



February 14, 2020

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# ENGROSSED HOUSE BILL No. 1210

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DIGEST OF HB 1210 (Updated February 12, 2020 1:07 pm - DI 104)

**Citations Affected:** IC 7.1-5; IC 16-18; IC 16-27; IC 16-38; IC 16-39; IC 16-42; IC 35-52.

**Synopsis:** Various health matters. Establishes penalties for intentionally interfering with an investigation and enforcement of a home health agency by the state department of health (department). Allows the department to use the immunization data registry to store and release nonimmunization personal health information. States that a responsible member of a family may release a deceased patient's medical records if the deceased patient does not have a surviving spouse or child or a personal representative of the estate. Allows mental health records to be disclosed without the consent of the patient for research purposes by rules of the Indiana archives and records  
(Continued next page)

**Effective:** April 1, 2020; July 1, 2020.

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## Zent, Fleming, Barrett, Shackelford

(SENATE SPONSOR — CHARBONNEAU)

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January 13, 2020, read first time and referred to Committee on Public Health.  
January 16, 2020, reported — Do Pass.  
January 21, 2020, read second time, ordered engrossed. Engrossed.  
January 23, 2020, read third time, passed. Yeas 92, nays 0.

SENATE ACTION

February 5, 2020, read first time and referred to Committee on Health and Provider Services.  
February 13, 2020, amended, reported favorably — Do Pass.

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EH 1210—LS 7143/DI 77



## Digest Continued

administration and the oversight committee on public records. Allows health records to be disclosed by the Indiana archives and records administration to another provider or nonprofit research organization (current law is a nonprofit medical research organization) in connection with a scientific, statistical, or education project. Changes the title of a "certified food handler" to "certified food protection manager" (CFPM). Repeals the definition of "food handler". Requires a CFPM to provide certain documents to the food establishment and obtain a valid certificate every five years. Prohibits using the title "certified food protection manager" unless the person holds a certificate. Provides that a CFPM may be required to be present during all hours of operation if the department and food establishment agreed upon a variance concerning the requirements for the operation of the food establishment. Amends the establishments that are exempt from the certified food protection manager requirements. Establishes new penalties. Provides for the transition of an existing certified food handler to a certified food protection manager. Makes conforming changes.

**EH 1210—LS 7143/DI 77**



February 14, 2020

Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1210

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 7.1-5-12-5, AS AMENDED BY P.L.231-2015,  
2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2020]: Sec. 5. (a) Except as provided in subsection (c) and  
4 subject to section 13 of this chapter, smoking may be allowed in the  
5 following:  
6 (1) A horse racing facility operated under a permit under  
7 IC 4-31-5 and any other permanent structure on land owned or  
8 leased by the owner of the facility that is adjacent to the facility.  
9 (2) A riverboat (as defined in IC 4-33-2-17) and any other  
10 permanent structure that is:  
11 (A) owned or leased by the owner of the riverboat; and  
12 (B) located on land that is adjacent to:  
13 (i) the dock to which the riverboat is moored; or  
14 (ii) the land on which the riverboat is situated in the case of  
15 a riverboat described in IC 4-33-2-17(2).  
16 (3) A facility that operates under a gambling game license under  
17 IC 4-35-5 and any other permanent structure on land owned or

**EH 1210—LS 7143/DI 77**



- 1 leased by the owner of the facility that is adjacent to the facility.  
 2 (4) A satellite facility licensed under IC 4-31-5.5.  
 3 (5) An establishment owned or leased by a business that meets the  
 4 following requirements:  
 5 (A) The business was in business and permitted smoking on  
 6 December 31, 2012.  
 7 (B) The business prohibits entry by an individual who is less  
 8 than twenty-one (21) years of age.  
 9 (C) The owner or operator of the business holds a beer, liquor,  
 10 or wine retailer's permit.  
 11 (D) The business limits smoking in the establishment to  
 12 smoking with a waterpipe or hookah device.  
 13 (E) During the preceding calendar year, at least ten percent  
 14 (10%) of the business's annual gross income was from the sale  
 15 of loose tobacco for use in a waterpipe or hookah device.  
 16 (F) The person in charge of the business posts in the  
 17 establishment conspicuous signs that display the message that  
 18 cigarette smoking is prohibited.  
 19 (6) An establishment owned or leased by a business that meets the  
 20 following requirements:  
 21 (A) The business prohibits entry by an individual who is less  
 22 than twenty-one (21) years of age.  
 23 (B) The owner or operator of the business holds a beer, liquor,  
 24 or wine retailer's permit.  
 25 (C) The business limits smoking in the establishment to cigar  
 26 smoking.  
 27 (D) During the preceding calendar year, at least ten percent  
 28 (10%) of the business's annual gross income was from the sale  
 29 of cigars and the rental of onsite humidors.  
 30 (E) The person in charge of the business posts in the  
 31 establishment conspicuous signs that display the message that  
 32 cigarette smoking is prohibited.  
 33 (7) A premises owned or leased by and regularly used for the  
 34 activities of a business that meets all of the following:  
 35 (A) The business is exempt from federal income taxation  
 36 under 26 U.S.C. 501(c).  
 37 (B) The business:  
 38 (i) meets the requirements to be considered a club under  
 39 IC 7.1-3-20-1; or  
 40 (ii) is a fraternal club (as defined in IC 7.1-3-20-7).  
 41 (C) The business provides food or alcoholic beverages only to  
 42 its bona fide members and their guests.



