



February 24, 2014

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## ENGROSSED SENATE BILL No. 180

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DIGEST OF SB 180 (Updated February 24, 2014 1:33 pm - DI 104)

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

**Synopsis:** Veteran matters. Establishes the veterans disability clinic fund to provide funding for grants to qualified law schools that maintain a veterans disability clinic. Establishes the Indiana veteran recovery program and fund to provide certain services for veterans who have traumatic brain injuries or posttraumatic stress disorder. Requires the state department of health to study and report findings and recommendations to the legislative council not later than September 1, 2014, concerning implementation of a program for the treatment of veterans who have traumatic brain injury or posttraumatic stress disorder.

**Effective:** Upon passage; July 1, 2014.

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### **Banks, Hershman, Stoops, Charbonneau, Steele, Randolph**

(HOUSE SPONSORS — ZENT, CARBAUGH, HAMM)

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January 8, 2014, read first time and referred to Committee on Health and Provider Services.

January 30, 2014, amended, reported favorably — Do Pass.

February 3, 2014, read second time, ordered engrossed. Engrossed.

February 4, 2014, read third time, passed. Yeas 48, nays 0.

#### HOUSE ACTION

February 10, 2014, read first time and referred to Committee on Public Health.

February 24, 2014, amended, reported — Do Pass.

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ES 180—LS 6354/DI 97





February 24, 2014

Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

## ENGROSSED SENATE BILL No. 180

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A BILL FOR AN ACT to amend the Indiana Code concerning veterans and to make an appropriation.

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

- 1 SECTION 1. IC 10-17-12.5 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2014]:  
4 **Chapter 12.5. Veterans Disability Clinic Fund**  
5 **Sec. 1. As used in this chapter, "commission" refers to the**  
6 **Indiana veterans' affairs commission established by IC 10-17-13-4.**  
7 **Sec. 2. As used in this chapter, "department" refers to the**  
8 **Indiana department of veterans' affairs established by**  
9 **IC 10-17-1-2.**  
10 **Sec. 3. As used in this chapter, "director" refers to the director**  
11 **of veterans' affairs.**  
12 **Sec. 4. As used in this chapter, "fund" refers to the veterans**  
13 **disability clinic fund established by section 7 of this chapter.**  
14 **Sec. 5. As used in this chapter, "qualified law school" means a**  
15 **law school:**  
16 **(1) located in Indiana; and**  
17 **(2) approved by the American Bar Association;**

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1 that operates a veterans disability clinic.

2 **Sec. 6. As used in this chapter, "veterans disability clinic"**  
3 **means a law school clinical program that:**

4 **(1) offers practice opportunities to law students to counsel or**  
5 **represent veterans in claims for veterans disability**  
6 **compensation;**

7 **(2) is part of the educational curriculum of the law school;**

8 **(3) is under the direction of a law school faculty member; and**

9 **(4) provides legal services at no cost or nominal cost to**  
10 **veterans.**

11 **Sec. 7. (a) The veterans disability clinic fund is established to**  
12 **provide funding for grants to qualified law schools that establish**  
13 **or maintain a veterans disability clinic.**

14 **(b) The fund shall be administered by the commission.**

15 **(c) The fund consists of the following:**

16 **(1) Appropriations made by the general assembly.**

17 **(2) Donations to the fund.**

18 **(3) Interest.**

19 **(4) Money transferred to the fund from other funds.**

20 **(5) Money from any other source authorized or appropriated**  
21 **for the fund.**

22 **(d) Money in the fund at the end of a state fiscal year does not**  
23 **revert to the state general fund or to any other fund.**

24 **(e) Money in the fund is continually appropriated to carry out**  
25 **the purposes of the fund.**

26 **Sec. 8. A qualifying law school that wishes to receive a grant to**  
27 **establish or maintain a veterans disability clinic under this chapter**  
28 **shall consult with the department to:**

29 **(1) identify veterans in need of counsel or representation in a**  
30 **claim for veterans disability compensation;**

31 **(2) inform veterans about the availability of legal services**  
32 **through the veterans disability clinic; and**

33 **(3) develop an educational outreach program as part of the**  
34 **veterans disability clinic to advise veterans of their rights in**  
35 **the claims process for veterans disability compensation.**

