



January 27, 2017

HOUSE BILL No. 1306

DIGEST OF HB 1306 (Updated January 25, 2017 7:28 pm - DI 77)

Citations Affected: IC 10-17; IC 27-1; IC 34-13.

Synopsis: Veterans' recovery program. Establishes, for five years, the veterans' recovery program and fund to provide treatment for veterans with a traumatic brain injury or posttraumatic stress disorder and to obtain reimbursement from third parties. Requires the commissioner of insurance (commissioner) to establish program standards. Allows the commissioner to appoint an advisory board for the program. Requires annual reporting.

Effective: July 1, 2017.

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January 10, 2017, read first time and referred to Committee on Public Health.
January 26, 2017, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.

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January 27, 2017

First Regular Session of the 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

HOUSE BILL No. 1306

A BILL FOR AN ACT to amend the Indiana Code concerning military and veterans.

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

- 1 SECTION 1. IC 10-17-16 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2017]:
4 **Chapter 16. Veterans' Recovery Program**
5 **Sec. 1. As used in this chapter, "program" refers to the**
6 **veterans' recovery program established under IC 27-1-45.**
7 **Sec. 2. The director of veterans' affairs and the adjutant general**
8 **of the Indiana National Guard shall enter into a memorandum of**
9 **understanding with any institutional review board as necessary to**
10 **provide assistance to veterans under the program.**
11 **Sec. 3. The director of veterans' affairs shall give notice of the**
12 **existence of the program to each individual in Indiana who has a**
13 **traumatic brain injury or posttraumatic stress disorder related to**
14 **the individual's service, as follows:**
15 (1) **As a member of the armed forces of the United States.**
16 (2) **As a commissioned officer of the:**
17 (A) **United States Public Health Service;**

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- 1 **(B) Environmental Science Services Administration; or**
 2 **(C) National Oceanic and Atmospheric Administration**
 3 **(including the National Geodetic Survey);**
 4 **who actively served and was discharged or released from**
 5 **service under conditions other than dishonorable.**
 6 **(3) As a member of the:**
 7 **(A) reserve component of the United States armed forces;**
 8 **or**
 9 **(B) Indiana National Guard;**
 10 **who was not required to actively serve and is eligible for or**
 11 **has received retirement under 10 U.S.C. 12731 et seq.**
 12 **Sec. 4. This chapter expires November 1, 2022.**
 13 SECTION 2. IC 27-1-45 IS ADDED TO THE INDIANA CODE AS
 14 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 15 1, 2017]:
 16 **Chapter 45. Veterans' Recovery Program and Fund**
 17 **Sec. 1. As used in this chapter, "active service" means service**
 18 **described in 38 U.S.C. 101 et seq.**
 19 **Sec. 2. As used in this chapter, "facility" means:**
 20 **(1) a hospital;**
 21 **(2) a public health clinic;**
 22 **(3) an outpatient health clinic;**
 23 **(4) a community health center; or**
 24 **(5) another entity;**
 25 **that is authorized by the department under this chapter to provide**
 26 **hyperbaric oxygen treatment.**
 27 **Sec. 3. As used in this chapter, "fund" refers to the veterans'**
 28 **recovery fund established by section 14 of this chapter.**
 29 **Sec. 4. As used in this chapter, "health care provider" means an**
 30 **individual who:**
 31 **(1) is licensed in Indiana to provide health care services (as**
 32 **defined in IC 27-8-11-1); and**
 33 **(2) has prescriptive authority;**
 34 **under IC 25.**
 35 **Sec. 5. As used in this chapter, "hyperbaric oxygen treatment"**
 36 **means treatment for a traumatic brain injury or posttraumatic**
 37 **stress disorder that is ordered by a health care provider and**
 38 **delivered in:**
 39 **(1) a hyperbaric chamber approved by the federal Food and**
 40 **Drug Administration; or**
 41 **(2) a hyperbaric oxygen device that is approved by the federal**
 42 **Food and Drug Administration for investigational use under**



