the licensed health professional under Indiana law;

(6) performance of tasks by persons who provide health care services which are delegated or ordered by licensed health professionals, if the delegated or ordered tasks do not exceed the scope of practice of the licensed health professionals under Indiana law;

(7) a physician with an unlimited license to practice medicine or osteopathic medicine in Indiana, a licensed dentist, chiropractor, dental hygienist, optometrist, pharmacist, physical therapist, podiatrist, psychologist, speech-language pathologist, or audiologist from practicing the person's profession;

(8) a school corporation or school employee from acting under IC 34-30-14;

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(9) a personal services attendant from providing authorized attendant care services under ~~IC 12-10-17,~~ **IC 12-10-17.1;** or

(10) an attendant who provides attendant care services (as defined in IC 16-18-2-28.5).".

Page 65, line 17, strike "disability".

Page 65, line 17, delete "aging," and insert "aging".

Page 65, line 17, strike "and rehabilitative".

Page 65, line 18, strike "services".

Page 65, line 26, after "addiction" delete ",".

Page 65, line 26, reset in roman "or".

Page 65, line 26, after "services" delete ",".

Page 65, line 27, delete "or the division of aging".

Page 65, between lines 30 and 31, begin a new paragraph and insert:

"SECTION 106. IC 34-30-2-43.9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 43.9. ~~IC 12-10-17-13(b)~~ **IC 12-10-17.1-14(b)** (Concerning actions of a personal services attendant).".

Page 67, after line 28, begin a new paragraph and insert:

"SECTION 109. [EFFECTIVE JULY 1, 2006] **(a) As used in this SECTION, "program" refers to the self-directed in-home care program under IC 12-10-17.1, as added by this act.**

(b) The office of the secretary of family and social services established by IC 12-8-1-1 shall submit a report in electronic format under IC 5-14-6 to the legislative council before November 1, 2009 concerning the:

(1) implementation; and

(2) outcome;

of the program.

(c) This SECTION expires December 31, 2010.

SECTION 110. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2006]: IC 12-10-17; IC 12-24-1-10.

SECTION 111. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 41 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 8, Nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Senate Bill 41, 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 3, line 21, delete "P.L.246-2005," and insert "HEA 1040-2006, SECTION 6,".

Page 3, line 22, delete "SECTION 37,".

Page 4, delete lines 7 through 15, begin a new line block indented and insert:

"(10) Indiana professional licensing agency.

(11) Department of insurance, with respect to licensing of insurance producers.

(12) A pension fund administered by the board of trustees of the public employees' retirement fund.

(13) The Indiana state teachers' retirement fund.

(14) The state police benefit system.

(15) The alcohol and tobacco commission.".

Page 4, line 27, delete "the health professions bureau,".

Page 5, line 9, delete "P.L.218-2005," and insert "HEA 1040-2006, SECTION 66,".

Page 5, line 10, delete "SECTION 2,".

Page 5, line 35, delete "fire and" and insert "homeland security".

Page 5, delete line 36.

Page 5, run in lines 35 and 37.

Page 11, line 9, after "5-20-4-15" insert ", AS AMENDED BY HEA 1040-2006, SECTION 121,".

Page 11, line 20, delete "department of commerce.".

Page 11, line 20, reset in roman "office of".

Page 11, line 21, rest in roman "the lieutenant governor.".

Page 12, line 6, delete "finance" and insert "and community development".

Page 12, line 19, delete "finance" and insert "and community development".

Page 24, line 20, after "5." insert "**(a)**".

Page 24, delete lines 21 through 27, begin a new line block indented and insert:

"(1) home health agencies licensed under IC 16-27-1 are ~~approved~~ **automatically certified as providers** to provide home health services; and

(2) personal services agencies licensed under IC 16-27-4 are ~~approved~~ **automatically certified as providers** to provide

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personal services;

under any federal waiver granted to the state under 42 U.S.C. 1315 or 42 U.S.C. 1396n, **upon the provider furnishing proof of licensure to the agency responsible for certifying the provider under the waiver.**

(b) A provider who is eligible for certification under subsection (a) needs only to obtain and maintain a home health agency license or a personal services agency license through the state department of health to be certified as a:

(1) home health agency provider of home health services; or

(2) personal services agency provider of personal services;

under a federal waiver granted to the state under 42 U.S.C. 1315 or 42 U.S.C. 1396n.

