HOUSE BILL No. 1564

DIGEST OF INTRODUCED BILL

Citations Affected: IC 12-15-12-21; IC 16-18-2; IC 16-25.5.

Synopsis: Health matters. Requires a managed care organization to provide specified recipients with: (1) early periodic screening, diagnosis, and treatment services; and (2) lead screening; and to annually document the provision of these services to the office of Medicaid policy and planning. Establishes the dialysis facility council, and requires dialysis facilities to be licensed by the state department of health. Makes it a Class A misdemeanor for a person to knowingly or intentionally operate or advertise the operation of a dialysis facility without a license. Requires the state department of health to develop and provide a plan to ensure that health benefit plan providers in Indiana comply with the certain data measures.

Effective: Upon passage; July 1, 2007.

Crawford

January 23, 2007, read first time and referred to Committee on Public Health.

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Introduced

First Regular Session 115th General Assembly (2007)

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 2006 Regular Session of the General Assembly.

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HOUSE BILL No. 1564

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

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

SECTION 1. IC 12-15-12-21 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 21. (a) The office shall require a managed care organization that contracts with the office to provide the managed care organization's recipients with the following:**

(1) Early periodic screening, diagnosis, and treatment (EPSDT) services for a recipient who is less that twenty-one (21) years of age.

(2) Screening for lead poisoning for a recipient who is less than six (6) years of age.

(b) A managed care organization shall document the provision of services required under subsection (a) and submit the documentation annually to the office.

SECTION 2. IC 16-18-2-84 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 84. "Council" refers to the following:

(1) For purposes of IC 16-21, the hospital council.

(2) For purposes of IC 16-25 and IC 16-27, the home health care services and hospice services council.

(3) For purposes of IC 16-25.5, the dialysis facility council.

~~(3)~~ **(4)** For purposes of IC 16-28 and IC 16-29, the Indiana health facilities council.

~~(4)~~ **(5)** For purposes of IC 16-46-6, the interagency state council on black and minority health.

SECTION 3. IC 16-18-2-94.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 94.5. "Dialysis facility", for purposes of IC 16-25.5, means an entity that provides therapeutic or rehabilitative dialysis services required for the care of individuals with renal disease.**

SECTION 4. IC 16-25.5 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

ARTICLE 25.5. DIALYSIS FACILITIES

Chapter 1. Dialysis Facility Council

Sec. 1. (a) The dialysis facility council is established. The state department shall staff the council.

(b) The council consists of nine (9) members appointed by the governor as follows:

(1) Two (2) physicians, each of whom is:

(A) licensed under IC 25-22.5; and

(B) either:

(i) a qualified nephrologist; or

(ii) experienced in the care of patients with renal disease.

(2) One (1) registered nurse licensed under IC 25-23 and experienced in the care of patients with renal disease.

(3) Two (2) individuals engaged in the administration of facilities that provide dialysis services.

(4) One (1) individual engaged in hospital administration.

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

(6) One (1) representative of a statewide organization or association that assists kidney patients.

(7) One (1) individual who is not associated with a hospital or facility that provides dialysis, except as a consumer.

Sec. 2. (a) An appointment to the council is for four (4) years, beginning July 1 of the year of appointment. However, in the case of a vacancy, the appointee shall serve the remainder of the unexpired term. A vacancy shall be filled from the group

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represented by the outgoing member.

(b) The governor shall appoint a chairperson from the members of the council.

Sec. 3. A member of the council who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). A member is entitled to reimbursement for traveling expenses provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties, as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 4. (a) The first meeting of the council shall be called by the chairperson and held not later than thirty (30) days after the appointment of the members of the council. The council shall meet at least two (2) times each calendar year on dates fixed by the chairperson.

(b) Special meetings of the council shall be called by the chairperson at the request of any three (3) members of the council.

(c) Five (5) members constitute a quorum for the transaction of business.

Sec. 5. In the first meeting of the council and in the first annual meeting during each subsequent year, the council shall elect from the members a secretary who shall keep a record of all meetings. The term of secretary is one (1) year.

