



February 20, 2024

ENGROSSED SENATE BILL No. 9

DIGEST OF SB 9 (Updated February 20, 2024 10:24 am - DI 147)

Citations Affected: IC 4-6; IC 25-1.

Synopsis: Notice of health care entity mergers. Requires health care entities to provide notice of certain mergers or acquisitions to office of the attorney general. Specifies notice requirements. Requires the office of the attorney general to review the information submitted with the notice. Allows the office of the attorney general to: (1) analyze in writing any antitrust concerns with the merger or acquisition; and (2) issue a civil investigative demand for additional information. Specifies that the information is confidential.

Effective: July 1, 2024.

**Garten, Charbonneau, Brown L,
Busch, Johnson T, Byrne, Donato,
Ford J.D.**

(HOUSE SPONSORS — SCHAIBLEY, BARRETT, MCGUIRE)

January 8, 2024, read first time and referred to Committee on Health and Provider Services.

January 25, 2024, amended, reported favorably — Do Pass.

January 29, 2024, read second time, amended, ordered engrossed.

January 30, 2024, engrossed. Read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

February 6, 2024, read first time and referred to Committee on Public Health.

February 20, 2024, amended, reported — Do Pass.

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February 20, 2024

Second Regular Session of the 123rd General Assembly (2024)

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 2023 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 9

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

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

1 SECTION 1. IC 4-6-3-6, AS AMENDED BY P.L.65-2014,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2024]: Sec. 6. (a) If a person objects or otherwise fails to obey
4 a written demand issued under section 3 of this chapter, the attorney
5 general may file in the circuit or superior court of the county in which
6 that person resides or maintains a principal place of business within the
7 state an application for an order to enforce the demand. If the person
8 does not reside or maintain a principal place of business in Indiana, the
9 application for the order to enforce the demand may be filed in the
10 Marion County circuit or superior court. Notice of hearing and a copy
11 of the application shall be served upon that person, who may appear in
12 opposition to the application. The attorney general must demonstrate
13 to the court that the demand is proper. If the court finds that the
14 demand is proper, it shall order that person to comply with the demand,
15 subject to such modification as the court may prescribe.

16 (b) If a person fails or refuses to obey a final order entered under
17 subsection (a) or an order imposing sanctions under section 6.5 of this

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1 chapter, the court may hold the person in contempt.

2 (c) Upon motion by that person and for good cause shown, the court
3 may make any further order in the proceedings which justice requires
4 to protect the person from unreasonable annoyance, embarrassment,
5 oppression, burden, expense, or to protect privileged information, trade
6 secrets or information which is confidential under any other provision
7 of law. If the court finds that either party has acted in bad faith in
8 seeking or resisting the demand, it may order that person to pay the
9 other parties reasonable expenses including attorney's fees.

10 **(d) In a review of an application for an order to enforce a**
11 **demand under IC 25-1-8.5, the court shall:**

12 **(1) order any documents submitted to the court to be under**
13 **seal;**

14 **(2) conduct any review of the documents in camera; and**

15 **(3) issue any order related to the case under seal;**

16 **to protect all information submitted concerning the review.**

17 SECTION 2. IC 25-1-8.5 IS ADDED TO THE INDIANA CODE
18 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
19 JULY 1, 2024]:

20 **Chapter 8.5. Reporting of Health Care Entity Mergers and**
21 **Acquisitions**

22 **Sec. 1. As used in this chapter, "acquisition" means any**
23 **agreement, arrangement, or activity the consummation of which**
24 **results in a person acquiring directly or indirectly the control of**
25 **another person.**

26 **Sec. 2. (a) As used in this chapter, "health care entity" means**
27 **any of the following:**

28 **(1) Any organization or business that provides diagnostic,**
29 **medical, surgical, dental treatment, or rehabilitative care.**

30 **(2) An insurer that issues a policy of accident and sickness**
31 **insurance (as defined in IC 27-8-5-1), except for the following**
32 **types of coverage:**

33 **(A) Accident only, credit, dental, vision, long term care, or**
34 **disability income insurance.**

35 **(B) Coverage issued as a supplement to liability insurance.**

36 **(C) Automobile medical payment insurance.**

37 **(D) A specified disease policy.**

38 **(E) A policy that provides indemnity benefits not based on**
39 **any expense incurred requirements, including a plan that**
40 **provides coverage for:**

41 **(i) hospital confinement, critical illness, or intensive care;**
42 **or**



- 1 (ii) gaps for deductibles or copayments.
- 2 (F) Worker's compensation or similar insurance.
- 3 (G) A student health plan.
- 4 (H) A supplemental plan that always pays in addition to
- 5 other coverage.
- 6 (3) A health maintenance organization (as defined in
- 7 IC 27-13-1-19).
- 8 (4) A pharmacy benefit manager (as defined in
- 9 IC 27-1-24.5-12).
- 10 (5) An administrator (as defined in IC 27-1-25-1).
- 11 (6) A private equity partnership, regardless of where the
- 12 private equity partnership is located, seeking to enter into a
- 13 merger or acquisition with an entity described in subdivisions
- 14 (1) through (5).
- 15 (b) The term does not include the Medicaid program or the
- 16 Medicare program.
- 17 Sec. 3. As used in this chapter, "merger" means any change of
- 18 ownership, including:
- 19 (1) an acquisition or transfer of assets; or
- 20 (2) the purchase of stock effectuated by a merger agreement.
- 21 Sec. 4. (a) An Indiana health care entity that is involved in a
- 22 merger or acquisition with another health care entity with total
- 23 assets, including combined entities and holdings, of at least ten
- 24 million dollars (\$10,000,000) shall, at least ninety (90) days prior
- 25 to the date of the merger or acquisition, provide written notice of
- 26 the merger or acquisition to the office of the attorney general in a
- 27 manner prescribed by the office of the attorney general.
- 28 (b) The notice required by subsection (a) must include the
- 29 following information from each health care entity:
- 30 (1) Business address and federal tax number.
- 31 (2) Name and contact information of a representative of the
- 32 health care entity concerning the merger or acquisition.
- 33 (3) Description of the health care entity.
- 34 (4) Description of the merger or acquisition, including the
- 35 anticipated timeline.
- 36 (5) A copy of any materials that have been submitted to a
- 37 federal or state agency concerning the merger or acquisition.
- 38 The notice submitted under this section must be certified before a
- 39 notary public.
- 40 (c) The office of the attorney general shall keep confidential all
- 41 nonpublic information, and the confidential information may not
- 42 be released to the public.