36 **Sec. 9. The commission may adopt rules under IC 4-22-2 to**  
37 **implement this chapter.**

38 **Sec. 10. The director or a member of the commission may make**  
39 **a request to the general assembly for an appropriation to the fund.**

40 **SECTION 2. IC 10-17-14.2 IS ADDED TO THE INDIANA CODE**  
41 **AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE**  
42 **JULY 1, 2014]:**



1           **Chapter 14.2. Indiana Veteran Recovery Program**

2           **Sec. 1. As used in this chapter, "program" refers to the Indiana**  
3 **veteran recovery program established by IC 27-1-44-5.**

4           **Sec. 2. The director of veterans' affairs and the adjutant general**  
5 **of the Indiana national guard shall enter into a memorandum of**  
6 **understanding with any institutional review board as necessary to**  
7 **provide assistance to veterans under the program.**

8           **Sec. 3. The director of veterans' affairs shall notify each**  
9 **individual in Indiana who has a United States military service**  
10 **related injury or disability of the existence of the program.**

11           **Sec. 4. This chapter expires on the earlier of the following:**

12           **(1) Ninety (90) days after the director of veterans' affairs has**  
13 **determined that the federal Food and Drug Administration**  
14 **has designated hyperbaric oxygen treatment (as defined in**  
15 **IC 27-1-44-2) as standard for care.**

16           **(2) July 1, 2019.**

17           SECTION 3. IC 27-1-44 IS ADDED TO THE INDIANA CODE AS  
18 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
19 1, 2014]:

20           **Chapter 44. Indiana Veteran Recovery Program and Fund**

21           **Sec. 1. As used in this chapter, "fund" refers to the Indiana**  
22 **veteran recovery fund established by section 6 of this chapter.**

23           **Sec. 2. As used in this chapter, "hyperbaric oxygen treatment"**  
24 **means treatment in:**

25           **(1) a hyperbaric chamber approved by the federal Food and**  
26 **Drug Administration, as prescribed by a physician; or**

27           **(2) a hyperbaric oxygen device that is approved by the federal**  
28 **Food and Drug Administration for investigational use under**  
29 **direction of an institutional review board with a national**  
30 **clinical trial number;**

31 **at a state fire code compliant location and delivered by a licensed**  
32 **or nationally certified health care provider.**

33           **Sec. 3. As used in this chapter, "program" refers to the Indiana**  
34 **veteran recovery program established by section 5 of this chapter.**

35           **Sec. 4. As used in this chapter, "veteran" refers to any**  
36 **individual in Indiana who has a United States military service**  
37 **related injury or disability, regardless of active, reserve, or retired**  
38 **status.**

39           **Sec. 5. (a) The Indiana veteran recovery program is established**  
40 **to provide diagnostic testing, hyperbaric oxygen treatment,**  
41 **counseling, and rehabilitative treatment of veterans who have**  
42 **traumatic brain injury or posttraumatic stress disorder.**



- 1 (b) The commissioner shall administer the program.  
 2 (c) The commissioner shall do the following:  
 3 (1) Be responsible for the management of all aspects of the  
 4 program.  
 5 (2) Prepare and provide program information.  
 6 (3) Use money in the fund to pay for diagnostic testing,  
 7 counseling, and rehabilitative treatment of veterans with  
 8 traumatic brain injury or posttraumatic stress disorder when  
 9 other funding is unavailable, according to the program  
 10 guidelines.  
 11 (4) With the assistance of the attorney general, pursue  
 12 reimbursement from:  
 13 (A) the federal government; and  
 14 (B) any other responsible third party payer;  
 15 for payments made under subdivision (3), for deposit in the  
 16 fund.  
 17 (5) Act as a liaison to the federal government and other  
 18 parties regarding the program.  
 19 (6) Enter into memoranda of understanding, as necessary,  
 20 with other state agencies concerning the administration and  
 21 management of the fund and the program.  
 22 (7) Adopt rules under IC 4-22-2 to implement this chapter.  
 23 Sec. 6. (a) The Indiana veteran recovery fund is established.  
 24 (b) The purpose of the fund is to:  
 25 (1) track expenditures for services and to provide payments  
 26 under the program for diagnostic testing and treatment of  
 27 veterans with posttraumatic stress disorder or traumatic  
 28 brain injury; and  
 29 (2) fund the administrative expenses of the program.  
 30 (c) The commissioner shall administer the fund.  
 31 (d) Expenses of administering the fund shall be paid from  
 32 money in the fund.  
 33 (e) The fund consists of the following:  
 34 (1) Appropriations made by the general assembly.  
 35 (2) Grants and gifts intended for deposit in the fund.  
 36 (3) Interest, premiums, gains, or other earnings on the fund.  
 37 (4) Any reimbursement received from the federal government  
 38 or third parties.  
 39 (f) The treasurer of state shall invest the money in the fund not  
 40 currently needed to meet the obligations of the fund in the same  
 41 manner as other public money may be invested. Interest that  
 42 accrues from these investments shall be deposited in the fund.