- 1 direction of an institutional review board with a national
 2 clinical trial number.
- 3 **Sec. 6. As used in this chapter, "institutional review board"**
 4 **means a committee that:**
- 5 (1) has been formally designated to approve, monitor, and
 6 review biomedical and behavioral research involving humans;
 7 and
 8 (2) is regulated under 45 CFR 46.
- 9 **Sec. 7. As used in this chapter, "program" refers to the**
 10 **veterans' recovery program established under this chapter.**
- 11 **Sec. 8. As used in this chapter, "traumatic brain injury" means**
 12 **an acquired injury to the brain. The term does not include brain**
 13 **dysfunction caused by birth trauma or by a congenital or**
 14 **degenerative disorder.**
- 15 **Sec. 9. As used in this chapter, "veteran" means an individual**
 16 **who:**
- 17 (1) is a resident of Indiana;
 18 (2) was a:
 19 (A) member of the armed forces of the United States;
 20 (B) commissioned officer of the:
 21 (i) United States Public Health Service;
 22 (ii) Environmental Science Services Administration;
 23 (iii) National Oceanic and Atmospheric Administration;
 24 or
 25 (iv) United States Coast and Geodetic Survey;
 26 who was in active service and was discharged or released
 27 from service under conditions other than dishonorable; or
 28 (C) member of the:
 29 (i) reserve component of the armed forces of the United
 30 States; or
 31 (ii) Indiana National Guard;
 32 who was not required to actively serve and who is eligible
 33 for or has received retirement under 10 U.S.C. 12731 et
 34 seq.; and
 35 (3) has a traumatic brain injury or posttraumatic stress
 36 disorder that is related to the individual's service described in
 37 subdivision (2).
- 38 **Sec. 10. (a) The department shall establish and administer a**
 39 **veterans' recovery program to provide diagnostic testing and**
 40 **hyperbaric oxygen treatment to veterans.**
- 41 (b) Hyperbaric oxygen treatment provided through the program
 42 must be provided:



- 1 (1) under a protocol supervised by an institutional review
 2 board; and
 3 (2) in compliance with the standards of the International
 4 Hyperbaric Medical Foundation.
 5 (c) The department shall adopt rules under IC 4-22-2 to
 6 implement this chapter, including standards for the following:
 7 (1) Determination by the department that an individual is a
 8 veteran eligible for participation in the program, with priority
 9 for participation given to a veteran who participates in a
 10 treatment plan established by a veterans' court in Indiana.
 11 (2) Determination by the department that a facility is eligible
 12 to participate in the program, including:
 13 (A) a requirement that the facility must maintain
 14 compliance with applicable fire codes, treatment protocols,
 15 and department oversight; and
 16 (B) other facility standards determined by the department.
 17 (3) Treatment plan requirements, including the following:
 18 (A) A facility's submission to the department, before
 19 providing hyperbaric oxygen treatment to a veteran, of a
 20 treatment plan that includes:
 21 (i) a health care provider's prescription for hyperbaric
 22 oxygen treatment;
 23 (ii) verification by the department that the veteran is
 24 eligible for participation in the program and voluntarily
 25 accepts the treatment through the program;
 26 (iii) an estimate of the cost of the treatment; and
 27 (iv) any other information required by the department.
 28 (B) A reasonable time frame for:
 29 (i) approval or disapproval by the department of a
 30 treatment plan described in clause (A); and
 31 (ii) notice to the facility of approval or disapproval of the
 32 treatment plan.
 33 (C) Contingent on sufficient funding available in the fund,
 34 approval of each treatment plan that meets the
 35 requirements established by the department under this
 36 chapter.
 37 (D) Reservation in the fund of an amount equal to the
 38 estimated treatment cost for each veteran whose treatment
 39 plan is approved under this chapter.
 40 (4) Criteria for approval of payment for treatment that has
 41 been verified by the department to have been provided under
 42 a treatment plan approved under subdivision (3), including:



