

Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1360

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AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 12-11-1.1-1, AS AMENDED BY P.L.153-2011, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) The bureau of developmental disabilities services is established within the division.

(b) The bureau shall plan, coordinate, and administer the provision of individualized, integrated community based services for individuals with a developmental disability and their families, within the limits of available resources. The planning and delivery of services must be based on future plans of the individual with a developmental disability rather than on traditional determinations of eligibility for discrete services, with an emphasis on the preferences of the individual with a developmental disability and that individual's family.

(c) Services for individuals with a developmental disability must be services that meet the following conditions:

- (1) Are provided under public supervision.
- (2) Are designed to meet the developmental needs of individuals with a developmental disability.
- (3) Meet all required state and federal standards.
- (4) Are provided by qualified personnel.
- (5) To the extent appropriate, are provided in home and community based settings in which individuals without

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disabilities participate.

(6) Are provided in conformity with a service plan developed under IC 12-11-2.1-2.

(d) The bureau shall approve entities to provide community based services and supports **as follows:**

(1) Beginning July 1, 2011, the bureau shall ensure that an entity approved to provide day services, identified day habilitation, including facility based or community based habilitation, prevocational services, or ~~vocational~~ **employment** services under home and community based services waivers is accredited by at least one (1) of the following organizations:

(1) The Commission on Accreditation of Rehabilitation Facilities (CARF); or its successor.

(2) The Council on Quality and Leadership In Supports for People with Disabilities; or its successor.

(3) The Joint Commission on Accreditation of Healthcare Organizations (JCAHO); or its successor.

(4) The National Committee for Quality Assurance; or its successor.

(5) The ISO-9001 human services QA system.

(6) An independent national accreditation organization approved by the secretary: **an approved national accrediting body described in subsection (j).**

(2) Beginning July 1, 2012, the bureau shall ensure that an entity approved to provide residential habilitation and support services under home and community based services waivers is accredited by an approved national accrediting body. However, if an entity is accredited to provide home and community based services under subdivision (1) other than residential habilitation and support services, the bureau may extend the time that the entity has to comply with this subdivision until the earlier of the following:

(A) The completion of the entity's next scheduled accreditation survey.

(B) July 1, 2015.

(e) **Subject to subsection (k)**, the bureau shall **initially** approve, **reapprove**, and monitor community based residential, habilitation, and ~~vocational~~ **employment** service providers that provide alternatives to placement of individuals with a developmental disability in state institutions and health facilities licensed under IC 16-28 for individuals with a developmental disability. The services must simulate, to the extent feasible, patterns and conditions of everyday life that are as

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close as possible to normal. The community based service categories include the following:

- (1) Supervised group living programs, which serve at least four (4) individuals and not more than eight (8) individuals, are funded by Medicaid, and are licensed by the community residential facilities council.
- (2) Supported living service arrangements to meet the unique needs of individuals in integrated settings. Supported living service arrangements providing residential services may not serve more than four (4) unrelated individuals in any one (1) setting. However, the head of the bureau shall waive this limitation for a setting providing residential services to more than four (4) unrelated individuals in any one (1) setting if the setting was in existence on June 30, 1999.
- (f) To the extent that services described in subsection (e) are available and meet the individual's needs, an individual is entitled to receive services in the least restrictive environment possible.
- (g) Community based services under subsection (e)(1) or (e)(2) must consider the needs of and provide choices and options for:
  - (1) individuals with a developmental disability; and
  - (2) families of individuals with a developmental disability.
- (h) The bureau shall administer a system of service coordination to carry out this chapter.
- (i) The bureau may issue orders under IC 4-21.5-3-6 against a provider that violates rules issued by the bureau for programs in which the provider is providing services in accordance with section 11 of this chapter.
- (j) For purposes of subsections (d) and (k), "approved national accrediting body" means any of the following:**
  - (1) The Commission on Accreditation of Rehabilitation Facilities (CARF), or its successor.**
  - (2) The Council on Quality and Leadership In Supports for People with Disabilities, or its successor.**
  - (3) The Joint Commission on Accreditation of Healthcare Organizations (JCAHO), or its successor.**
  - (4) The National Committee for Quality Assurance, or its successor.**
  - (5) The ISO-9001 human services QA system.**
  - (6) The Council on Accreditation, or its successor.**
  - (7) An independent national accreditation organization approved by the secretary.**
- (k) An entity that is accredited by an approved national**