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

3 (h) Money in the fund is continuously appropriated for the  
4 purposes of the fund.

5 (i) All expenditures from the fund must be made by the  
6 treasurer of state following approval by the budget agency.

7 Sec. 7. (a) The commissioner shall enter into an agreement with  
8 a state entity or a postsecondary educational institution to provide  
9 exclusive oversight of the program in Indiana.

10 (b) The oversight includes all of the following:

11 (1) Adoption by the state entity or the postsecondary  
12 educational institution of program guidelines.

13 (2) Evaluation and approval of:

14 (A) all hyperbaric oxygen treatment sites participating in  
15 the program; and

16 (B) diagnostic testing, counseling, and rehabilitative  
17 treatment provided under the program.

18 (3) Inspection of treatment sites, as needed, in coordination  
19 with the International Hyperbaric Medical Foundation.

20 (4) Validation of treatment results according to the program  
21 guidelines, including the following:

22 (A) Biostatistical analysis and verification of treatment  
23 effectiveness.

24 (B) Reporting of analyses to the International Hyperbaric  
25 Medical Foundation for use in national studies.

26 (5) Long term follow-up evaluation of program results in  
27 connection with otherwise anticipated and actual state budget  
28 expenditures in education, labor, substance abuse,  
29 homelessness, incarceration, health care treatment, and use of  
30 state programs.

31 (c) The state entity or the postsecondary educational institution  
32 shall receive an established fee from the program at the time  
33 payment is made under this chapter to a health care provider for  
34 providing hyperbaric oxygen treatment to persons under this  
35 chapter.

36 Sec. 8. (a) A health care provider providing treatment under the  
37 program shall bill the program and be paid at:

38 (1) the Medicare rate for the treatment; or

39 (2) if a Medicare rate does not apply, the fair market rate for  
40 the treatment, as approved by the commissioner.

41 (b) Payment shall be made for treatment under the program  
42 only after verification under section 7 of this chapter that the



1 treatment improves clinical outcomes.

2 (c) Physicians who supervise treatment under the program must  
3 be paid at the Medicare Part B facility rate.

4 (d) The commissioner, through the office of Medicaid policy and  
5 planning, shall seek any waiver or approval required by the federal  
6 Centers for Medicare and Medicaid Services to obtain Medicaid  
7 payment for diagnostic testing, hyperbaric oxygen treatment,  
8 counseling, and rehabilitative treatment under the program.

9 Sec. 9. (a) The program guidelines adopted under this chapter  
10 must include the following:

11 (1) Approval of payment for a treatment that requires:

12 (A) federal Food and Drug Administration approval for  
13 any purpose of a drug or device used in the treatment;

14 (B) institutional review board approval of protocols or  
15 treatments in accord with requirements of the United  
16 States Department of Health and Human Services;

17 (C) voluntary acceptance of the treatment by the patient;  
18 and

19 (D) demonstrated improvement of the patient receiving the  
20 treatment through:

21 (i) standardized, independent pretreatment and  
22 posttreatment neuropsychological testing;

23 (ii) nationally accepted survey instruments;

24 (iii) neurological imaging; or

25 (iv) clinical examination.

26 (2) Payment from the fund promptly after the patient, or  
27 health care provider on behalf of the patient, submits  
28 documentation required by the program.

29 (3) Confidentiality of all individually identifiable patient  
30 information. However, all data and information from which  
31 the identity of an individual patient cannot be reasonably  
32 ascertained must be available to the general assembly,  
33 participating third party payers, participating institutional  
34 review boards, participating health care providers, and other  
35 governmental agencies.