- 1 (A) whether a drug or device used in the treatment plan
 2 has been approved for any purpose by the federal Food
 3 and Drug Administration;
 4 (B) health improvement of the veteran receiving the
 5 treatment, as demonstrated through:
 6 (i) standardized, independent pretreatment and
 7 posttreatment neuropsychological testing;
 8 (ii) nationally accepted survey instruments;
 9 (iii) neurological imaging; or
 10 (iv) clinical examination; and
 11 (C) receipt by the department of pretreatment and
 12 posttreatment evaluation documentation.
 13 (5) Payment from the fund for treatments approved for
 14 payment under subdivision (4), not more than thirty (30) days
 15 after the veteran, or health care provider on behalf of the
 16 veteran, submits documentation required by the program.
 17 (6) Confidentiality of all individually identifiable patient
 18 information of a veteran. However, all data and information
 19 from which the identity of an individual veteran cannot be
 20 reasonably ascertained must be available to the general
 21 assembly, participating third party payers, participating
 22 institutional review boards, participating health care
 23 providers, and other governmental agencies.
 24 (7) Determining whether a treatment for which approval is
 25 granted under subdivision (1) is considered to have been
 26 medically necessary for purposes of any third party payment.
 27 (d) The commissioner may appoint an advisory board to assist
 28 the department in development of the program.
 29 **Sec. 11. The commissioner shall do the following:**
 30 (1) Be responsible for the management of all aspects of the
 31 program.
 32 (2) Hire any necessary staff and enter into any necessary
 33 agreements with third parties to implement and evaluate the
 34 program.
 35 (3) Prepare and provide program information.
 36 (4) Use money in the fund to pay for diagnostic testing and
 37 hyperbaric oxygen treatment for veterans with a traumatic
 38 brain injury or posttraumatic stress disorder when other
 39 funding is unavailable, according to the program guidelines.
 40 (5) With the assistance of the attorney general, pursue
 41 reimbursement from:
 42 (A) the federal government; and



- 1 **(B) any other responsible third party payer;**
 2 **for payments made under subdivision (4), for deposit in the**
 3 **fund.**
- 4 **(6) Act as a liaison to the federal government and other**
 5 **parties regarding the program.**
- 6 **(7) Enter into memoranda of understanding, as necessary,**
 7 **with other state agencies concerning the administration and**
 8 **management of the fund and the program.**
- 9 **Sec. 12. A health care provider or facility providing treatment**
 10 **under the program, including a physician who supervises**
 11 **treatment, shall bill the program and be paid at:**
- 12 **(1) the Medicare rate for the treatment;**
 13 **(2) a negotiated rate that is less than the Medicare rate for the**
 14 **treatment; or**
 15 **(3) if a rate under subdivision (1) or (2) does not apply, the**
 16 **fair market rate for the treatment, as approved by the**
 17 **commissioner.**
- 18 **Sec. 13. (a) If a facility or health care provider or a veteran fails**
 19 **to request payment from the program within six (6) months after**
 20 **the date on which treatment is concluded, the department shall**
 21 **send written notice to the facility or health care provider and to the**
 22 **veteran that unless the facility, health care provider, or veteran,**
 23 **within ninety (90) days after the date on which the notice from the**
 24 **department is sent:**
- 25 **(1) notifies the department that treatment has not concluded**
 26 **and the veteran is receiving continued treatment under the**
 27 **program; or**
 28 **(2) requests payment from the program for the incurred**
 29 **treatment;**
- 30 **the funding reserved for the treatment will be terminated on the**
 31 **ninetieth day after the date on which the notice from the**
 32 **department was sent.**
- 33 **(b) If a facility, health care provider, or veteran to whom notice**
 34 **is sent under subsection (a) does not notify the department as**
 35 **required by subsection (a), the commissioner shall terminate the**
 36 **reservation of funds made for the veteran's treatment plan under**
 37 **section 10(c) of this chapter.**
- 38 **Sec. 14. (a) The veterans' recovery fund is established.**
 39 **(b) The purpose of the fund is to:**
- 40 **(1) be used as a revolving fund to provide payments under the**
 41 **program for diagnostic testing and hyperbaric oxygen**
 42 **treatment of veterans with traumatic brain injury or**



1 posttraumatic stress disorder; and

2 (2) fund the administrative expenses of the program.

3 (c) The commissioner shall:

4 (1) administer the fund; and

5 (2) in cooperation with other state agencies, seek federal and
6 state government grants, including funding from the
7 following:

8 (A) The United States Department of Health and Human
9 Services, Substance Abuse and Mental Health
10 Administration, Gains Center for Behavioral Health and
11 Justice Transformation.

