

HOUSE BILL No. 1203

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-19; IC 16-21-4-2; IC 16-25-5-7; IC 16-27; IC 16-28-10-2; IC 16-41-7.5-14; IC 34-30-2-64.5.

Synopsis: Various department of health matters. Provides that the state department of health (department) may officially be known as the Indiana department of health. Removes by July 1, 2022, appeals panels from the appeals process of department orders. Provides that the state health commissioner (commissioner) is the appointing authority and director of the department. Provides that any physicians employed by the department are governed by the state ethics commission's conflict of interest requirements. Allows the commissioner to designate in writing employees in the department who are licensed as a physician and may engage in the practice of medicine outside of their official duties. Provides that the state is not liable for any act performed by a physician employed by the department for any medical care provided to a patient by the physician that is provided in an individual capacity as a licensed physician. Removes the executive board of the department from determining the commissioner's salary. Provides that the commissioner's salary is determined by the governor and the state budget agency. Removes the executive board's approval for the commissioner to organize the personnel and functions of the department into divisions and subdivisions. Extends the expiration of the syringe exchange program until July 1, 2030.

Effective: July 1, 2021; July 1, 2022.

McNamara, Davisson, Clere

January 7, 2021, read first time and referred to Committee on Public Health.



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

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

HOUSE BILL No. 1203

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 16-19-1-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. The state department
3 of health is established. **The department may officially be known as**
4 **the Indiana department of health.**

5 SECTION 2. IC 16-19-2-4 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 4. The executive board
7 ~~or an appeals panel if designated by statute~~, is the ultimate authority
8 under IC 4-21.5 for any matter concerning the state department.

9 SECTION 3. IC 16-19-4-1 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. **(a)** The state health
11 commissioner, by virtue of the state health commissioner's office, is
12 secretary and executive officer of the executive board.

13 **(b) The state health commissioner is the appointing authority**
14 **and director of the department.**

15 SECTION 4. IC 16-19-4-4, AS AMENDED BY P.L.6-2016,
16 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2021]: Sec. 4. (a) The state health commissioner ~~is~~ **and any**



1 **physicians employed by the department are** governed in the
 2 performance of ~~the state health commissioner's~~ **their** official duties by
 3 IC 4-2-6 and IC 35-44.1-1-4 concerning ethics and conflict of interest.

4 (b) To learn professional skills and to become familiar with new
 5 developments in the field of medicine, and except as provided in
 6 IC 16-42-27-2(f), the state health commissioner may, in an individual
 7 capacity as a licensed physician and not in an official capacity as state
 8 health commissioner, engage in the practice of medicine if the practice
 9 of medicine does not interfere with the performance of the state health
 10 commissioner's duties as state health commissioner.

11 **(c) The state health commissioner may designate in writing**
 12 **employees in the department who are licensed as a physician and**
 13 **may engage in the practice of medicine outside of their official**
 14 **duties.**

15 SECTION 5. IC 16-19-4-5, AS AMENDED BY P.L.6-2016,
 16 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2021]: Sec. 5. (a) This section does not apply to the
 18 prescribing, dispensing, or issuance of a standing order for an overdose
 19 intervention drug under IC 16-42-27-2.

20 **(b) The state is not liable for any act performed by the state**
 21 **health commissioner or a physician employed by the department**
 22 **for any medical care provided to a patient by the state health**
 23 **commissioner is provided by the state health commissioner or a**
 24 **physician employed by the department that is provided** in an
 25 individual capacity as a licensed physician. ~~and the state is not liable~~
 26 ~~for any act performed by the state health commissioner in this capacity.~~

27 SECTION 6. IC 16-19-4-6 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 6. The state health
 29 commissioner is entitled to receive a salary in an amount to be fixed by
 30 ~~the executive board with the approval of the governor~~ **and the state**
 31 **budget agency.**

32 SECTION 7. IC 16-19-4-8 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 8. (a) The state health
 34 commissioner may ~~subject to the approval of the executive board;~~
 35 organize the personnel and functions of the state department into
 36 divisions and subdivisions to carry out the state health commissioner's
 37 powers and duties and the powers and duties of the state department.

38 (b) The state health commissioner may periodically consolidate,
 39 divide, or abolish divisions and subdivisions as is necessary to carry
 40 out those powers and duties.

41 SECTION 8. IC 16-21-4-2, AS AMENDED BY P.L.205-2019,
 42 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2021]: Sec. 2. (a) The state department shall appoint an
2 appeals panel consisting of three (3) members as follows:

- 3 (1) One (1) member of the executive board.
4 (2) One (1) attorney admitted to the practice of law in Indiana.
5 (3) One (1) individual with qualifications determined by the state
6 department.

7 (b) An employee of the state department may not be a member of
8 the panel.

9 (c) The panel shall conduct proceedings for review of an order **if the**
10 **following apply:**

11 **(1) The order was** issued by, before July 1, ~~2020~~, an
12 ~~administrative law judge under this chapter, or, after June 30,~~
13 ~~2020,~~ **2021**, an administrative law judge (as defined in
14 IC 4-21.5-1-2).

15 **(2) The request for the review of the order was filed before**
16 **July 1, 2021.**

17 The panel is the ultimate authority under IC 4-21.5 **for an appeal that**
18 **is filed before July 1, 2021.**

19 **(d) This section expires July 1, 2022.**

20 SECTION 9. IC 16-25-5-7, AS AMENDED BY P.L.205-2019,
21 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
22 JULY 1, 2021]: Sec. 7. (a) For an appeal under section 6 of this
23 chapter, the executive board shall appoint an appeals panel consisting
24 of three (3) members as follows:

- 25 (1) One (1) member of the executive board.
26 (2) One (1) attorney admitted to the practice of law in Indiana.
27 (3) One (1) individual with qualifications determined by the
28 executive board.