- 1 (D) The business:
- 2 (i) provides a separate, enclosed, designated smoking room
- 3 or area that is adequately ventilated to prevent migration of
- 4 smoke to nonsmoking areas of the premises;
- 5 (ii) allows smoking only in the room or area described in
- 6 item (i);
- 7 (iii) does not allow an individual who is less than eighteen
- 8 (18) years of age to enter into the room or area described in
- 9 item (i); and
- 10 (iv) allows a guest in the smoking room or area described in
- 11 item (i) only when accompanied by a bona fide member of
- 12 the business.
- 13 (8) A retail tobacco store used primarily for the sale of tobacco
- 14 products and tobacco accessories that meets the following
- 15 requirements:
- 16 (A) The owner or operator of the store holds a valid tobacco
- 17 sales certificate issued under IC 7.1-3-18.5.
- 18 (B) The store prohibits entry by an individual who is less than
- 19 eighteen (18) years of age.
- 20 (C) The sale of products other than tobacco products and
- 21 tobacco accessories is merely incidental.
- 22 (D) The sale of tobacco products accounts for at least
- 23 eighty-five percent (85%) of the store's annual gross sales.
- 24 (E) Food or beverages are not sold in a manner that requires
- 25 consumption on the premises, and there is not an area set aside
- 26 for customers to consume food or beverages on the premises.
- 27 (9) A bar or tavern:
- 28 (A) for which a permittee holds:
- 29 (i) a beer retailer's permit under IC 7.1-3-4;
- 30 (ii) a liquor retailer's permit under IC 7.1-3-9; or
- 31 (iii) a wine retailer's permit under IC 7.1-3-14;
- 32 (B) that does not employ an individual who is less than
- 33 eighteen (18) years of age;
- 34 (C) that does not allow an individual who:
- 35 (i) is less than twenty-one (21) years of age; and
- 36 (ii) is not an employee of the bar or tavern;
- 37 to enter any area of the bar or tavern; and
- 38 (D) that is not located in a business that would otherwise be
- 39 subject to this chapter.
- 40 (10) A cigar manufacturing facility that does not offer retail sales.
- 41 (11) A premises of a cigar specialty store to which all of the
- 42 following apply:



- 1 (A) The owner or operator of the store holds a valid tobacco  
 2 sales certificate issued under IC 7.1-3-18.5.
- 3 (B) The sale of tobacco products and tobacco accessories  
 4 account for at least fifty percent (50%) of the store's annual  
 5 gross sales.
- 6 (C) The store has a separate, enclosed, designated smoking  
 7 room that is adequately ventilated to prevent migration of  
 8 smoke to nonsmoking areas.
- 9 (D) Smoking is allowed only in the room described in clause  
 10 (C).
- 11 (E) Individuals who are less than eighteen (18) years of age are  
 12 prohibited from entering into the room described in clause (C).
- 13 (F) Cigarette smoking is not allowed on the premises of the  
 14 store.
- 15 (G) The owner or operator of the store posts a conspicuous  
 16 sign on the premises of the store that displays the message that  
 17 cigarette smoking is prohibited.
- 18 (H) The store does not prepare any food or beverage that  
 19 would require a certified food ~~handler~~ **protection manager**  
 20 under IC 16-42-5.2.
- 21 (12) The premises of a business that is located in the business  
 22 owner's private residence (as defined in IC 3-5-2-42.5) if the only  
 23 employees of the business who work in the residence are the  
 24 owner and other individuals who reside in the residence.
- 25 (b) The owner, operator, manager, or official in charge of an  
 26 establishment or premises in which smoking is allowed under this  
 27 section shall post conspicuous signs in the establishment that read  
 28 "WARNING: Smoking Is Allowed In This Establishment" or other  
 29 similar language.
- 30 (c) This section does not allow smoking in the following enclosed  
 31 areas of an establishment or premises described in subsection (a)(1)  
 32 through (a)(11):
- 33 (1) Any hallway, elevator, or other common area where an  
 34 individual who is less than eighteen (18) years of age is permitted.
- 35 (2) Any room that is intended for use by an individual who is less  
 36 than eighteen (18) years of age.
- 37 (d) The owner, operator, or manager of an establishment or premises  
 38 that is listed under subsection (a) and that allows smoking shall provide  
 39 a verified statement to the commission that states that the establishment  
 40 or premises qualifies for the exemption. The commission may require  
 41 the owner, operator, or manager of an establishment or premises to  
 42 provide documentation or additional information concerning the



1 exemption of the establishment or premises.

2 SECTION 2. IC 16-18-2-51.5 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 51.5. "Certified food  
4 **handler", "protection manager"**, for purposes of IC 16-42-5.2, has the  
5 meaning set forth in IC 16-42-5.2-4.

6 SECTION 3. IC 16-18-2-52 IS AMENDED TO READ AS  
7 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 52. **(a)** "Certificate" or  
8 "certification", for purposes of IC 16-31, means authorization in written  
9 form issued by the Indiana emergency medical services commission to  
10 a person to furnish, operate, conduct, maintain, advertise, or otherwise  
11 engage in providing emergency medical services as a part of a regular  
12 course of doing business, either paid or voluntary.

13 **(b) "Certificate", for purposes of IC 16-42-5.2, has the meaning**  
14 **set forth in IC 16-42-5.2-4.5.**

15 SECTION 4. IC 16-18-2-138.3 IS REPEALED [EFFECTIVE JULY  
16 1, 2020]. ~~Sec. 138.3: "Food handler", for purposes of IC 16-42-5.2; has~~  
17 ~~the meaning set forth in IC 16-42-5.2-5.~~

18 SECTION 5. IC 16-27-1-12 IS AMENDED TO READ AS  
19 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 12. (a) The state health  
20 commissioner may take one (1) or more of the following actions on any  
21 ground listed in subsection (b):

- 22 (1) Issue a letter of correction.
- 23 (2) Issue a probationary license.
- 24 (3) Conduct a resurvey.
- 25 (4) Deny renewal of a license.
- 26 (5) Revoke a license.
- 27 (6) Impose a civil penalty in an amount not to exceed ten  
28 thousand dollars (\$10,000).