12 (B) The United States Department of Justice, Office of
13 Justice Programs, Bureau of Justice Assistance.

14 (C) The United States Department of Defense.

15 (D) The United States Department of Veterans Affairs.

16 (d) Expenses of administering the fund shall be paid from
17 money in the fund.

18 (e) The fund consists of the following:

19 (1) Grants and gifts intended for deposit in the fund.

20 (2) Interest, premiums, gains, or other earnings on the fund.

21 (3) Any reimbursement received from the federal government
22 or third parties.

23 (4) Appropriations made by the general assembly.

24 (f) The treasurer of state shall invest the money in the fund not
25 currently needed to meet the obligations of the fund in the same
26 manner as other public money may be invested. Interest that
27 accrues from these investments shall be deposited in the fund.

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

30 (h) All expenditures from the fund must be made by the
31 treasurer of state following approval by the budget agency.

32 (i) Upon expiration of this chapter on November 1, 2022, under
33 section 17 of this chapter, any money remaining in the fund and not
34 obligated for a previously approved treatment plan shall be
35 transferred as follows:

36 (1) Any money remaining in the fund that does not exceed the
37 total of any amounts appropriated by the general assembly
38 shall be transferred to the general fund.

39 (2) Unless otherwise prohibited by law, any money remaining
40 in the fund after the transfer required by subdivision (1) shall
41 be transferred to the military family relief fund established by
42 IC 10-17-12-8.



1 **Sec. 15. (a) An individual who receives treatment under the**
 2 **program may not be subject to retaliation of any kind.**

3 **(b) Except as provided in this chapter, the program and the**
 4 **fund are not subject to any budget review or approval process**
 5 **otherwise required under state law. However, the commissioner**
 6 **shall file an annual audited financial statement in an electronic**
 7 **format under IC 5-14-6 with the legislative council and the budget**
 8 **agency.**

9 **Sec. 16. The commissioner shall, not later than August 1 of each**
 10 **year, file a report concerning the program in an electronic format**
 11 **with the governor and, under IC 5-14-6, with the legislative**
 12 **council. The report shall include all of the following:**

13 **(1) The number of individuals for whom payments were made**
 14 **from the fund for treatment under the program.**

15 **(2) The condition for which each individual counted under**
 16 **subdivision (1) received treatment, and the success rate of**
 17 **each treatment.**

18 **(3) Treatment methods for which payment was made under**
 19 **the program, and the success rate of each method.**

20 **(4) Recommendations concerning integration of the treatment**
 21 **methods described in subdivision (3) with treatments**
 22 **provided in facilities of the United States Department of**
 23 **Defense and the United States Department of Veterans**
 24 **Affairs.**

25 **Sec. 17. This chapter expires November 1, 2022.**

26 SECTION 3. IC 34-13-3-2, AS AMENDED BY P.L.198-2016,
 27 SECTION 666, IS AMENDED TO READ AS FOLLOWS
 28 [EFFECTIVE JULY 1, 2017]: Sec. 2. This chapter applies to a claim
 29 or suit in tort against any of the following:

30 (1) A member of the bureau of motor vehicles commission board
 31 established under IC 9-14-9-2.

32 (2) An employee of the bureau of motor vehicles commission.

33 (3) A member of the driver education advisory board established
 34 by IC 9-27-6-5.

35 (4) An approved postsecondary educational institution (as defined
 36 in IC 21-7-13-6(a)(1)), or an association acting on behalf of an
 37 approved postsecondary educational institution, that:

38 (A) shares data with the commission for higher education
 39 under IC 21-12-12-1; and

40 (B) is named as a defendant in a claim or suit in tort based on
 41 any breach of the confidentiality of the data that occurs after
 42 the institution has transmitted the data in compliance with



1 IC 21-12-12-1.
2 **(5) A health care provider, with respect to any damages**
3 **resulting from the health care provider's use of hyperbaric**
4 **oxygen treatment to treat a veteran under the Indiana**
5 **veterans' recovery program under IC 27-1-45.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1306, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB 1306 as introduced.)

KIRCHHOFER

Committee Vote: Yeas 11, Nays 0

