

Adopted	Rejected
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COMMITTEE REPORT

YES:	8
NO:	1

MR. SPEAKER:

*Your Committee on Public Health, to which was referred House Bill 1226, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 1, delete lines 6 through 15, begin a new paragraph and insert:
- 2 "Sec. 1. As used in this chapter, "abandoned" means voluntarily
- 3 surrendered, relinquished, or disclaimed by the health care
- 4 provider or regulated professional, with no intention of reclaiming
- 5 or regaining possession.
- 6 Sec. 2. As used in this chapter, "health care provider" means a
- 7 person listed in IC 16-39-7-1(a)(1) through IC 16-39-7-1(a)(11).
- 8 Sec. 3. As used in this chapter, "personal information" has the
- 9 meaning set forth in IC 24-4.9-2-10.
- 10 Sec. 4. As used in this chapter, "regulated professional" means
- 11 an individual who is regulated by a board listed under
- 12 IC 25-1-11-1.
- 13 Sec. 5. The attorney general may do the following with

1 **abandoned health records and other records that contain personal**
 2 **information:**

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

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

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

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

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

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

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

- 35 (1) The time required under IC 16-39-7-1 and IC 16-39-7-2.
 - 36 (2) Three (3) years after the date the records are secured.
- 37 **(b) When the time expires under subsection (a), the attorney**
 38 **general may destroy the original patient records obtained under**

1 section 5 of this chapter.

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

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

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

11 (1) patient health records; and

12 (2) records containing personal information;

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

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

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

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

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

28 (f) The treasurer of state shall invest the money in the trust fund
29 not currently needed to meet the obligations of the fund in the same
30 manner as other public money may be invested.

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

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

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

38 (1) The Indiana professional licensing agency and the

1 appropriate board that regulates a health care provider or a
2 regulated professional under IC 25.

3 (2) The state police department.

4 (3) A prosecuting attorney.

5 (4) Local law enforcement agencies.

6 (5) Federal law enforcement agencies.

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

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

14 Delete pages 2 through 3.

15 Page 4, delete lines 1 through 23.

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

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

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

20 Page 4, delete lines 27 through 29.

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

23 Page 4, run in lines 26 through 30.

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

25 Page 4, delete line 34.

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

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

30 Page 5, delete lines 1 through 7.

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

33 "(1)".

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

36 "(2)".

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

- 1 **"(3)"**.
- 2 Page 5, line 24, delete "(i)", begin a new line double block indented
3 and insert:
- 4 **"(A)"**.
- 5 Page 5, line 25, delete "(ii)", begin a new line double block indented
6 and insert:
- 7 **"(B)"**.
- 8 Page 5, line 26, delete "(iii)", begin a new line double block
9 indented and insert:
- 10 **"(C)"**.
- 11 Page 5, line 27, delete "(F)", begin a new line block indented and
12 insert:
- 13 **"(4)"**.
- 14 Page 5, line 29, delete "(i)", begin a new line double block indented
15 and insert:
- 16 **"(A)"**.
- 17 Page 5, line 31, delete "(ii)", begin a new line double block indented
18 and insert:
- 19 **"(B)"**.
- 20 Page 5, line 35, delete "(iii)", begin a new line double block
21 indented and insert:
- 22 **"(C)"**.
- 23 Page 5, line 37, delete "(G)", begin a new line block indented and
24 insert:
- 25 **"(5)"**.
- 26 Page 5, line 38, delete "unless" and insert "**and the collection of the**
27 **amount is prohibited**".
- 28 Page 5, line 39, delete "expressly authorized".
- 29 Page 5, line 40, delete "Sec. 2.", begin a new paragraph and insert:
30 "SECTION 3. IC 12-15-11-1.7 IS ADDED TO THE INDIANA
31 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
32 [EFFECTIVE JULY 1, 2010]: **Sec. 1.7**".
- 33 Page 5, line 42, delete "who owns or controls" and insert "**with an**
34 **ownership or control interest in the business of the person or in**
35 **any subcontractor in which the business of the person has a direct**
36 **or indirect ownership of**".
- 37 Page 6, line 4, delete "described in section 1" and insert "**excluded**
38 **under section 1.5**".