29 (b) The state health commissioner may take action under subsection  
30 (a) on any of the following grounds:

- 31 (1) Violation of any of the provisions of this chapter or rules  
32 adopted under this chapter.
- 33 (2) Permitting, aiding, or abetting the commission of an illegal act  
34 in a home health agency.
- 35 (3) Conduct or practice found by the state department to be  
36 detrimental to the welfare of the patients of the home health care  
37 agency.

38 **(c) A person who intentionally:**

- 39 **(1) prevents, interferes with, or attempts to impede the work**  
40 **of an employee of the state department in the investigation**  
41 **and enforcement of any provision of this article or rule**  
42 **adopted under this article;**



1 (2) prevents or attempts to prevent an employee of the state  
 2 department from examining any relevant records in the  
 3 conduct of official duties under this article or rule adopted  
 4 under this article;

5 (3) prevents or interferes with an employee of the state  
 6 department in preserving evidence of the breach of any  
 7 provision of this article or rules adopted by the state  
 8 department;

9 (4) retaliates or discriminates against a patient, health care  
 10 representative, power of attorney, employee, agency staff  
 11 member, or any other person for:

12 (A) contacting or providing information to any state  
 13 official; or

14 (B) initiating, participating in, or testifying in an action  
 15 under this article or rules adopted by the state  
 16 department; or

17 (5) fails to correct or interferes with the correction process  
 18 within the correction period specified on the citation or  
 19 approved plan of correction, unless an extension is granted by  
 20 the director and the corrections are made before expiration of  
 21 the extension;

22 commits a Class C misdemeanor.

23 ~~(e)~~ (d) In addition to the criminal provisions for violations  
 24 described in this section, the commissioner may commence an  
 25 action under IC 4-21.5 applies to an action under this section: for  
 26 issuance of an order of compliance and assess a civil penalty not to  
 27 exceed twenty-five thousand dollars (\$25,000).

28 SECTION 6. IC 16-38-5-1, AS AMENDED BY P.L.191-2013,  
 29 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 30 JULY 1, 2020]: Sec. 1. (a) The state department shall maintain an  
 31 immunization data registry to collect, store, analyze, release, and report  
 32 immunization data.

33 (b) Except as provided in subsection (c), data in the immunization  
 34 data registry may be used only for the following purposes:

35 (1) To assure that necessary immunizations are provided and  
 36 overimmunization is avoided.

37 (2) To assess immunization coverage rates.

38 (3) To determine areas of underimmunization and other  
 39 epidemiological research for disease control purposes.

40 (4) To document that required immunizations have been provided  
 41 as required for school or child care admission.

42 (5) To accomplish other public health purposes as determined by





- 1 the state department.
- 2 **(c) The immunization data registry may be used to store and**  
 3 **release other nonimmunization personal health information**  
 4 **maintained by the state department, including blood lead screening**  
 5 **and newborn screening information, so providers and the**  
 6 **individual may access the health information. However, section 3**  
 7 **of this chapter does not apply to the release of nonimmunization**  
 8 **personal health information. Nonimmunization personal health**  
 9 **information may be released only in accordance with state and**  
 10 **federal laws concerning that personal health information.**
- 11 (e) **(d)** The state department may adopt rules under IC 4-22-2  
 12 concerning who may input and retrieve information from the  
 13 immunization data registry.
- 14 SECTION 7. IC 16-39-1-3, AS AMENDED BY P.L.240-2017,  
 15 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 16 APRIL 1, 2020]: Sec. 3. (a) Health records may be requested by a  
 17 competent patient if the patient is:
- 18 (1) emancipated and less than eighteen (18) years of age; or  
 19 (2) at least eighteen (18) years of age.
- 20 (b) If a patient is incompetent, the request for health records may be  
 21 made by the parent, guardian, or custodian of the patient.
- 22 (c) Health records of a deceased patient may be requested:
- 23 (1) by a coroner under IC 36-2-14-21 or by the personal  
 24 representative of the patient's estate;  
 25 (2) if the estate of the deceased patient does not have a personal  
 26 representative, by the spouse of the deceased patient;  
 27 (3) if the deceased patient does not have a surviving spouse and  
 28 the deceased patient's estate does not have a personal  
 29 representative, by:
- 30 (A) a child of the deceased patient; or  
 31 (B) the parent, guardian, or custodian of the child of the  
 32 deceased patient if the child of the deceased patient is  
 33 incompetent; **or**
- 34 (4) if the deceased patient was an incapacitated person for whom  
 35 a guardian had been appointed under IC 29-3 or the law of  
 36 another state, by the guardian of the deceased patient, except as  
 37 provided in subsection (d); **or**
- 38 **(5) if the deceased patient does not have a surviving spouse or**  
 39 **child, and the deceased patient's estate does not have a**  
 40 **personal representative, by any responsible member of the**  
 41 **family.**
- 42 (d) If:



1 (1) the deceased patient was an incapacitated person subject to a  
2 guardianship at the time of the patient's death; and

3 (2) a personal representative of the estate of the deceased patient  
4 is appointed under IC 29-1-7;

5 the guardian of the deceased patient may not request health records of  
6 the deceased patient under subsection (c)(4).

7 SECTION 8. IC 16-39-2-6, AS AMENDED BY THE TECHNICAL  
8 CORRECTIONS BILL OF THE 2020 GENERAL ASSEMBLY, IS  
9 AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2020]:

10 Sec. 6. (a) Without the consent of the patient, the patient's mental  
11 health record may only be disclosed as follows:

12 (1) To individuals who meet the following conditions:

13 (A) Are employed by:

14 (i) the provider at the same facility or agency;

15 (ii) a managed care provider (as defined in IC 12-7-2-127);  
16 or

17 (iii) a health care provider or mental health care provider, if  
18 the mental health records are needed to provide health care  
19 or mental health services to the patient.

20 (B) Are involved in the planning, provision, and monitoring of  
21 services.

22 (2) To the extent necessary to obtain payment for services  
23 rendered or other benefits to which the patient may be entitled, as  
24 provided in IC 16-39-5-3.