29 (b) An employee of the state department may not be a member of
30 the appeals panel.

31 (c) The appeals panel shall conduct proceedings for review of an
32 order **if the following apply:**

33 **(1) The order was** issued, ~~by,~~ before July 1, ~~2020~~, an
34 ~~administrative law judge under this chapter, or, after June 30,~~
35 ~~2020,~~ **2021**, ~~by~~ an administrative law judge (as defined in
36 IC 4-21.5-1-2).

37 **(2) The request for the review of the order was filed before**
38 **July 1, 2021.**

39 The appeals panel is the ultimate authority under IC 4-21.5 **for an**
40 **appeal that is filed before July 1, 2021.**

41 (d) The costs of the proceedings, including the fees of the appeals
42 panel, shall be paid as follows:



- 1 (1) By the hospice, if the appeals panel finds in favor of the state
- 2 department.
- 3 (2) By the state department, if the appeals panel finds in favor of
- 4 the hospice.

5 **(e) This section expires July 1, 2022.**

6 SECTION 10. IC 16-27-1-14, AS AMENDED BY P.L.205-2019,
7 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2021]: Sec. 14. (a) The executive board shall appoint an
9 appeals panel consisting of three (3) members as follows:

- 10 (1) One (1) member of the executive board.
- 11 (2) One (1) attorney admitted to the practice of law in Indiana
- 12 who is not an employee of the state department.
- 13 (3) One (1) individual with qualifications determined by the
- 14 executive board.

15 (b) An employee of the state department may not be a member of
16 the panel.

17 (c) The panel shall conduct proceedings for review of an order **if the**
18 **following apply:**

19 **(1) The order was issued, by, before July 1, 2020; an**
20 **administrative law judge under this chapter; or, after June 30,**
21 **2020; 2021, by an administrative law judge (as defined in**
22 **IC 4-21.5-1-2).**

23 **(2) The request for the review of the order was filed before**
24 **July 1, 2021.**

25 The panel is the ultimate authority under IC 4-21.5 **for an appeal that**
26 **is filed before July 1, 2021.**

27 **(d) This section expires July 1, 2022.**

28 SECTION 11. IC 16-27-4-22, AS AMENDED BY P.L.205-2019,
29 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30 JULY 1, 2021]: Sec. 22. (a) In response to a request for review of an
31 order referred to in subsection (c), the executive board shall appoint an
32 appeals panel that consists of three (3) members as follows:

- 33 (1) One (1) member of the executive board.
- 34 (2) One (1) attorney admitted to the practice of law in Indiana.
- 35 (3) One (1) individual with qualifications determined by the
- 36 executive board.

37 (b) An employee of the state department may not be a member of
38 the panel.

39 (c) The panel shall conduct proceedings for review of an order **if the**
40 **following apply:**

41 **(1) The order was issued, by, before July 1, 2020; an**
42 **administrative law judge under this chapter; or, after June 30;**



- 1 ~~2020; 2021~~, by an administrative law judge (as defined in
2 IC 4-21.5-1-2).
- 3 **(2) The request for the review of the order was filed before**
4 **July 1, 2021.**
- 5 The panel is the ultimate authority under IC 4-21.5 **for an appeal that**
6 **is filed before July 1, 2021.**
- 7 **(d) This section expires July 1, 2022.**
- 8 SECTION 12. IC 16-28-10-2, AS AMENDED BY P.L.205-2019,
9 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2021]: Sec. 2. (a) The executive board shall appoint an
11 appeals panel consisting of three (3) members as follows:
12 (1) One (1) member of the executive board.
13 (2) One (1) attorney admitted to the practice of law in Indiana.
14 (3) One (1) individual with qualifications determined by the
15 executive board.
16 (b) An employee of the state may not be a member of the panel.
17 (c) An appeals panel shall conduct proceedings for review of an
18 order **if the following apply:**
19 **(1) The order was** issued, ~~by;~~ before July 1, ~~2020;~~ **an**
20 **administrative law judge under this chapter; or, after June 30;**
21 ~~2020; 2021~~, by an administrative law judge (as defined in
22 IC 4-21.5-1-2).
23 **(2) The request for the review of the order was filed before**
24 **July 1, 2021.**
- 25 The panel is the ultimate authority under IC 4-21.5 **for an appeal that**
26 **is filed before July 1, 2021.**
- 27 (d) The cost of the proceedings, including the fees of the appeals
28 panel, shall be paid as follows:
29 (1) By the health facility if the panel finds in favor of the state.
30 (2) By the state if the panel finds in favor of the health facility.
31 **(e) This section expires July 1, 2022.**
- 32 SECTION 13. IC 16-41-7.5-14, AS AMENDED BY P.L.112-2020,
33 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
34 JULY 1, 2021]: Sec. 14. This chapter expires July 1, ~~2022;~~ **2030.**
- 35 SECTION 14. IC 34-30-2-64.5, AS ADDED BY P.L.86-2018,
36 SECTION 267, IS AMENDED TO READ AS FOLLOWS
37 [EFFECTIVE JULY 1, 2021]: Sec. 64.5. IC 16-19-4-5 (Concerning the
38 state for medical care provided to a patient by the state health
39 commissioner **or a physician employed by the state department of**
40 **health** in an individual capacity).