Sec. 6. At the request of the council, the state department may obtain the services of experts or other persons to assist the council in the formulation of policy or in conducting the council's business.

Sec. 7. (a) Except as provided in subsection (b), the council shall propose and the executive board may adopt rules under IC 4-22-2 necessary to protect the health, safety, rights, and welfare of patients, including the following:

(1) Rules pertaining to the licensure, operation, and management of a dialysis facility.

(2) Rules establishing standards for equipment, facilities, and staffing required for efficient and quality care of patients of a dialysis facility.

(b) The state department may request the council to propose a new rule or an amendment to an existing rule necessary to protect the health, safety, rights, and welfare of patients of a dialysis facility. If the council does not propose a rule within ninety (90) days of the state department's request, the state department may propose the department's own rule.

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(c) The state department shall consider the rules proposed by the council and may adopt, modify, remand, or reject specific rules or parts of rules proposed by the council.

Sec. 8. (a) The executive board may, upon recommendation by the state health commissioner and for good cause, waive a rule adopted under this chapter.

(b) Disapproval of a waiver request requires executive board action.

(c) A waiver may not adversely affect the health, safety, rights, or welfare of the patients.

Sec. 9. If a dialysis facility is part of a hospital, IC 16-21 applies.

Sec. 10. (a) Licensure inspections of a dialysis facility shall be made regularly in accordance with rules adopted under this chapter. The state department shall make all health and sanitation inspections, including inspections in response to an alleged breach of this chapter or rules adopted under this chapter. The division of fire and building safety shall make all fire safety inspections. The council may provide for other inspections necessary to implement this chapter.

(b) An employee of the state department who knowingly or intentionally informs a dialysis facility of the exact date of an unannounced inspection shall be suspended without pay for five (5) days for a first offense and shall be dismissed for a subsequent offense.

(c) Reports of all inspections must be in writing and sent to the inspected dialysis facility.

(d) The report of an inspection and records relating to the inspection may not be released to the public until the conditions set forth in IC 16-19-3-25 are satisfied.

Sec. 11. (a) The state department shall prepare an annual report concerning dialysis facilities. The report must provide a consumer with information concerning dialysis facilities in Indiana and include the following:

(1) The location of each licensed dialysis facility and the services provided at the facility.

(2) The inspection results of each dialysis facility.

(3) Any remedial or licensure action taken against a dialysis facility.

(4) Any other information the state department believes would assist a consumer.

(b) The state department shall post the report required in subsection (a) on the state department's Internet web site and

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provide a written copy of the report to an individual upon request.

Chapter 2. Licensure of Dialysis Facilities

Sec. 1. (a) The state department shall license and regulate dialysis facilities.

(b) A dialysis facility must be licensed by the state department in order to operate in the state.

Sec. 2. The council may determine if a dialysis facility is covered by this chapter. A decision of the council under this section is subject to review under IC 4-21.5.

Sec. 3. The state department shall administer this chapter with the advice of the council.

Sec. 4. (a) An applicant for a license under this chapter must submit an application for a license on a form prescribed by the state department showing that:

(1) the applicant is of reputable and responsible character; and

(2) the applicant is able to comply with the minimum standards for a dialysis facility and with rules adopted under this chapter.

(b) The submitted application must contain the following information:

(1) The name of the applicant.

(2) The location of the dialysis facility.

(3) The name of the person to be in charge of the dialysis facility.

(4) Other information required by the state department.

Sec. 5. An application for a license under this chapter must be accompanied by a licensing fee at a rate adopted by the council under IC 4-22-2.

Sec. 6. The state health commissioner may:

(1) issue a license upon receipt of the application without further evidence; or

(2) request additional information concerning the application and conduct an investigation to determine whether a license should be granted.

Sec. 7. A license issued under this chapter:

(1) expires one (1) year after the date of issuance;

(2) is not assignable or transferable;

(3) is issued only for the premises named on the application;

(4) must be posted in a conspicuous place in the dialysis facility for which the license was issued; and

(5) may be renewed each year upon the payment of a renewal

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fee at the renewal rate adopted by the council under IC 4-22-2.