25 (3) To the patient's court appointed counsel and to the Indiana  
26 protection and advocacy services commission.

27 (4) For research conducted in accordance with IC 16-39-5-3 and  
28 the rules of the division of mental health and addiction, the rules  
29 of the division of disability and rehabilitative services, ~~or~~ the rules  
30 of the provider, **or the rules of the Indiana archives and**  
31 **records administration and the oversight committee on public**  
32 **records.**

33 (5) To the division of mental health and addiction for the purpose  
34 of data collection, research, and monitoring managed care  
35 providers (as defined in IC 12-7-2-127) who are operating under  
36 a contract with the division of mental health and addiction.

37 (6) To the extent necessary to make reports or give testimony  
38 required by the statutes pertaining to admissions, transfers,  
39 discharges, and guardianship proceedings.

40 (7) To a law enforcement agency if any of the following  
41 conditions are met:

42 (A) A patient escapes from a facility to which the patient is



- 1 committed under IC 12-26.
- 2 (B) The superintendent of the facility determines that failure  
3 to provide the information may result in bodily harm to the  
4 patient or another individual.
- 5 (C) A patient commits or threatens to commit a crime on  
6 facility premises or against facility personnel.
- 7 (D) A patient is in the custody of a law enforcement officer or  
8 agency for any reason and:
- 9 (i) the information to be released is limited to medications  
10 currently prescribed for the patient or to the patient's history  
11 of adverse medication reactions; and
- 12 (ii) the provider determines that the release of the  
13 medication information will assist in protecting the health,  
14 safety, or welfare of the patient.
- 15 Mental health records released under this clause must be  
16 maintained in confidence by the law enforcement agency  
17 receiving them.
- 18 (8) To a coroner or medical examiner, in the performance of the  
19 individual's duties.
- 20 (9) To a school in which the patient is enrolled if the  
21 superintendent of the facility determines that the information will  
22 assist the school in meeting educational needs of the patient.
- 23 (10) To the extent necessary to satisfy reporting requirements  
24 under the following statutes:
- 25 (A) IC 12-10-3-10.  
26 (B) IC 12-24-17-5.  
27 (C) IC 16-41-2-3.  
28 (D) IC 31-25-3-2.  
29 (E) IC 31-33-5-4.  
30 (F) IC 34-30-16-2.  
31 (G) IC 35-46-1-13.
- 32 (11) To the extent necessary to satisfy release of information  
33 requirements under the following statutes:
- 34 (A) IC 12-24-11-2.  
35 (B) IC 12-24-12-3, IC 12-24-12-4, and IC 12-24-12-6.  
36 (C) IC 12-26-11.
- 37 (12) To another health care provider in a health care emergency.
- 38 (13) For legitimate business purposes as described in  
39 IC 16-39-5-3.
- 40 (14) Under a court order under IC 16-39-3.
- 41 (15) With respect to records from a mental health or  
42 developmental disability facility, to the United States Secret



1 Service if the following conditions are met:

2 (A) The request does not apply to alcohol or drug abuse  
3 records described in 42 U.S.C. 290dd-2 unless authorized by  
4 a court order under 42 U.S.C. 290dd-2(b)(2)(c).

5 (B) The request relates to the United States Secret Service's  
6 protective responsibility and investigative authority under 18  
7 U.S.C. 3056, 18 U.S.C. 871, or 18 U.S.C. 879.

8 (C) The request specifies an individual patient.

9 (D) The director or superintendent of the facility determines  
10 that disclosure of the mental health record may be necessary  
11 to protect a person under the protection of the United States  
12 Secret Service from serious bodily injury or death.

13 (E) The United States Secret Service agrees to only use the  
14 mental health record information for investigative purposes  
15 and not disclose the information publicly.

16 (F) The mental health record information disclosed to the  
17 United States Secret Service includes only:

18 (i) the patient's name, age, and address;

19 (ii) the date of the patient's admission to or discharge from  
20 the facility; and

21 (iii) any information that indicates whether or not the patient  
22 has a history of violence or presents a danger to the person  
23 under protection.

24 (16) To the statewide waiver ombudsman established under  
25 IC 12-11-13, in the performance of the ombudsman's duties.

26 (b) If a licensed mental health professional or licensed paramedic,  
27 in the course of rendering a treatment intervention, determines that a  
28 patient may be a harm to himself or herself or others, the licensed  
29 mental health professional or licensed paramedic may request a  
30 patient's individualized **mental health** safety plan from a psychiatric  
31 crisis center, psychiatric inpatient unit, or psychiatric residential  
32 treatment provider. Each psychiatric crisis center, psychiatric inpatient  
33 unit, and psychiatric residential treatment provider shall, upon request  
34 and without the consent of the patient, share a patient's individualized  
35 mental health safety plan that is in the standard format established by  
36 the division of mental health and addiction under IC 12-21-5-6 ~~to~~ **with**  
37 the following individuals who demonstrate proof of licensure and  
38 commit to protecting the information in compliance with state and  
39 federal privacy laws:

40 (1) A licensed mental health professional.

41 (2) A licensed paramedic.

42 An individualized mental health safety plan disclosed under this



1 subsection may be used only to support a patient's welfare and safety  
2 and is considered otherwise confidential information under applicable  
3 state and federal laws.

4 (c) After information is disclosed under subsection (a)(15) and if the  
5 patient is evaluated to be dangerous, the records shall be interpreted in  
6 consultation with a licensed mental health professional on the staff of  
7 the United States Secret Service.

8 (d) A person who discloses information under subsection (a)(7),  
9 (a)(15), or ~~subsection (b)~~ in good faith is immune from civil and  
10 criminal liability.

11 SECTION 9. IC 16-39-5-3 IS AMENDED TO READ AS  
12 FOLLOWS [EFFECTIVE APRIL 1, 2020]: Sec. 3. (a) As used in this  
13 section,"association" refers to an Indiana hospital trade association  
14 founded in 1921.

