

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.

SENATE ENROLLED ACT No. 9

AN ACT to amend the Indiana Code concerning health.

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

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 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

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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.

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

Chapter 8.5. Reporting of Health Care Entity Mergers and Acquisitions

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.

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

- (1) Any organization or business that provides diagnostic, medical, surgical, dental treatment, or rehabilitative care.**
- (2) An insurer that issues a policy of accident and sickness insurance (as defined in IC 27-8-5-1), except for the following types of coverage:**
 - (A) Accident only, credit, dental, vision, long term care, or disability income insurance.**
 - (B) Coverage issued as a supplement to liability insurance.**
 - (C) Automobile medical payment insurance.**
 - (D) A specified disease policy.**
 - (E) A policy that provides indemnity benefits not based on any expense incurred requirements, including a plan that provides coverage for:**
 - (i) hospital confinement, critical illness, or intensive care; or**
 - (ii) gaps for deductibles or copayments.**
 - (F) Worker's compensation or similar insurance.**
 - (G) A student health plan.**
 - (H) A supplemental plan that always pays in addition to other coverage.**



(3) A health maintenance organization (as defined in IC 27-13-1-19).

(4) A pharmacy benefit manager (as defined in IC 27-1-24.5-12).

(5) An administrator (as defined in IC 27-1-25-1).

(6) A private equity partnership, regardless of where the private equity partnership is located, seeking to enter into a merger or acquisition with an entity described in subdivisions (1) through (5).

(b) The term does not include the Medicaid program or the Medicare program.

Sec. 3. As used in this chapter, "merger" means any change of ownership, including:

- (1) an acquisition or transfer of assets; or
- (2) the purchase of stock effectuated by a merger agreement.

Sec. 4. (a) An Indiana health care entity that is involved in a merger or acquisition with another health care entity with total assets, including combined entities and holdings, of at least ten million dollars (\$10,000,000) shall, at least ninety (90) days prior to the date of the merger or acquisition, provide written notice of the merger or acquisition to the office of the attorney general in a manner prescribed by the office of the attorney general.

(b) The notice required by subsection (a) must include the following information from each health care entity:

- (1) Business address and federal tax number.
- (2) Name and contact information of a representative of the health care entity concerning the merger or acquisition.
- (3) Description of the health care entity.
- (4) Description of the merger or acquisition, including the anticipated timeline.
- (5) A copy of any materials that have been submitted to a federal or state agency concerning the merger or acquisition.

The notice submitted under this section must be certified before a notary public.

(c) The office of the attorney general shall keep confidential all nonpublic information, and the confidential information may not be released to the public.

(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.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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