



February 11, 2022

ENGROSSED HOUSE BILL No. 1255

DIGEST OF HB 1255 (Updated February 9, 2022 11:44 am - DI 140)

Citations Affected: IC 12-10; IC 16-19; IC 16-36; IC 25-1; IC 25-10; IC 25-26; IC 27-1; IC 27-2.

Synopsis: Health matters. Amends the definitions of "practitioner", for purposes of the health professions and professional standards of practice laws, to include individuals who held a license, certificate, registration, or permit when the alleged violation of the standard of practice occurred. Makes technical corrections and conforming changes to certain health related laws.

Effective: Upon passage; July 1, 2022.

Barrett, Ziemke, Lehe, Hatfield

(SENATE SPONSOR — CHARBONNEAU)

January 6, 2022, read first time and referred to Committee on Public Health.

January 20, 2022, reported — Do Pass.

January 24, 2022, read second time, ordered engrossed. Engrossed.

January 25, 2022, read third time, passed. Yeas 90, nays 0.

SENATE ACTION

February 2, 2022, read first time and referred to Committee on Health and Provider Services.

February 10, 2022, reported favorably — Do Pass.

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February 11, 2022

Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1255

A BILL FOR AN ACT to amend the Indiana Code concerning health.

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

- 1 SECTION 1. IC 12-10-17.1-1, AS ADDED BY P.L.141-2006,
2 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 1. This chapter does not apply to the
4 following:
- 5 (1) An individual who provides attendant care services and who
6 is employed by and under the direct control of a home health
7 agency (as defined in IC 12-15-34-1).
 - 8 (2) An individual who provides attendant care services and who
9 is employed by and under the direct control of a licensed hospice
10 program under IC 16-25.
 - 11 (3) An individual who provides attendant care services and who
12 is employed by and under the control of an employer that is not
13 the individual who is receiving the services.
 - 14 (4) A practitioner (as defined in ~~IC 25-1-9-2~~ **IC 25-1-9-2(a)**)
15 who is practicing under the scope of the practitioner's license (as
16 defined in IC 25-1-9-3).
- 17 SECTION 2. IC 16-19-4-1, AS AMENDED BY THE TECHNICAL

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1 CORRECTIONS BILL OF THE 2022 GENERAL ASSEMBLY, IS
2 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]:
3 Sec. 1. (a) The state health commissioner, by virtue of the state health
4 commissioner's office, is secretary and executive officer of the
5 executive board.

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

8 SECTION 3. IC 16-36-5-7.7, AS AMENDED BY THE
9 TECHNICAL CORRECTIONS BILL OF THE 2022 GENERAL
10 ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2022]: Sec. 7.7. As used in this chapter, and with respect to
12 a declarant, witness, or other person who signs or participates in the
13 signing of an out of hospital DNR declaration under this chapter,
14 "presence" means a process of signing and witnessing a DNR
15 declaration in which:

16 (1) the declarant and witness are:

17 (A) directly present with each other in the same physical
18 space;

19 (B) able to interact with each other in real time through use of
20 any audiovisual communications technology now known or
21 later developed; or

22 (C) ~~are~~ able to speak to and hear each other in real time
23 through telephonic interaction;

24 (2) the:

25 (A) identity of the declarant is personally known to all
26 witnesses;

27 (B) witnesses are able to view a government issued,
28 photographic identification of the declarant; or

29 (C) witnesses are able to ask any question of the declarant that:

30 (i) authenticates the identity of the declarant; and

31 (ii) establishes the capacity and sound mind of the declarant
32 to the satisfaction of the witnesses; and

33 (3) each witness is able to interact with the declarant and each
34 other when observing or hearing in real time, as applicable:

35 (A) the declarant's expression of intent to execute an out of
36 hospital DNR declaration under this chapter;

37 (B) the declarant's actions in executing or directing the
38 execution of the out of hospital DNR declaration under this
39 chapter; and

40 (C) the actions of the declarant and all other witnesses when
41 signing the out of hospital DNR declaration.

42 The term includes the use of technology or learned skills for the



1 purpose of assisting with hearing, eyesight, and speech or for the
2 purpose of compensating for a hearing, eyesight, or speech impairment.

3 SECTION 4. IC 16-36-5-11, AS AMENDED BY THE
4 TECHNICAL CORRECTIONS BILL OF THE 2022 GENERAL
5 ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
6 JULY 1, 2022]: Sec. 11. (a) A person who is of sound mind and at least
7 eighteen (18) years of age may execute an out of hospital DNR
8 declaration.

9 (b) A person's representative may execute an out of hospital DNR
10 declaration for the person under this chapter only if the person is:

- 11 (1) at least eighteen (18) years of age; and
- 12 (2) incompetent.

13 (c) An out of hospital DNR declaration must meet the following
14 conditions:

- 15 (1) Be voluntary.
- 16 (2) Be in writing.
- 17 (3) Be signed by the person making the declaration or by another
18 person in the declarant's presence and at the declarant's express
19 direction.
- 20 (4) Be dated.
- 21 (5) Be signed in the presence of at least two (2) competent
22 witnesses.