15 (b) As used in this section, "data aggregation" means a combination  
16 of information obtained from the health records of a provider with  
17 information obtained from the health records of one (1) or more other  
18 providers to permit data analysis that relates to the health care  
19 operations of the providers.

20 (c) Except as provided in IC 16-39-4-5, the original health record of  
21 the patient is the property of the provider and as such may be used by  
22 the provider without specific written authorization for legitimate  
23 business purposes, including the following:

- 24 (1) Submission of claims for payment from third parties.
- 25 (2) Collection of accounts.
- 26 (3) Litigation defense.
- 27 (4) Quality assurance.
- 28 (5) Peer review.
- 29 (6) Scientific, statistical, and educational purposes.

30 (d) In use under subsection (c), the provider shall at all times protect  
31 the confidentiality of the health record and may disclose the identity of  
32 the patient only when disclosure is essential to the provider's business  
33 use or to quality assurance and peer review.

34 (e) A provider **or the Indiana archives and records**  
35 **administration** may disclose a health record to another provider or to  
36 a nonprofit ~~medical~~ research organization to be used in connection with  
37 a ~~joint~~ scientific, statistical, or educational project. Each party that  
38 receives information from a health record in connection with the joint  
39 project shall protect the confidentiality of the health record and may not  
40 disclose the patient's identity except as allowed under this article.

41 (f) A provider may disclose a health record or information obtained  
42 from a health record to the association for use in connection with a data



1 aggregation project undertaken by the association. However, the  
 2 provider may disclose the identity of a patient to the association only  
 3 when the disclosure is essential to the project. The association may  
 4 disclose the information it receives from a provider under this  
 5 subsection to the state department to be used in connection with a  
 6 public health activity or data aggregation of inpatient and outpatient  
 7 discharge information submitted under IC 16-21-6-6. The information  
 8 disclosed by:

- 9 (1) a provider to the association; or
- 10 (2) the association to the state department;

11 under this subsection is confidential.

12 (g) Information contained in final results obtained by the state  
 13 department for a public health activity that:

- 14 (1) is based on information disclosed under subsection (f); and
- 15 (2) identifies or could be used to determine the identity of a  
 16 patient;

17 is confidential. All other information contained in the final results is  
 18 not confidential.

19 (h) Information that is:

- 20 (1) advisory or deliberative material of a speculative nature; or
- 21 (2) an expression of opinion;

22 including preliminary reports produced in connection with a public  
 23 health activity using information disclosed under subsection (f), is  
 24 confidential and may only be disclosed by the state department to the  
 25 association and to the provider who disclosed the information to the  
 26 association.

27 (i) The association shall, upon the request of a provider that  
 28 contracts with the association to perform data aggregation, make  
 29 available information contained in the final results of data aggregation  
 30 activities performed by the association in compliance with subsection  
 31 (f).

32 (j) A person who recklessly violates or fails to comply with  
 33 subsections (e) through (h) commits a Class C infraction. Each day a  
 34 violation continues constitutes a separate offense.

35 (k) This chapter does not do any of the following:

- 36 (1) Repeal, modify, or amend any statute requiring or authorizing  
 37 the disclosure of information about any person.
- 38 (2) Prevent disclosure or confirmation of information about  
 39 patients involved in incidents that are reported or required to be  
 40 reported to governmental agencies and not required to be kept  
 41 confidential by the governmental agencies.

42 SECTION 10. IC 16-42-5.2-1 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 1. Except as provided  
 2 in this chapter, a corporation or local health department may not  
 3 impose any registration, certification, or licensing requirements on food  
 4 handling or **certified food handlers: protection managers.**

5 SECTION 11. IC 16-42-5.2-2, AS AMENDED BY P.L.139-2005,  
 6 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 7 JULY 1, 2020]: Sec. 2. ~~(a) Except as provided in subsection (b);~~ This  
 8 chapter does not apply to a food establishment when the food  
 9 establishment's food handling activities **do not include the cooking of**  
 10 **raw food of an animal origin or** are limited solely to one (1) or more  
 11 of the following:

12 (1) Heating or serving precooked foods.

13 (2) Preparing or serving a continental breakfast such as rolls,  
 14 coffee, juice, milk, and cold cereal.

15 (3) Preparing or serving ~~nonalcoholic or alcoholic~~ beverages that  
 16 ~~are not potentially hazardous~~ beverages or ice.

17 (4) Preparing or serving packaged or unpackaged **low hazard**  
 18 ~~foods, that are not potentially hazardous foods;~~ including elephant  
 19 ears, funnel cakes, cotton candy, confectionaries, baked goods,  
 20 popcorn, and chips and grinding coffee beans.

21 (5) Providing prepackaged food in its original package.

22 ~~(b) This subsection does not apply to a pharmacy that is a food~~  
 23 ~~establishment that provides only prepackaged food products for sale.~~  
 24 ~~A food establishment that has more than ten thousand (10,000) square~~  
 25 ~~feet in total retail sales space at the food establishment location must~~  
 26 ~~comply with this chapter.~~

27 SECTION 12. IC 16-42-5.2-3.5, AS ADDED BY P.L.139-2005,  
 28 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 29 JULY 1, 2020]: Sec. 3.5. (a) An organization that is exempt from the  
 30 state gross retail tax under IC 6-2.5-5-21(b)(1)(B),  
 31 IC 6-2.5-5-21(b)(1)(C), or IC 6-2.5-5-21(b)(1)(D) is exempt from  
 32 complying with the requirements of this chapter.