(c) Except for requirements directly related to claims submission and claims payment, a provider that is certified under subsection (a) is exempt from the rules, bulletins, and other regulatory requirements adopted by the office of the secretary.

(d) For purposes of this section, the home health services that a licensed home health agency may provide include the following:

(1) Respite care services.

(2) Speech language therapy services.

(3) Occupational therapy services.

(4) Physical therapy services.

(5) Nursing services.

(6) Transportation services.

(7) Residential habilitation services.

(8) Community based habilitation services.

(e) For purposes of this section, the personal services that a licensed personal services agency may provide include the following:

(1) Respite care services.

(2) Homemaker services.

(3) Companion services.

(4) Attendant care services.".

Page 40, between lines 30 and 31, begin a new paragraph and insert:

"SECTION 50. IC 12-12-8-2, AS AMENDED BY P.L.217-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. As used in this chapter, "consumer control" means, with respect to a center for independent living or an eligible agency: ~~that:~~

(1) **that** the center or eligible agency vests power and authority in individuals with disabilities, including individuals who are or

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have been recipients of independent living services; and

(2) **that:**

(A) at least fifty-one percent (51%) of the **members of the** center's board **have significant disabilities;** and

(B) a majority of the center's staff **and employees in decision making positions** are individuals with disabilities.

SECTION 51. IC 12-12-8-3.8, AS ADDED BY P.L.217-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3.8. As used in this chapter, "state plan" means the materials jointly developed and submitted by the council and the division to the commissioner containing the state's proposals for the following:

(1) The ~~provision of statewide~~ **proposal for providing** independent living services **with federal funds under Title VII, Part B of the federal act.**

(2) The development and support of a statewide network of centers for independent living.

(3) Working relationships among:

(A) programs providing independent living services and independent living centers; and

(B) the vocational rehabilitation program administered by the division under the federal act and other programs providing services for individuals with disabilities.

SECTION 52. IC 12-12-8-5, AS ADDED BY P.L.217-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. The division is designated as the state unit under Title VII of the federal act and has the following responsibilities:

(1) To receive, account for, and disburse funds received by the state under the federal act based on the state plan.

(2) To provide administrative **assistance to** support ~~services to~~ **independent living programs and the activities of** centers ~~for independent living programs.~~ **under Title VII, Part B of the federal act.**

(3) To keep records and take actions with respect to the records as required by the commissioner.

(4) To submit additional information or provide assurances with respect to the independent living programs as required by the commissioner.

SECTION 53. IC 12-12-8-6, AS ADDED BY P.L.217-2005, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) There is established a statewide independent living council. The council is not a part of a state agency.

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

(1) Each director of a center for independent living located in Indiana.

(2) Nonvoting members from state agencies that provide services for individuals with disabilities.

(3) Other members, who may include the following:

(A) Representatives of centers for independent living.

(B) Parents and guardians of individuals with disabilities.

(C) Advocates for individuals with disabilities.

(D) Representatives from private business.

(E) ~~Representative~~ **Representatives** of organizations that provide services for individuals with disabilities.

(F) Other appropriate individuals.

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

(1) provide statewide representation;

(2) represent a broad range of individuals with disabilities from diverse backgrounds;

(3) be knowledgeable about centers for independent living and independent living services; and

(4) include a majority of members who:

(A) are individuals with ~~significant~~ disabilities; and

(B) are not employed by a state agency or a center for independent living.

SECTION 54. IC 12-12-8-10, AS ADDED BY P.L.217-2005, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. (a) The council has the powers and duties specified in this chapter.

(b) The council ~~may~~ **shall** do the following:

(1) Jointly develop and sign the state plan in conjunction with the designated state unit.

(2) Monitor, review, and evaluate the implementation of the state plan.

(3) Coordinate activities with the state rehabilitation council and other councils that address the needs of specific disability issues.

(4) Submit periodic reports to the funding sources and provide access to the records that are necessary to verify contents of the reports.

(5) Do other things necessary and proper to implement this chapter.

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

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notice.

SECTION 55. IC 12-12-8-11, AS ADDED BY P.L.217-2005, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. The division **and the council** shall **jointly** prepare the state plan that must be submitted to the commissioner.".

Page 69, line 41, delete "ADDED BY P.L.218-2005," and insert "AMENDED BY HEA 1040-2006, SECTION 335,".

Page 69, line 42, delete "SECTION 81,".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 41 as printed January 20, 2006.)

BROWN T, Chair

Committee Vote: yeas 10, nays 0.

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