36 (4) A treatment for which approval is granted under  
37 subdivision (1) is considered to have been medically necessary  
38 for purposes of any third party payment.

39 (b) The program guidelines adopted under this chapter may  
40 include a pilot subprogram through which first responders,  
41 including police officers, firefighters, and other high risk state  
42 government employees, may receive treatment under the program



1 according to the same requirements that apply for veterans  
2 receiving treatment under the program.

3 **Sec. 10. (a) An individual who receives treatment under the**  
4 **program may not be subject to retaliation of any kind.**

5 **(b) An institutional review board that approves treatment**  
6 **provided under the program must be treated as if the institutional**  
7 **review board were a state government institutional review board.**

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

13 **Sec. 11. The commissioner shall, not later than August 1 of each**  
14 **year and in coordination with the Indiana director of veterans'**  
15 **affairs and the state entity or the postsecondary educational**  
16 **institution that provides oversight of the program, file a report**  
17 **concerning the program with the governor, and, in an electronic**  
18 **format under IC 5-14-6, the legislative council. The report shall**  
19 **include all of the following:**

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

22 **(2) The condition for which each individual counted under**  
23 **subdivision (1) received treatment and the success rate of each**  
24 **treatment.**

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

27 **(4) Recommendations concerning integration of the treatment**  
28 **methods described in subdivision (3) with treatments**  
29 **provided in facilities of the federal Department of Defense and**  
30 **Department of Veterans' Affairs.**

31 **Sec. 12. This chapter expires July 1, 2019.**

32 SECTION 4. IC 34-13-3-2, AS AMENDED BY P.L.145-2011,  
33 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
34 JULY 1, 2014]: Sec. 2. This chapter applies to a claim or suit in tort  
35 against any of the following:

36 (1) A member of the bureau of motor vehicles commission  
37 established under IC 9-15-1-1.

38 (2) An employee of the bureau of motor vehicles commission who  
39 is employed at a license branch under IC 9-16, except for an  
40 employee employed at a license branch operated under a contract  
41 with the commission under IC 9-16.

42 (3) A member of the driver education advisory board established



1 by IC 9-27-6-5.

2 **(4) 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 veteran**  
 5 **recovery program under IC 27-1-44. This subdivision expires**  
 6 **July 1, 2019.**

7 SECTION 5. [EFFECTIVE UPON PASSAGE] **(a) As used in this**  
 8 **SECTION, "department" refers to the state department of health.**

9 **(b) As used in this SECTION, "veteran" refers to any individual**  
 10 **in Indiana who has a United States military service related injury**  
 11 **or disability, regardless of active, reserve, or retired status.**

12 **(c) Not later than September 1, 2014, the department shall study**  
 13 **and, in an electronic format under IC 5-14-6, report the**  
 14 **department's findings and recommendations to the legislative**  
 15 **council concerning implementation of a program for the specific**  
 16 **treatment of veterans who have traumatic brain injury or**  
 17 **posttraumatic stress disorder.**

18 **(d) Findings and recommendations made under subsection (c)**  
 19 **must include the following:**

20 **(1) After consideration by the department of treatment**  
 21 **protocols and therapies for traumatic brain injury and**  
 22 **posttraumatic stress disorder, including:**

23 **(A) resource facilitation; and**

24 **(B) cognitive rehabilitation;**

25 **recommendations concerning the best peer reviewed, evidence**  
 26 **based protocols and therapies to be used to provide the**  
 27 **treatment described in subsection (c).**

28 **(2) Recommendations concerning the types of health care**  
 29 **providers necessary for implementation and any certification**  
 30 **of the program.**

31 **(3) The estimated number of veterans who have traumatic**  
 32 **brain injury or posttraumatic stress disorder.**

33 **(4) An analysis of available federal and state funding for the**  
 34 **program.**

35 **(5) An analysis of the costs of traumatic brain injury and**  
 36 **posttraumatic stress disorder among veterans and the**  
 37 **economic impact of implementation of the program.**

38 **(e) This SECTION expires January 1, 2015.**

39 SECTION 6. An emergency is declared for this act.



## COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 180, 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:

Delete the title and insert the following:

A BILL FOR AN ACT concerning insurance.

Page 1, line 1, delete "IC 10-17-14 IS ADDED TO THE INDIANA CODE" and insert "[EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "department" refers to the state department of health.