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**accrediting body is not subject to reapproval surveys or routine monitoring surveys by the division, bureau, or bureau of quality improvement services, including any reapproval survey under a home and community based services waiver. However, the bureau may perform validation surveys and complaint investigations of an entity accredited by an approved national accrediting body.**

SECTION 2. IC 16-19-3-26, AS AMENDED BY P.L.147-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 30, 2012]: Sec. 26. (a) The anatomical gift promotion fund is established. The fund consists of amounts distributed to the fund by the auditor of state under IC 9-18-2-16.

(b) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds are invested. Interest that accrues from these investments shall be deposited in the fund.

(c) The state department shall administer the fund. Any expenses incurred in administering the fund shall be paid from the fund.

(d) The money in the fund shall be distributed quarterly to the Indiana Donation Alliance Foundation and Donate Life Indiana for the purpose of implementing an organ, tissue, and marrow registry and to promote organ, tissue, and marrow donation. **However, money in the fund may not be distributed under this subsection for any quarter of a year until the annual report for the previous year has been submitted under subsection (f).**

(e) The Indiana Donation Alliance Foundation and Donate Life Indiana shall keep information regarding the identity of an individual who has indicated a desire to make an organ or tissue donation confidential.

(f) The Indiana Donation Alliance Foundation and Donate Life Indiana shall submit an annual **audited** report, including a list of all expenditures, to ~~the chairperson of the:~~

- (1) ~~legislative council;~~ **speaker of the house of representatives;**
- (2) president pro tempore of the senate;**
- ~~(2)~~ **(3) senate health and provider services committee; and**
- ~~(3)~~ **(4) house public health committee;**

before ~~March 15.~~ **February 1.** The report must be in an electronic format under IC 5-14-6.

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

(h) This subsection applies if the Indiana Donation Alliance Foundation or Donate Life Indiana loses its status as an organization exempt from federal income taxation under Section 501(c)(3) of the

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Internal Revenue Code. The Indiana Donation Alliance Foundation and Donate Life Indiana shall report in an electronic format under IC 5-14-6 to the chairpersons of the senate standing committee, as determined by the president pro tempore of the senate, and the house standing committee, as determined by the speaker of the house of representatives, that have subject matter jurisdiction over health issues. The chairpersons shall review the report and recommend to the state department whether to continue distributions under subsection (d).

**(i) Any annual reports that were not submitted by the Indiana Donation Alliance Foundation or Donate Life Indiana before March 15, 2011, under subsection (f) must be submitted before August 1, 2012.**

~~(j)~~ **(j)** This section expires July 1, ~~2012~~: **2014**.

SECTION 3. IC 25-22.5-2-8, AS ADDED BY P.L.149-2011, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 8. (a) The board shall implement a program to investigate and assess a civil penalty of not more than one thousand dollars (\$1,000) against a physician licensed under this article for the following violations:

- (1) Licensure renewal fraud.
- (2) Improper termination of a physician and patient relationship.
- (3) Practicing with an expired medical license.
- (4) Providing office based anesthesia without the proper accreditation.
- (5) Failure to perform duties required for issuing birth or death certificates.

**(6) Failure to disclose, or negligent omission of, documentation requested for licensure renewal.**

(b) An individual who is investigated by the board and found by the board to have committed a violation specified in subsection (a) may appeal the determination made by the board in accordance with IC 4-21.5.

(c) In accordance with the federal Health Care Quality Improvement Act (42 U.S.C. 11132), the board shall report a disciplinary board action that is subject to reporting to the National Practitioner Data Bank. However, the board may not report board action against a physician for only an administrative penalty described in subsection (a). The board's action concerning disciplinary action or an administrative penalty described in subsection (a) shall be conducted at a hearing that is open to the public.