1 (d) Not later than forty-five (45) days from the submission of a
2 notice under subsection (a), the office of the attorney general:

3 (1) shall review the information submitted with the notice;
4 and

5 (2) may analyze in writing any antitrust concerns with the
6 merger or acquisition.

7 The office of the attorney general shall provide any written
8 analysis described in subdivision (2) to the person that submitted
9 the notice under subsection (a).

10 (e) The office of the attorney general may issue a civil
11 investigative demand under IC 4-6-3 to a health care entity that
12 has submitted a notice under this section for additional
13 information.

14 (f) Any information received or produced by the office of the
15 attorney general under this section is confidential.



COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 9, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 10 through 14.

Page 1, line 15, delete "(3)" and insert "**(2)**".

Page 2, line 16, delete "(4)" and insert "**(3)**".

Page 2, line 18, delete "(5)" and insert "**(4)**".

Page 2, line 20, delete "(6)" and insert "**(5)**".

Page 2, line 29, delete "six (6)" and insert "**ninety (90) days**".

Page 2, line 30, delete "months".

Page 2, line 31, delete "following:" and insert "**office of the attorney general in a manner prescribed by the office of the attorney general.**".

Page 2, delete lines 32 through 40.

Page 3, line 11, delete "individuals described in subsection (a)" and insert "**office of the attorney general**".

Page 3, after line 14, begin a new paragraph and insert:

"(d) Not later than forty-five (45) days from the submission of a notice under subsection (a), the office of the attorney general:

**(1) shall review the information submitted with the notice;
and**

(2) may analyze in writing any antitrust concerns with the merger or acquisition.

The office of the attorney general shall provide any written analysis described in subdivision (2) to the person that submitted the notice under subsection (a).

(e) The office of the attorney general may issue a civil investigative demand under IC 4-6-3 to a health care entity that has submitted a notice under this section for additional information.

(f) Any information received or produced by the office of the attorney general under this section is confidential."

and when so amended that said bill do pass.

(Reference is to SB 9 as introduced.)

CHARBONNEAU, Chairperson

Committee Vote: Yeas 10, Nays 0.

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SENATE MOTION

Madam President: I move that Senate Bill 9 be amended to read as follows:

Page 2, between lines 15 and 16, begin a new line block indented and insert:

"(6) A private equity partnership seeking to enter into a merger or acquisition with an entity described in subdivisions (1) through (5)."

Page 2, line 42, delete "if requested by the health care entity," and insert ",".

(Reference is to SB 9 as printed January 26, 2024.)

GARTEN

 COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Senate Bill 9, 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:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-6-3-6, AS AMENDED BY P.L.65-2014, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 6. (a) If a person objects or otherwise fails to obey a written demand issued under section 3 of this chapter, the attorney general may file in the circuit or superior court of the county in which that person resides or maintains a principal place of business within the state an application for an order to enforce the demand. If the person does not reside or maintain a principal place of business in Indiana, the application for the order to enforce the demand may be filed in the Marion County circuit or superior court. Notice of hearing and a copy of the application shall be served upon that person, who may appear in opposition to the application. The attorney general must demonstrate to the court that the demand is proper. If the court finds that the demand is proper, it shall order that person to comply with the demand, subject to such modification as the court may prescribe.

(b) If a person fails or refuses to obey a final order entered under subsection (a) or an order imposing sanctions under section 6.5 of this

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chapter, the court may hold the person in contempt.

(c) Upon motion by that person and for good cause shown, the court may make any further order in the proceedings which justice requires to protect the person from unreasonable annoyance, embarrassment, oppression, burden, expense, or to protect privileged information, trade secrets or information which is confidential under any other provision of law. If the court finds that either party has acted in bad faith in seeking or resisting the demand, it may order that person to pay the other parties reasonable expenses including attorney's fees.

(d) In a review of an application for an order to enforce a demand under IC 25-1-8.5, the court shall:

(1) order any documents submitted to the court to be under seal;

(2) conduct any review of the documents in camera; and

(3) issue any order related to the case under seal;

to protect all information submitted concerning the review."

Page 1, between lines 5 and 6, begin a new paragraph and insert:

"Sec. 1. As used in this chapter, "acquisition" means any agreement, arrangement, or activity the consummation of which results in a person acquiring directly or indirectly the control of another person."

Page 1, line 6, delete "1." and insert "2."

Page 2, line 16, delete "partnership" and insert **"partnership, regardless of where the private equity partnership is located,"**

Page 2, line 21, delete "2." and insert "3."

Page 2, line 25, delete "3." and insert "4."

Page 2, line 26, delete "a value" and insert **"total assets, including combined entities and holdings,"**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 9 as reprinted January 30, 2024.)

BARRETT

Committee Vote: yeas 9, nays 2.

