

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6263

BILL NUMBER: SB 266

NOTE PREPARED: Mar 1, 2006

BILL AMENDED: Feb 28, 2006

SUBJECT: Confidentiality of Bariatric Surgery Reports.

FIRST AUTHOR: Sen. Miller

FIRST SPONSOR: Rep. T Brown

BILL STATUS: As Passed House

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State

Summary of Legislation: (Amended) This bill specifies that a physician's duty to monitor a bariatric surgery patient for five years applies unless the physician is unable to locate the patient after a reasonable effort. It establishes certain topics that must be discussed with a patient before bariatric surgery.

The bill provides that a report made by a physician to the State Department of Health of a death or serious side effect, or major complication of a patient who had surgical treatment for the treatment of morbid obesity is confidential. It specifies that statistical reports compiled by the State Department from the reported information are subject to public inspection.

The bill also requires 6 months of supervised nonsurgical treatment before health insurance, a state health care plan, or a health maintenance organization must cover surgical treatment for morbid obesity. (Current law requires 18 months of supervised nonsurgical treatment.)

The bill further requires the Office of Medicaid Policy and Planning (OMPP) to: (1) report changes to the Medicaid Plan to the Health Finance Commission and Legislative Council; and (2) submit certain information to the Select Joint Commission on Medicaid Oversight.

It also allows a managed care organization, upon approval by OMPP, to adopt a plan for the collection of a copayment for services that are provided to a Medicaid recipient in an emergency room.

Effective Date: July 1, 2006.

Explanation of State Expenditures: *Bariatric Surgery Reporting Requirements:* This bill specifies that reports to the State Department of Health that are required to be filed by physicians who perform bariatric surgeries are confidential. Current law provides that these reports are public records and are subject to public inspection. The reports are required to contain the gender of the patient, the name of the physician that performed the surgery, the location where the surgery was performed, and information concerning the death or complication and the circumstances in which the death or complication occurred. This revision should have no fiscal impact on the state.

Reduction of the Waiting Period for Bariatric Surgery: This bill requires the waiting period to be reduced for the required coverage of surgical treatment for morbid obesity for the state and local employee health benefit programs. To the extent that these provisions result in additional costs to the state's self-funded health benefit plan or to the health plans providing coverage to the state's employees, there could be additional costs of providing health benefits. If the plans pass the additional costs on to the state or local governments in the form of higher premiums and enrollment fees, there would be additional state or local costs in the provision of health benefits to employees. This surgery may also provide benefits that reduce affected individuals' health care expenses related to the comorbidities associated with morbid obesity. The extent to which the state self-funded health benefit plan and managed care premiums would reflect any offsetting savings is unknown.

(Revised) OMPP Reporting Requirements: The bill would require that OMPP report any changes to the Health Finance Commission and the Legislative Council within 30 days of any revisions in the Medicaid Plan. The bill further requires certain information regarding the cost of the provision of long-term care services be prepared and submitted to the Select Joint Commission on Medicaid Oversight by October 1, 2006. These requirements should be achievable within the existing level of funding available to the agency.

(Revised) Emergency Services Copayments for Managed Care Organizations: The bill would allow Managed Care Organizations, with OMPP approval, to adopt plans to collect copayments for services that were provided to a Medicaid managed care recipient in an emergency room. The bill specifies required components of the plans that may be adopted. The ultimate cost of this provision will be dependent upon administrative actions. However, federal regulations prohibit requiring a copayment from a pregnant woman, children under the age of 19, institutionalized individuals, or for true emergency services. (A large percentage of Medicaid managed care recipients are children and pregnant women who may not be charged copayments.) Additionally, if the Medicaid recipient cannot pay, the provider must still provide the service or products subject to copayments. If the patient does not pay the copay, the provider bears the cost since Medicaid reduces the reimbursement to the provider by the amount of the copayment.

Explanation of State Revenues:

Explanation of Local Expenditures: See *Explanation of State Expenditures* regarding the discussion concerning the reduction of the waiting period for bariatric surgery.

Explanation of Local Revenues:

State Agencies Affected: All

Local Agencies Affected: Local governments that provide health benefits to employees.

Information Sources: IC 5-10-8-7.7

Fiscal Analyst: Kathy Norris, 317-234-1360.