(b) As used in this SECTION,"

Page 1, delete lines 2 through 16.

Page 2, delete lines 1 through 16.

Page 2, line 17, delete "Sec. 4. As used in this chapter,".

Page 1, run in line 1 through page 2, line 17.

Page 2, delete lines 21 through 22.

Page 2, line 23, delete "counseling, and rehabilitative", begin a new paragraph and insert:

**"(c) Not later than September 1, 2014, the department shall study and, in an electronic format under IC 5-14-6, report the department's findings and recommendations to the legislative council concerning implementation of a program for the specific".**

Page 2, delete lines 25 through 42, begin a new paragraph and insert:

**"(d) Findings and recommendations made under subsection (c) must include the following:**

**(1) After consideration by the department of treatment protocols and therapies for traumatic brain injury and posttraumatic stress disorder, including:**

**(A) resource facilitation;**

**(B) cognitive rehabilitation; and**

**(C) hyperbaric therapy;**

**recommendations concerning the best peer reviewed, evidence based protocols and therapies to be used to provide the treatment described in subsection (c).**

**(2) Recommendations concerning the types of health care providers necessary for implementation and any certification of the program.**

**(3) The estimated number of veterans who have traumatic brain injury or posttraumatic stress disorder.**



**(4) An analysis of available federal and state funding for the program.**

**(5) An analysis of the costs of traumatic brain injury and posttraumatic stress disorder among veterans and the economic impact of implementation of the program.**

**(e) This SECTION expires January 1, 2015.**

**SECTION 2. An emergency is declared for this act."**

Delete pages 3 through 6.

and when so amended that said bill do pass.

(Reference is to SB 180 as introduced.)

MILLER PATRICIA, Chairperson

Committee Vote: Yeas 9, Nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Senate Bill 180, 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:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning veterans and to make an appropriation.

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

"SECTION 1. IC 10-17-12.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]:

**Chapter 12.5. Veterans Disability Clinic Fund**

**Sec. 1. As used in this chapter, "commission" refers to the Indiana veterans' affairs commission established by IC 10-17-13-4.**

**Sec. 2. As used in this chapter, "department" refers to the Indiana department of veterans' affairs established by IC 10-17-1-2.**

**Sec. 3. As used in this chapter, "director" refers to the director of veterans' affairs.**

**Sec. 4. As used in this chapter, "fund" refers to the veterans disability clinic fund established by section 7 of this chapter.**

**Sec. 5. As used in this chapter, "qualified law school" means a law school:**

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(1) located in Indiana; and  
(2) approved by the American Bar Association;  
that operates a veterans disability clinic.

**Sec. 6. As used in this chapter, "veterans disability clinic" means a law school clinical program that:**

- (1) offers practice opportunities to law students to counsel or represent veterans in claims for veterans disability compensation;
- (2) is part of the educational curriculum of the law school;
- (3) is under the direction of a law school faculty member; and
- (4) provides legal services at no cost or nominal cost to veterans.

**Sec. 7. (a) The veterans disability clinic fund is established to provide funding for grants to qualified law schools that establish or maintain a veterans disability clinic.**

**(b) The fund shall be administered by the commission.**

**(c) The fund consists of the following:**

- (1) Appropriations made by the general assembly.
- (2) Donations to the fund.
- (3) Interest.
- (4) Money transferred to the fund from other funds.
- (5) Money from any other source authorized or appropriated for the fund.

**(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund or to any other fund.**

**(e) Money in the fund is continually appropriated to carry out the purposes of the fund.**

**Sec. 8. A qualifying law school that wishes to receive a grant to establish or maintain a veterans disability clinic under this chapter shall consult with the department to:**

- (1) identify veterans in need of counsel or representation in a claim for veterans disability compensation;
- (2) inform veterans about the availability of legal services through the veterans disability clinic; and
- (3) develop an educational outreach program as part of the veterans disability clinic to advise veterans of their rights in the claims process for veterans disability compensation.

**Sec. 9. The commission may adopt rules under IC 4-22-2 to implement this chapter.**

**Sec. 10. The director or a member of the commission may make a request to the general assembly for an appropriation to the fund.**

**SECTION 2. IC 10-17-14.2 IS ADDED TO THE INDIANA CODE**



AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]:

**Chapter 14.2. Indiana Veteran Recovery Program**

**Sec. 1.** As used in this chapter, "program" refers to the Indiana veteran recovery program established by IC 27-1-44-5.