23 (d) If the requirements concerning presence are met, a competent
24 declarant and all necessary witnesses may complete and sign an out of
25 hospital DNR declaration in two (2) or more tangible, paper
26 counterparts with the declarant's signature placed on one (1) original
27 counterpart and the signatures of the witnesses placed on one (1) or
28 more different tangible, paper counterparts if the text of the out of
29 hospital DNR declaration states that the declaration is being signed in
30 separate counterparts. If an out of hospital DNR declaration is signed
31 in counterparts under this subsection, one (1) or more of the following
32 persons must combine each of the separately signed tangible, paper
33 counterparts into a single composite document that contains all of the
34 text of the ~~declarant~~, **out of hospital DNR declaration**, the signature
35 of the declarant, and the signature of each witness:

- 36 (1) The declarant.
- 37 (2) A health care representative who has been appointed by the
38 declarant.
- 39 (3) A person who supervised the signing of the out of hospital
40 DNR declaration in the person's presence.
- 41 (4) Any other person who was present during the signing of the
42 out of hospital DNR declaration.



1 The person who combines the separately signed counterparts into a
 2 single composite document must do so not later than ten (10) business
 3 days after the person receives all of the separately signed tangible,
 4 paper counterparts. Any scanned, photocopied, or other accurate copy
 5 of the single, composite document shall be treated as validly signed
 6 under this subsection if the single, composite document contains the
 7 complete text of the out of hospital DNR declaration and all required
 8 signatures.

9 (e) If physical impairment, physical isolation, or other factors make
 10 it impossible or impractical for a declarant to use audiovisual
 11 technology to interact with witnesses or to otherwise comply with the
 12 requirements concerning presence as defined in section 7.7 of this
 13 chapter, the declarant and the witnesses may use telephonic interaction
 14 to witness and sign an out of hospital DNR declaration. A potential
 15 witness may not, however, be compelled to only use telephonic
 16 interaction when participating in the signing or witnessing of an out of
 17 hospital DNR declaration under this subsection. If an out of hospital
 18 DNR declaration is signed using telephonic interaction under this
 19 subsection:

20 (1) the:

21 (A) identity of the declarant must be personally known to the
 22 witness;

23 (B) witness must be able to view a government issued,
 24 photographic identification of the declarant; or

25 (C) witness must be able to ask any question of the declarant
 26 that:

27 (i) authenticates the identity of the declarant; and

28 (ii) establishes the capacity and sound mind of the declarant
 29 to the satisfaction of the witness;

30 (2) the text of the declaration must specify that the declarant and
 31 witnesses used telephonic interaction throughout the witnessing
 32 and signing process of the out of hospital DNR declaration; and

33 (3) the out of hospital DNR declaration is presumed valid if it
 34 specifies that the declarant and the witnesses witnessed and
 35 signed the declaration in compliance with Indiana law.

36 A health care provider or person who disputes the validity of an out of
 37 hospital DNR declaration described under this subsection has the
 38 burden of proving the invalidity of the declaration or noncompliance
 39 with this subsection, as applicable, by a preponderance of the evidence.

40 (f) An out of hospital DNR declaration must be issued on the form
 41 specified in section 15 of this chapter.

42 SECTION 5. IC 25-1-9-2 IS AMENDED TO READ AS FOLLOWS

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1 [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) As used in this chapter,
2 "practitioner" means an individual who holds:

- 3 (1) an unlimited license, certificate, or registration;
- 4 (2) a limited or probationary license, certificate, or registration;
- 5 (3) a temporary license, certificate, registration, or permit;
- 6 (4) an intern permit; or
- 7 (5) a provisional license;

8 issued by the board regulating the profession in question, including a
9 certificate of registration issued under IC 25-20.

10 **(b) The term includes an individual who held:**

- 11 **(1) an unlimited license, certificate, or registration;**
- 12 **(2) a limited or probationary license, certificate, or**
13 **registration;**
- 14 **(3) a temporary license, certificate, registration, or permit;**
- 15 **(4) an intern permit; or**
- 16 **(5) a provisional license;**

17 **issued by the board regulating the profession in question, including**
18 **a certificate of registration issued under IC 25-20, when the alleged**
19 **violation of this chapter occurred.**

20 SECTION 6. IC 25-1-9.1-9, AS ADDED BY P.L.147-2017,
21 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
22 UPON PASSAGE]: Sec. 9. (a) As used in this chapter, "provider"
23 means a practitioner described in ~~IC 25-1-9-2(1)~~. **IC 25-1-9-2(a)(1)**.

24 (b) The term does not include an individual who holds a license,
25 certification, registration, or permit issued under the following:

- 26 (1) IC 25-19.
- 27 (2) IC 25-38.1.

28 (c) The term includes a provider group.

29 SECTION 7. IC 25-1-11-2 IS AMENDED TO READ AS
30 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) As used in
31 this chapter, "practitioner" means a person that holds:

- 32 (1) an unlimited license, certificate, registration, or permit;
- 33 (2) a limited or probationary license, certificate, registration, or
34 permit;
- 35 (3) a temporary license, certificate, registration, or permit;
- 36 (4) an intern permit; or
- 37 (5) an inactive license;

38 issued by the board regulating a profession.