Sec. 8. A dialysis facility that provides to a patient notice concerning a third party billing for a service provided to the patient shall ensure that the notice:

(1) conspicuously states that the notice is not a bill;

(2) does not include a tear-off portion; and

(3) is not accompanied by a return mailing envelope.

Chapter 3. Remedies for Violations

Sec. 1. The state health commissioner may take any of the following actions on any of the grounds listed in section 2 of this chapter:

(1) Issue a letter of correction.

(2) Issue a probationary license.

(3) Conduct a resurvey.

(4) Deny renewal of a license.

(5) Revoke a license.

(6) Impose a civil penalty in an amount not to exceed ten thousand dollars ($10,000).

Sec. 2. The state health commissioner may take action under section 1 of this chapter on any of the following grounds:

(1) Violation of any of the provisions of this article or the rules adopted under this article.

(2) Permitting, aiding, or abetting the commission of an illegal act in a dialysis facility.

(3) Knowingly collecting or attempting to collect from a subscriber (as defined in IC 27-13-1-32) or an enrollee (as defined in IC 27-13-1-12) of a health maintenance organization (as defined in IC 27-13-1-19) any amounts that are owed by the health maintenance organization.

(4) Conduct or practice found by the council to be detrimental to the health, safety, rights, and welfare of the patients of a dialysis facility.

Sec. 3. (a) IC 4-21.5 applies to an action under this chapter.

(b) A licensee or an applicant for a license aggrieved by an action under this article may request review under IC 4-21.5.

Sec. 4. The state department shall investigate a report of an unlicensed dialysis facility and report the findings to the attorney general. The attorney general may seek any of the following:

(1) An injunction in a court with jurisdiction in the county in which the unlicensed dialysis facility is located or in the circuit or superior court of Marion County.

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(2) Relief under IC 4-21.5, including a civil penalty not to exceed an amount of twenty-five thousand dollars ($25,000) for each day of unlicensed operation.

(3) Criminal penalties as provided in section 5 of this chapter.

Sec. 5. A person who knowingly or intentionally:

(1) operates a dialysis facility that is required to be licensed under this article that is not licensed under this article; or

(2) advertises the operation of a dialysis facility that is required to be licensed under this article and that is not licensed under this article;

commits a Class A misdemeanor.

SECTION 5. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "council" refers to the dialysis facility council established by IC 16-25.5-1-1(a), as added by this act.**

(b) The governor shall make the initial appointments to the council not later than July 1, 2007. In making the initial appointment, the governor shall indicate the length of the term for which the individual is appointed.

(c) Notwithstanding IC 16-25.5-1-2, as added by this act, the initial terms of the members of the council, except for the state health commissioner appointed under IC 16-25.5-1-1(b)(5), shall be staggered as follows:

(1) Two (2) members of the council appointed for a term of two (2) years.

(2) Three (3) members of the council appointed for a term of three (3) years.

(3) Three (3) members of the council appointed for a term of four (4) years.

(d) The initial term for council members begins July 1, 2007.

(e) This SECTION expires December 31, 2011.

SECTION 6. [EFFECTIVE JULY 1, 2007] **(a) As used in this SECTION, "health benefit plan provider" means the following:**

(1) An insurer that issues a policy of accident and sickness insurance (as defined in IC 27-8-5-1).

(2) A health maintenance organization.

(b) The state department of health shall, not later than December 31, 2007, develop and provide to the legislative council in an electronic format under IC 5-14-6 a plan to ensure that all health benefit plan providers doing business in Indiana comply with the Health Plan Employer Data and Information Set of the National Committee for Quality Assurance measures.

(c) The plan developed and provided under subsection (b) must

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include the following:

(1) An assessment of current compliance by health benefit plans.

(2) A determination of the actions necessary to achieve compliance by all health benefit plan providers.

(d) This SECTION expires June 30, 2008.

SECTION 7. **An emergency is declared for this act.**

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