**Sec. 2.** The director of veterans' affairs and the adjutant general of the Indiana national guard shall enter into a memorandum of understanding with any institutional review board as necessary to provide assistance to veterans under the program.

**Sec. 3.** The director of veterans' affairs shall notify each individual in Indiana who has a United States military service related injury or disability of the existence of the program.

**Sec. 4.** This chapter expires on the earlier of the following:

(1) Ninety (90) days after the director of veterans' affairs has determined that the federal Food and Drug Administration has designated hyperbaric oxygen treatment (as defined in IC 27-1-44-2) as standard for care.

(2) July 1, 2019.

SECTION 3. IC 27-1-44 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]:

**Chapter 44. Indiana Veteran Recovery Program and Fund**

**Sec. 1.** As used in this chapter, "fund" refers to the Indiana veteran recovery fund established by section 6 of this chapter.

**Sec. 2.** As used in this chapter, "hyperbaric oxygen treatment" means treatment in:

(1) a hyperbaric chamber approved by the federal Food and Drug Administration, as prescribed by a physician; or

(2) a hyperbaric oxygen device that is approved by the federal Food and Drug Administration for investigational use under direction of an institutional review board with a national clinical trial number;

at a state fire code compliant location and delivered by a licensed or nationally certified health care provider.

**Sec. 3.** As used in this chapter, "program" refers to the Indiana veteran recovery program established by section 5 of this chapter.

**Sec. 4.** As used in this chapter, "veteran" refers to any individual in Indiana who has a United States military service related injury or disability, regardless of active, reserve, or retired status.

**Sec. 5. (a)** The Indiana veteran recovery program is established to provide diagnostic testing, hyperbaric oxygen treatment,



counseling, and rehabilitative treatment of veterans who have traumatic brain injury or posttraumatic stress disorder.

(b) The commissioner shall administer the program.

(c) The commissioner shall do the following:

(1) Be responsible for the management of all aspects of the program.

(2) Prepare and provide program information.

(3) Use money in the fund to pay for diagnostic testing, counseling, and rehabilitative treatment of veterans with traumatic brain injury or posttraumatic stress disorder when other funding is unavailable, according to the program guidelines.

(4) With the assistance of the attorney general, pursue reimbursement from:

(A) the federal government; and

(B) any other responsible third party payer; for payments made under subdivision (3), for deposit in the fund.

(5) Act as a liaison to the federal government and other parties regarding the program.

(6) Enter into memoranda of understanding, as necessary, with other state agencies concerning the administration and management of the fund and the program.

(7) Adopt rules under IC 4-22-2 to implement this chapter.

Sec. 6. (a) The Indiana veteran recovery fund is established.

(b) The purpose of the fund is to:

(1) track expenditures for services and to provide payments under the program for diagnostic testing and treatment of veterans with posttraumatic stress disorder or traumatic brain injury; and

(2) fund the administrative expenses of the program.

(c) The commissioner shall administer the fund.

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

(e) The fund consists of the following:

(1) Appropriations made by the general assembly.

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

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

(4) Any reimbursement received from the federal government or third parties.

(f) 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 money may be invested. Interest that accrues from these investments shall be deposited in the fund.

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

(h) Money in the fund is continuously appropriated for the purposes of the fund.

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

**Sec. 7. (a)** The commissioner shall enter into an agreement with a state entity or a postsecondary educational institution to provide exclusive oversight of the program in Indiana.

(b) The oversight includes all of the following:

(1) Adoption by the state entity or the postsecondary educational institution of program guidelines.

(2) Evaluation and approval of:

(A) all hyperbaric oxygen treatment sites participating in the program; and

(B) diagnostic testing, counseling, and rehabilitative treatment provided under the program.

(3) Inspection of treatment sites, as needed, in coordination with the International Hyperbaric Medical Foundation.

(4) Validation of treatment results according to the program guidelines, including the following:

(A) Biostatistical analysis and verification of treatment effectiveness.

(B) Reporting of analyses to the International Hyperbaric Medical Foundation for use in national studies.