33 (b) This section does not prohibit an exempted organization from  
 34 waiving the exemption and using a certified food ~~handler:~~ **protection**  
 35 **manager.**

36 SECTION 13. IC 16-42-5.2-3.7 IS ADDED TO THE INDIANA  
 37 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 38 [EFFECTIVE JULY 1, 2020]: Sec. 3.7. **As used in this chapter,**  
 39 **"certificate" means a certificate, letter, or other document that**  
 40 **verifies that the individual has passed an accreditation examination**  
 41 **given by an accredited testing service recognized by the**  
 42 **Conference for Food Protection or an equivalent nationally**



1 **recognized certification program as determined by the state**  
 2 **department of health.**

3 SECTION 14. IC 16-42-5.2-4 IS AMENDED TO READ AS  
 4 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 4. As used in this  
 5 chapter, "certified food handler" **protection manager"** means a food  
 6 handler who holds a certificate. ~~described in section 7 of this chapter.~~

7 SECTION 15. IC 16-42-5.2-5 IS REPEALED [EFFECTIVE JULY  
 8 1, 2020]. Sec. 5: As used in this chapter, "food handler" means an  
 9 individual who:

10 (1) is an owner, an operator, a manager, or an employee of a food  
 11 establishment; and

12 (2) is responsible for or oversees the storage, preparation, display,  
 13 or serving of food to the public.

14 SECTION 16. IC 16-42-5.2-6 IS REPEALED [EFFECTIVE JULY  
 15 1, 2020]. Sec. 6: After ~~December 31, 2004~~, at least one (1) food handler  
 16 at a food establishment must be a certified food handler.

17 SECTION 17. IC 16-42-5.2-7 IS REPEALED [EFFECTIVE JULY  
 18 1, 2020]. Sec. 7: A food handler who holds a certificate recognized by  
 19 the Conference for Food Protection or an equivalent nationally  
 20 recognized certification program as determined by the state department  
 21 of health meets the food borne illness prevention training requirements  
 22 established by the state department of health.

23 SECTION 18. IC 16-42-5.2-7.1 IS ADDED TO THE INDIANA  
 24 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 25 [EFFECTIVE JULY 1, 2020]: Sec. 7.1. (a) A certified food protection  
 26 manager must do the following:

27 (1) Provide the food establishment where the certified food  
 28 protection manager is employed with a copy of the  
 29 individual's certificate and photo identification card.

30 (2) Obtain a valid certificate every five (5) years.

31 (b) An individual may not work as a certified food protection  
 32 manager with an expired certificate.

33 SECTION 19. IC 16-42-5.2-7.5 IS ADDED TO THE INDIANA  
 34 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 35 [EFFECTIVE JULY 1, 2020]: Sec. 7.5. An individual may not use  
 36 the title "certified food protection manager" or indicate that the  
 37 individual is a certified food protection manager unless the  
 38 individual holds a valid certificate.

39 SECTION 20. IC 16-42-5.2-8 IS AMENDED TO READ AS  
 40 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 8. (a) After ~~December~~  
 41 ~~31, 2004~~, A food establishment must have at least one (1) certified food  
 42 handler **protection manager** responsible for all periods of the food





1 establishment's operation. However, a certified food ~~handler~~ **protection**  
 2 **manager** need not be present at the food establishment during all hours  
 3 of operation.

4 **(b) Notwithstanding subsection (a), if the state department and**  
 5 **food establishment enter into a variance concerning requirements**  
 6 **for the operation of the food establishment, a certified food**  
 7 **protection manager may be required to be present at the food**  
 8 **establishment during all hours of operation if agreed upon in the**  
 9 **variance.**

10 SECTION 21. IC 16-42-5.2-8.5 IS ADDED TO THE INDIANA  
 11 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 12 [EFFECTIVE JULY 1, 2020]: **Sec. 8.5. A food establishment must do**  
 13 **the following:**

14 **(1) Provide the name and copies of the certificate and photo**  
 15 **identification card for the certified food protection manager**  
 16 **to an inspector from a governmental regulatory authority.**

17 **(2) Remove the certificate from the food establishment when**  
 18 **the certified food protection manager terminates employment**  
 19 **with the food establishment.**

20 SECTION 22. IC 16-42-5.2-9 IS AMENDED TO READ AS  
 21 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 9. ~~After December 31,~~  
 22 ~~2004,~~ A food establishment that begins operation or changes ownership  
 23 shall comply with section 8 of this chapter not later than six (6) months  
 24 after beginning operation or changing ownership.

25 SECTION 23. IC 16-42-5.2-10 IS AMENDED TO READ AS  
 26 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 10. ~~After December 31,~~  
 27 ~~2004,~~ If a food establishment does not have a certified food ~~handler~~  
 28 **protection manager** because a certified food ~~handler~~ **protection**  
 29 **manager** terminates employment with the food establishment, the  
 30 owner or operator of the food establishment shall comply with section  
 31 8 of this chapter not later than three (3) months after the termination  
 32 date of the previous certified food ~~handler~~ **protection manager.**

33 SECTION 24. IC 16-42-5.2-11 IS AMENDED TO READ AS  
 34 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 11. ~~After December 31,~~  
 35 ~~2004,~~ If more than one (1) food establishment operated by the same  
 36 individual is located on the same property or on contiguous properties,  
 37 only one (1) certified food ~~handler~~ **protection manager** is required for  
 38 the food establishments.

39 SECTION 25. IC 16-42-5.2-12 IS AMENDED TO READ AS  
 40 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 12. **(a)** ~~After December~~  
 41 ~~31, 2004,~~ An individual who violates any of the provisions of this  
 42 chapter **before July 1, 2020**, is subject to the penalties prescribed by



1 the executive board under section 13 of this chapter. **This subsection**  
 2 **expires January 1, 2021.**

3 **(b) After June 30, 2020, a person that violates section 7.1(b) of**  
 4 **this chapter is subject to a civil penalty not to exceed fifty dollars**  
 5 **(\$50) per day per violation.**

6 **(c) After June 30, 2020, a person that violates section 7.1(a)(1),**  
 7 **7.5, 8, 8.5, 9, or 10 of this chapter is subject to a civil penalty not to**  
 8 **exceed one hundred dollars (\$100) per day per violation.**

9 SECTION 26. IC 16-42-5.2-13 IS AMENDED TO READ AS  
 10 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 13. ~~Not later than~~  
 11 ~~December 31, 2003~~; The executive board ~~shall~~ **may** adopt rules under  
 12 IC 4-22-2 establishing standards for:

13 (1) the administration of this chapter; and

14 (2) the imposition of penalties for violations of this chapter.