- 1 Page 6, line 5, delete "a state administered health care" and insert
2 **"the Medicaid"**.
- 3 Page 6, line 7, delete "described in section 1" and insert **"excluded**
4 **under section 1.5"**.
- 5 Page 6, line 7, after "chapter" insert **", including names of persons**
6 **provided by the office of the attorney general,"**.
- 7 Page 6, line 10, delete "Sec. 3." and insert **"(c)"**.
- 8 Page 6, line 10, after "in" delete "a".
- 9 Page 6, line 11, delete "state administered health care" and insert
10 **"the Medicaid"**.
- 11 Page 6, line 11, delete "1" and insert **"1.5(a)"**.
- 12 Page 6, line 13, delete "." and insert **"not earlier than five (5) years**
13 **after the person has been excluded."**
- 14 **(d) A person that has been excluded from participating in the**
15 **Indiana Medicaid program under section 1.5(b) of this chapter**
16 **may apply to the office of the secretary in writing for reinstatement**
17 **in a manner prescribed by the office of the secretary not earlier**
18 **than one (1) year after the person has been excluded."**
- 19 Page 6, line 16, delete "A person:" and insert **"This section does not**
20 **apply to the following durable medical equipment suppliers:**
- 21 **(1) A person who is licensed or certified by a board listed in**
22 **IC 25-1-9-1.**
- 23 **(2) A person who has a surety bond under the Medicare**
24 **program to sell durable medical equipment.**
- 25 **(3) A retail facility that contains a pharmacy that has a permit**
26 **issued under IC 25-26-13.**
- 27 **(b) As used in this section, "durable medical equipment" does**
28 **not include optical equipment.**
- 29 **(c) Except as provided in subsection (g), a transportation**
30 **supplier or durable medical equipment supplier:"**.
- 31 Page 6, line 24, delete "a" and insert **"an authorized"**.
- 32 Page 6, line 24, delete "bond" and insert **"bond, as determined by**
33 **the office of the secretary,"**.
- 34 Page 6, line 25, delete "subsection (d) and in the amount of fifty
35 thousand dollars" and insert **"subsections (f) and (g)"**.
- 36 Page 6, line 26, delete "(\$50,000)".
- 37 Page 6, line 28, delete "(b)" and insert **"(d)"**.
- 38 Page 6, line 28, delete "a person" and insert **"and except as**

1 **provided in subsection (g), a transportation supplier or durable**
 2 **medical equipment supplier".**

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

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

7 Page 6, line 30, delete "in the amount of fifty thousand dollars
 8 (\$50,000)".

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

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

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

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

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

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

19 **(1) criminal conviction;**

20 **(2) civil judgment; or**

21 **(3) exclusion action under this chapter, 42 U.S.C. 1320a-7, or**
 22 **42 U.S.C. 1320c-5;"**.

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

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

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

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

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

38 **(2) Two hundred fifty thousand dollars (\$250,000) or more, a**

- 1 **surety bond in the amount of fifty thousand dollars (\$50,000).**
 2 **(h) If a transportation or durable medical equipment provider**
 3 **bills more than the amount set forth on the provider's application**
 4 **or renewal form under subsection (g) during the year in which the**
 5 **surety bond filed with the office of the secretary applies, the**
 6 **provider shall obtain an updated surety bond that complies with**
 7 **the billing amounts and corresponding surety bond coverage**
 8 **amounts described in subsection (g).**
 9 **(i)".**
 10 Page 7, line 31, delete "(f)" and insert "**(j)**".
 11 Page 7, line 40, delete "(g)" and insert "**(k)**".
 12 Page 7, line 42, delete "(h)" and insert "**(l)**".
 13 Page 7, line 42, delete "(g)" and insert "**(k)**".
 14 Page 8, line 7, delete "(i)" and insert "**(m)**".
 15 Page 8, line 13, delete "(j)" and insert "**(n)**".
 16 Page 8, line 22, delete "(k)" and insert "**(o)**".
 17 Page 8, line 24, delete "(l)" and insert "**(p)**".
 18 Page 17, line 7, delete "IC 4-6-14-10" and insert "**IC 4-6-14-11**".
 19 Renumber all SECTIONS consecutively.
 (Reference is to HB 1226 as introduced.)

and when so amended that said bill do pass.

Representative Brown C