(d) The physician compliance fund is established to provide funds for administering and enforcing the investigation of violations specified

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in subsection (a). The fund shall be administered by the Indiana professional licensing agency.

(e) The expenses of administering the physician compliance fund shall be paid from the money in the fund. The fund consists of penalties collected through investigations and assessments by the board concerning violations specified in subsection (a). Money in the fund at the end of a state fiscal year does not revert to the state general fund.

SECTION 4. IC 36-1-11-1, AS AMENDED BY P.L.2-2006, SECTION 188, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) Except as provided in subsection (b), this chapter applies to the disposal of property by:

- (1) political subdivisions; and
- (2) their agencies.

(b) This chapter does not apply to the following:

- (1) The disposal of property under an urban homesteading program under IC 36-7-17.
- (2) The lease of school buildings under IC 20-47.
- (3) The sale of land to a lessor in a lease-purchase contract under IC 36-1-10.
- (4) The disposal of property by a redevelopment commission established under IC 36-7.
- (5) The leasing of property by a board of aviation commissioners established under IC 8-22-2 or an airport authority established under IC 8-22-3.
- (6) The disposal of a municipally owned utility under IC 8-1.5.
- (7) The sale or lease of property by a unit to an Indiana nonprofit corporation organized for educational, literary, scientific, religious, or charitable purposes that is exempt from federal income taxation under Section 501 of the Internal Revenue Code or the sale or reletting of that property by the nonprofit corporation.
- (8) The disposal of surplus property by a hospital established and operated under IC 16-22-1 through IC 16-22-5, IC 16-22-8, IC 16-23-1, or IC 16-24-1.
- (9) The sale or lease of property acquired under IC 36-7-13 for industrial development.
- (10) The sale, lease, or disposal of property by a local hospital authority under IC 5-1-4.
- (11) The sale or other disposition of property by a county or municipality to finance housing under IC 5-20-2.
- (12) The disposition of property by a soil and water conservation district under IC 14-32.

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- (13) The **sale, lease, or** disposal of ~~surplus~~ property by the health and hospital corporation established and operated under IC 16-22-8.
- (14) The disposal of personal property by a library board under IC 36-12-3-5(c).
- (15) The sale or disposal of property by the historic preservation commission under IC 36-7-11.1.
- (16) The disposal of an interest in property by a housing authority under IC 36-7-18.
- (17) The disposal of property under IC 36-9-37-26.
- (18) The disposal of property used for park purposes under IC 36-10-7-8.
- (19) The disposal of textbooks that will no longer be used by school corporations under IC 20-26-12.
- (20) The disposal of residential structures or improvements by a municipal corporation without consideration to:
- (A) a governmental entity; or
  - (B) a nonprofit corporation that is organized to expand the supply or sustain the existing supply of good quality, affordable housing for residents of Indiana having low or moderate incomes.
- (21) The disposal of historic property without consideration to a nonprofit corporation whose charter or articles of incorporation allows the corporation to take action for the preservation of historic property. As used in this subdivision, "historic property" means property that is:
- (A) listed on the National Register of Historic Places; or
  - (B) eligible for listing on the National Register of Historic Places, as determined by the division of historic preservation and archeology of the department of natural resources.
- (22) The disposal of real property without consideration to:
- (A) a governmental agency; or
  - (B) a nonprofit corporation that exists for the primary purpose of enhancing the environment;
- when the property is to be used for compliance with a permit or an order issued by a federal or state regulatory agency to mitigate an adverse environmental impact.
- (23) The disposal of property to a person under an agreement between the person and a political subdivision or an agency of a political subdivision under IC 5-23.
- (24) The disposal of residential real property pursuant to a federal aviation regulation (14 CFR 150) Airport Noise Compatibility

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Planning Program as approved by the Federal Aviation Administration.

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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

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