15 SECTION 27. IC 16-42-5.2-14 IS AMENDED TO READ AS  
 16 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 14. This chapter does  
 17 not limit the authority of a corporation or local health department to  
 18 **license require a permit for** retail food establishments.

19 SECTION 28. IC 16-42-5.2-16 IS ADDED TO THE INDIANA  
 20 CODE AS A **NEW SECTION** TO READ AS FOLLOWS  
 21 [EFFECTIVE JULY 1, 2020]: **Sec. 16. (a) Except for an individual**  
 22 **whose certification expires on July 1, 2020, an individual who was**  
 23 **a certified food handler on June 30, 2020, is considered a certified**  
 24 **food protection manager on July 1, 2020.**

25 **(b) This section expires June 30, 2021.**

26 SECTION 29. IC 35-52-16-9.7 IS ADDED TO THE INDIANA  
 27 CODE AS A **NEW SECTION** TO READ AS FOLLOWS  
 28 [EFFECTIVE JULY 1, 2020]: **Sec. 9.7. IC 16-27-1-12 defines a crime**  
 29 **concerning home health agencies.**

30 SECTION 30. **An emergency is declared for this act.**



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1210, 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 1210 as introduced.)

KIRCHHOFER

Committee Vote: Yeas 13, Nays 0

## COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred House Bill No. 1210, 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 7, between lines 13 and 14, begin a new paragraph and insert:

"SECTION 7. IC 16-39-1-3, AS AMENDED BY P.L.240-2017, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2020]: Sec. 3. (a) Health records may be requested by a competent patient if the patient is:

- (1) emancipated and less than eighteen (18) years of age; or
- (2) at least eighteen (18) years of age.

(b) If a patient is incompetent, the request for health records may be made by the parent, guardian, or custodian of the patient.

(c) Health records of a deceased patient may be requested:

- (1) by a coroner under IC 36-2-14-21 or by the personal representative of the patient's estate;
- (2) if the estate of the deceased patient does not have a personal representative, by the spouse of the deceased patient;
- (3) if the deceased patient does not have a surviving spouse and the deceased patient's estate does not have a personal representative, by:

(A) a child of the deceased patient; or

(B) the parent, guardian, or custodian of the child of the deceased patient if the child of the deceased patient is incompetent; or

(4) if the deceased patient was an incapacitated person for whom a guardian had been appointed under IC 29-3 or the law of



another state, by the guardian of the deceased patient, except as provided in subsection (d); **or**

**(5) if the deceased patient does not have a surviving spouse or child, and the deceased patient's estate does not have a personal representative, by any responsible member of the family.**

(d) If:

(1) the deceased patient was an incapacitated person subject to a guardianship at the time of the patient's death; and

(2) a personal representative of the estate of the deceased patient is appointed under IC 29-1-7;

the guardian of the deceased patient may not request health records of the deceased patient under subsection (c)(4).

SECTION 8. IC 16-39-2-6, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2020 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2020]:

Sec. 6. (a) Without the consent of the patient, the patient's mental health record may only be disclosed as follows:

(1) To individuals who meet the following conditions:

(A) Are employed by:

(i) the provider at the same facility or agency;

(ii) a managed care provider (as defined in IC 12-7-2-127);

or

(iii) a health care provider or mental health care provider, if the mental health records are needed to provide health care or mental health services to the patient.

(B) Are involved in the planning, provision, and monitoring of services.

(2) To the extent necessary to obtain payment for services rendered or other benefits to which the patient may be entitled, as provided in IC 16-39-5-3.

(3) To the patient's court appointed counsel and to the Indiana protection and advocacy services commission.

(4) For research conducted in accordance with IC 16-39-5-3 and the rules of the division of mental health and addiction, the rules of the division of disability and rehabilitative services, ~~or~~ the rules of the provider, **or the rules of the Indiana archives and records administration and the oversight committee on public records.**

(5) To the division of mental health and addiction for the purpose of data collection, research, and monitoring managed care providers (as defined in IC 12-7-2-127) who are operating under



a contract with the division of mental health and addiction.

(6) To the extent necessary to make reports or give testimony required by the statutes pertaining to admissions, transfers, discharges, and guardianship proceedings.

(7) To a law enforcement agency if any of the following conditions are met:

(A) A patient escapes from a facility to which the patient is committed under IC 12-26.

(B) The superintendent of the facility determines that failure to provide the information may result in bodily harm to the patient or another individual.

(C) A patient commits or threatens to commit a crime on facility premises or against facility personnel.

(D) A patient is in the custody of a law enforcement officer or agency for any reason and:

(i) the information to be released is limited to medications currently prescribed for the patient or to the patient's history of adverse medication reactions; and

(ii) the provider determines that the release of the medication information will assist in protecting the health, safety, or welfare of the patient.

Mental health records released under this clause must be maintained in confidence by the law enforcement agency receiving them.

(8) To a coroner or medical examiner, in the performance of the individual's duties.

(9) To a school in which the patient is enrolled if the superintendent of the facility determines that the information will assist the school in meeting educational needs of the patient.

(10) To the extent necessary to satisfy reporting requirements under the following statutes:

(A) IC 12-10-3-10.

(B) IC 12-24-17-5.

(C) IC 16-41-2-3.

(D) IC 31-25-3-2.

(E) IC 31-33-5-4.

(F) IC 34-30-16-2.