(5) Long term follow-up evaluation of program results in connection with otherwise anticipated and actual state budget expenditures in education, labor, substance abuse, homelessness, incarceration, health care treatment, and use of state programs.

(c) The state entity or the postsecondary educational institution shall receive an established fee from the program at the time payment is made under this chapter to a health care provider for providing hyperbaric oxygen treatment to persons under this chapter.

**Sec. 8. (a)** A health care provider providing treatment under the program shall bill the program and be paid at:

(1) the Medicare rate for the treatment; or

(2) if a Medicare rate does not apply, the fair market rate for the treatment, as approved by the commissioner.



(b) Payment shall be made for treatment under the program only after verification under section 7 of this chapter that the treatment improves clinical outcomes.

(c) Physicians who supervise treatment under the program must be paid at the Medicare Part B facility rate.

(d) The commissioner, through the office of Medicaid policy and planning, shall seek any waiver or approval required by the federal Centers for Medicare and Medicaid Services to obtain Medicaid payment for diagnostic testing, hyperbaric oxygen treatment, counseling, and rehabilitative treatment under the program.

**Sec. 9. (a)** The program guidelines adopted under this chapter must include the following:

**(1)** Approval of payment for a treatment that requires:

**(A)** federal Food and Drug Administration approval for any purpose of a drug or device used in the treatment;

**(B)** institutional review board approval of protocols or treatments in accord with requirements of the United States Department of Health and Human Services;

**(C)** voluntary acceptance of the treatment by the patient; and

**(D)** demonstrated improvement of the patient receiving the treatment through:

**(i)** standardized, independent pretreatment and posttreatment neuropsychological testing;

**(ii)** nationally accepted survey instruments;

**(iii)** neurological imaging; or

**(iv)** clinical examination.

**(2)** Payment from the fund promptly after the patient, or health care provider on behalf of the patient, submits documentation required by the program.

**(3)** Confidentiality of all individually identifiable patient information. However, all data and information from which the identity of an individual patient cannot be reasonably ascertained must be available to the general assembly, participating third party payers, participating institutional review boards, participating health care providers, and other governmental agencies.

**(4)** A treatment for which approval is granted under subdivision (1) is considered to have been medically necessary for purposes of any third party payment.

**(b)** The program guidelines adopted under this chapter may include a pilot subprogram through which first responders,



including police officers, firefighters, and other high risk state government employees, may receive treatment under the program according to the same requirements that apply for veterans receiving treatment under the program.

**Sec. 10. (a)** An individual who receives treatment under the program may not be subject to retaliation of any kind.

**(b)** An institutional review board that approves treatment provided under the program must be treated as if the institutional review board were a state government institutional review board.

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

**Sec. 11.** The commissioner shall, not later than August 1 of each year and in coordination with the Indiana director of veterans' affairs and the state entity or the postsecondary educational institution that provides oversight of the program, file a report concerning the program with the governor, and, in an electronic format under IC 5-14-6, the legislative council. The report shall include all of the following:

- (1)** The number of individuals for whom payments were made from the fund for treatment under the program.
- (2)** The condition for which each individual counted under subdivision (1) received treatment and the success rate of each treatment.
- (3)** Treatment methods for which payment was made under the program and the success rate of each method.
- (4)** Recommendations concerning integration of the treatment methods described in subdivision (3) with treatments provided in facilities of the federal Department of Defense and Department of Veterans' Affairs.

**Sec. 12.** This chapter expires July 1, 2019.

SECTION 4. IC 34-13-3-2, AS AMENDED BY P.L.145-2011, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. This chapter applies to a claim or suit in tort against any of the following:

- (1)** A member of the bureau of motor vehicles commission established under IC 9-15-1-1.
- (2)** An employee of the bureau of motor vehicles commission who is employed at a license branch under IC 9-16, except for an employee employed at a license branch operated under a contract



with the commission under IC 9-16.

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

**(4) A health care provider, with respect to any damages resulting from the health care provider's use of hyperbaric oxygen treatment to treat a veteran under the Indiana veteran recovery program under IC 27-1-44. This subdivision expires July 1, 2019."**

Page 1, line 17, after "facilitation;" insert "**and**".

Page 2, line 1, delete "and".

Page 2, delete line 2.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 180 as printed January 31, 2014.)

CLERE, Chair

Committee Vote: yeas 10, nays 0.

