

# SENATE BILL No. 254

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 12-15-39.6-10; IC 16-39-1-1.

**Synopsis:** Long term care and health records. Provides that, under the long term care insurance law, for an individual to qualify for an asset disregard equal to one dollar of assets retained for each one dollar of long term insurance benefits paid out, the increase required in the maximum benefits provided by the individual's long term care policy may not be greater than 3% per year, compounded annually. Eliminates a provision under which a request for health records is valid for only 60 days after the date of the request. Requires a provider to provide health records upon request not more than 30 calendar days after receiving the written request. Authorizes the state department of health to impose a civil penalty of not more than \$5,000 per violation on a provider that violates the requirement to provide health records upon request in not more than 30 days.

**Effective:** July 1, 2021.

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January 11, 2021, read first time and referred to Committee on Insurance and Financial Institutions.

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First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

## SENATE BILL No. 254

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 12-15-39.6-10, AS AMENDED BY P.L.146-2015,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2021]: Sec. 10. (a) As used in this section, "asset disregard"  
4 means one (1) of the following:  
5 (1) A one dollar (\$1) increase in the amount of assets an  
6 individual who:  
7 (A) purchases a qualified long term care policy; and  
8 (B) meets the requirements under section 8 of this chapter;  
9 may retain under IC 12-15-3 for each one dollar (\$1) of benefit  
10 paid out under the individual's long term care policy for long term  
11 care services, **subject to subsection (c).**  
12 (2) The total assets an individual owns and may retain under  
13 IC 12-15-3 and still qualify for benefits under IC 12-15 at the time  
14 the individual applies for benefits if the individual:  
15 (A) is the beneficiary of a qualified long term care policy that  
16 provides maximum benefits at time of purchase of at least one  
17 hundred forty thousand dollars (\$140,000) and includes a



1 provision under which the daily benefit increases by at least  
 2 five percent (5%) per year, compounded at least annually;  
 3 (B) meets the requirements under section 8 of this chapter; and  
 4 (C) has exhausted the benefits of the qualified long term care  
 5 policy.

6 (b) When the office determines whether an individual is eligible for  
 7 Medicaid under IC 12-15-3, the office shall:

- 8 (1) make an asset disregard adjustment for any individual who  
 9 purchases a qualified long term care policy; and  
 10 (2) if the assets owned by the individual's spouse are included in  
 11 the individual's eligibility determination, include the assets of the  
 12 individual's spouse in the asset disregard adjustment.

13 The asset disregard must be available after benefits of the long term  
 14 care policy have been applied to the cost of long term care as required  
 15 under this chapter.

16 **(c) For an individual to qualify for an asset disregard under**  
 17 **subsection (a)(1), the increase required in the maximum benefits**  
 18 **provided by the individual's long term care policy may not be**  
 19 **greater than three percent (3%) per year, compounded annually.**

20 ~~(e)~~ (d) The qualified long term care policy an individual must  
 21 purchase to be eligible for the asset disregard under subsection (a)(2)  
 22 must have maximum benefits at time of purchase equal to at least one  
 23 hundred forty thousand dollars (\$140,000) plus five percent (5%)  
 24 interest compounded annually beginning January 1, 1999.

25 SECTION 2. IC 16-39-1-1, AS AMENDED BY P.L.157-2006,  
 26 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 27 JULY 1, 2021]: Sec. 1. (a) This section applies to all health records  
 28 except mental health records, which are governed by IC 16-39-2,  
 29 IC 16-39-3, and IC 16-39-4.

30 (b) This article applies to all health records, except:

- 31 (1) records regarding communicable diseases, which are governed  
 32 by IC 16-41-8-1; or  
 33 (2) records regarding alcohol and other drug abuse patient  
 34 records, which are governed by 42 CFR, Part 2.

35 (c) On written request and reasonable notice, a provider shall supply  
 36 to a patient the health records possessed by the provider concerning the  
 37 patient. Subject to 15 U.S.C. 7601 et seq. and 16 CFR Part 315,  
 38 information regarding contact lenses must be given using the following  
 39 guidelines:

- 40 (1) After the release of a patient from an initial fitting and  
 41 follow-up period of not more than six (6) months, the contact lens  
 42 prescription must be released to the patient at the patient's



- 1 request.
- 2 (2) A prescription released under subdivision (1) must contain all
- 3 information required to properly duplicate the contact lenses.
- 4 (3) A contact lens prescription must include the following:
- 5 (A) An expiration date of one (1) year.
- 6 (B) The number of refills permitted.
- 7 (4) Instructions for use must be consistent with:
- 8 (A) recommendations of the contact lens manufacturer;
- 9 (B) clinical practice guidelines; and
- 10 (C) the professional judgment of the prescribing optometrist
- 11 or physician licensed under IC 25-22.5.
- 12 After the release of a contact lens prescription under this subsection,
- 13 liability for future fittings or dispensing of contact lenses under the
- 14 original prescription lies with the dispensing company or practitioner.
- 15 (d) On a patient's written request and reasonable notice, a provider
- 16 shall furnish to the patient or the patient's designee the following:
- 17 (1) A copy of the patient's health record used in assessing the
- 18 patient's health condition.
- 19 (2) At the option of the patient, the pertinent part of the patient's
- 20 health record relating to a specific condition, as requested by the
- 21 patient.
- 22 (e) ~~A request made under this section is valid for sixty (60) days~~
- 23 ~~after the date the request is made. A provider shall provide health~~
- 24 ~~records in response to a request under this section not more than~~
- 25 ~~thirty (30) calendar days after receiving the written request for the~~
- 26 ~~health records.~~
- 27 (f) **In addition to exercising any other enforcement power**
- 28 **granted by IC 16-19-3, the state department may, under IC 4-21.5,**
- 29 **impose a civil penalty of not more than five thousand dollars**
- 30 **(\$5,000) per violation on a provider that violates this section.**