(G) IC 35-46-1-13.

(11) To the extent necessary to satisfy release of information requirements under the following statutes:

(A) IC 12-24-11-2.

(B) IC 12-24-12-3, IC 12-24-12-4, and IC 12-24-12-6.



(C) IC 12-26-11.

(12) To another health care provider in a health care emergency.

(13) For legitimate business purposes as described in IC 16-39-5-3.

(14) Under a court order under IC 16-39-3.

(15) With respect to records from a mental health or developmental disability facility, to the United States Secret Service if the following conditions are met:

(A) The request does not apply to alcohol or drug abuse records described in 42 U.S.C. 290dd-2 unless authorized by a court order under 42 U.S.C. 290dd-2(b)(2)(c).

(B) The request relates to the United States Secret Service's protective responsibility and investigative authority under 18 U.S.C. 3056, 18 U.S.C. 871, or 18 U.S.C. 879.

(C) The request specifies an individual patient.

(D) The director or superintendent of the facility determines that disclosure of the mental health record may be necessary to protect a person under the protection of the United States Secret Service from serious bodily injury or death.

(E) The United States Secret Service agrees to only use the mental health record information for investigative purposes and not disclose the information publicly.

(F) The mental health record information disclosed to the United States Secret Service includes only:

- (i) the patient's name, age, and address;
- (ii) the date of the patient's admission to or discharge from the facility; and
- (iii) any information that indicates whether or not the patient has a history of violence or presents a danger to the person under protection.

(16) To the statewide waiver ombudsman established under IC 12-11-13, in the performance of the ombudsman's duties.

(b) If a licensed mental health professional or licensed paramedic, in the course of rendering a treatment intervention, determines that a patient may be a harm to himself or herself or others, the licensed mental health professional or licensed paramedic may request a patient's individualized **mental health** safety plan from a psychiatric crisis center, psychiatric inpatient unit, or psychiatric residential treatment provider. Each psychiatric crisis center, psychiatric inpatient unit, and psychiatric residential treatment provider shall, upon request and without the consent of the patient, share a patient's individualized mental health safety plan that is in the standard format established by



the division of mental health and addiction under IC 12-21-5-6 ~~to~~ **with** the following individuals who demonstrate proof of licensure and commit to protecting the information in compliance with state and federal privacy laws:

- (1) A licensed mental health professional.
- (2) A licensed paramedic.

An individualized mental health safety plan disclosed under this subsection may be used only to support a patient's welfare and safety and is considered otherwise confidential information under applicable state and federal laws.

(c) After information is disclosed under subsection (a)(15) and if the patient is evaluated to be dangerous, the records shall be interpreted in consultation with a licensed mental health professional on the staff of the United States Secret Service.

(d) A person who discloses information under subsection (a)(7), (a)(15), or ~~subsection (b)~~ in good faith is immune from civil and criminal liability.

SECTION 9. IC 16-39-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2020]: Sec. 3. (a) As used in this section, "association" refers to an Indiana hospital trade association founded in 1921.

(b) As used in this section, "data aggregation" means a combination of information obtained from the health records of a provider with information obtained from the health records of one (1) or more other providers to permit data analysis that relates to the health care operations of the providers.

(c) Except as provided in IC 16-39-4-5, the original health record of the patient is the property of the provider and as such may be used by the provider without specific written authorization for legitimate business purposes, including the following:

- (1) Submission of claims for payment from third parties.
- (2) Collection of accounts.
- (3) Litigation defense.
- (4) Quality assurance.
- (5) Peer review.
- (6) Scientific, statistical, and educational purposes.

(d) In use under subsection (c), the provider shall at all times protect the confidentiality of the health record and may disclose the identity of the patient only when disclosure is essential to the provider's business use or to quality assurance and peer review.

(e) A provider **or the Indiana archives and records administration** may disclose a health record to another provider or to



a nonprofit ~~medical~~ research organization to be used in connection with a ~~joint~~ scientific, statistical, or educational project. Each party that receives information from a health record in connection with the joint project shall protect the confidentiality of the health record and may not disclose the patient's identity except as allowed under this article.

(f) A provider may disclose a health record or information obtained from a health record to the association for use in connection with a data aggregation project undertaken by the association. However, the provider may disclose the identity of a patient to the association only when the disclosure is essential to the project. The association may disclose the information it receives from a provider under this subsection to the state department to be used in connection with a public health activity or data aggregation of inpatient and outpatient discharge information submitted under IC 16-21-6-6. The information disclosed by:

- (1) a provider to the association; or
- (2) the association to the state department;

under this subsection is confidential.

(g) Information contained in final results obtained by the state department for a public health activity that:

- (1) is based on information disclosed under subsection (f); and
- (2) identifies or could be used to determine the identity of a patient;

is confidential. All other information contained in the final results is not confidential.

(h) Information that is:

- (1) advisory or deliberative material of a speculative nature; or
- (2) an expression of opinion;

including preliminary reports produced in connection with a public health activity using information disclosed under subsection (f), is confidential and may only be disclosed by the state department to the association and to the provider who disclosed the information to the association.

(i) The association shall, upon the request of a provider that contracts with the association to perform data aggregation, make available information contained in the final results of data aggregation activities performed by the association in compliance with subsection (f).

(j) A person who recklessly violates or fails to comply with subsections (e) through (h) commits a Class C infraction. Each day a violation continues constitutes a separate offense.

(k) This chapter does not do any of the following:

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(1) Repeal, modify, or amend any statute requiring or authorizing the disclosure of information about any person.

(2) Prevent disclosure or confirmation of information about patients involved in incidents that are reported or required to be reported to governmental agencies and not required to be kept confidential by the governmental agencies."

Page 11, after line 1, begin a new paragraph and insert:

"SECTION 30. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1210 as printed January 17, 2020.)

CHARBONNEAU, Chairperson

Committee Vote: Yeas 11, Nays 0.