39 **(b) The term includes a person that held:**

- 40 **(1) an unlimited license, certificate, registration, or permit;**
- 41 **(2) a limited or probationary license, certificate, registration,**
42 **or permit;**



1 **(3) a temporary license, certificate, registration, or permit;**
 2 **(4) an intern permit; or**
 3 **(5) an inactive license;**
 4 **issued by the board regulating a profession when the alleged**
 5 **violation of this chapter occurred.**

6 SECTION 8. IC 25-10-1-7 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 7. Any applicant for a
 8 license to practice chiropractic who is a graduate of a legally
 9 incorporated chiropractic school, institution or college, and who can
 10 produce satisfactory evidence to the board that ~~his the~~:

11 **(1) applicant's** chiropractic education was interrupted by reason
 12 of ~~his the applicant's~~ induction or enlistment into the active
 13 armed forces of the United States; and ~~that he~~

14 **(2) applicant** received an honorable discharge from ~~such the~~
 15 **armed** forces; ~~shall be~~
 16 **is** entitled to have ~~his the applicant's~~ date of graduation determined as
 17 if ~~he the applicant~~ had completed ~~his the applicant's~~ course of study
 18 in chiropractic without ~~such the~~ interruption.

19 SECTION 9. IC 25-26-13-15 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 15. (a) A pharmacist
 21 shall hold in strictest confidence all prescriptions, drug orders, records,
 22 and patient information. ~~He The pharmacist~~ may divulge ~~such the~~
 23 information only when it is in the best interest of the patient or when
 24 requested by the board or its representatives or by a law enforcement
 25 officer charged with the enforcement of laws pertaining to drugs or
 26 devices or the practice of pharmacy.

27 (b) A person who has knowledge by virtue of ~~his the person's~~ office
 28 of any prescription drug order, record, or patient information may not
 29 divulge ~~such the~~ information except in connection with a criminal
 30 prosecution or proceeding or a proceeding before the board, to which
 31 the person to whom the information relates is a party.

32 (c) A pharmacist or pharmacy is immune from civil liability for any
 33 action based on its good faith release of information under this section.

34 SECTION 10. IC 25-26-21-5, AS AMENDED BY P.L.2-2008,
 35 SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 UPON PASSAGE]: Sec. 5. (a) This chapter does not apply to the
 37 following:

38 (1) A home health agency (as defined in IC 16-27-1-2) that does
 39 not sell, lease, or rent home medical equipment.

40 (2) A hospital licensed under IC 16-21-2 that:

41 (A) provides home medical equipment services only as an
 42 integral part of patient care; and



- 1 (B) does not provide home medical equipment services
 2 through a separate business entity.
- 3 (3) A manufacturer or wholesale distributor that does not sell,
 4 lease, or rent home medical equipment directly to a consumer.
- 5 (4) Except as provided under subsection (b), a practitioner (as
 6 defined in ~~IC 25-1-9-2~~ **IC 25-1-9-2(a)**) who does not sell, lease,
 7 or rent home medical equipment.
- 8 (5) A veterinarian licensed under IC 25-38.1-3.
- 9 (6) A hospice program (as defined in IC 16-25-1.1-4) that does
 10 not sell, lease, or rent home medical equipment.
- 11 (7) A health facility licensed under IC 16-28 that does not sell,
 12 lease, or rent home medical equipment.
- 13 (8) A provider that:
- 14 (A) provides home medical equipment services within the
 15 scope of the licensed provider's professional practice;
 16 (B) is otherwise licensed by the state; and
 17 (C) receives annual continuing education that is documented
 18 by the provider or the licensing entity.
- 19 (9) An employee of a person licensed under this chapter.
- 20 (b) A pharmacist licensed in Indiana or a pharmacy that holds a
 21 permit issued under IC 25-26 that sells, leases, or rents home medical
 22 equipment:
- 23 (1) is not required to obtain a license under this chapter; and
 24 (2) is otherwise subject to the:
- 25 (A) requirements of this chapter; and
 26 (B) requirements established by the board by rule under this
 27 chapter.
- 28 SECTION 11. IC 27-1-46-10, AS AMENDED BY THE
 29 TECHNICAL CORRECTIONS BILL OF THE 2022 GENERAL
 30 ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2022]: Sec. 10. (a) As used in this chapter, "provider facility"
 32 means any of the following:
- 33 (1) A hospital licensed under IC 16-21-2.
 34 (2) An ambulatory outpatient ~~surgery~~ **surgical** center licensed
 35 under IC 16-21-2.
 36 (3) An abortion clinic licensed under IC 16-21-2.
 37 (4) A birthing center licensed under IC 16-21-2.
 38 (5) Except for an urgent care facility, a facility that provides
 39 diagnostic services to the medical profession or the general
 40 public, including outpatient facilities.
 41 (6) A laboratory where clinical pathology tests are carried out on
 42 specimens to obtain information about the health of a patient.



- 1 (7) A facility where radiologic and electromagnetic images are
 2 made to obtain information about the health of a patient.
 3 (8) An infusion center that administers intravenous medications.
 4 (b) The term does not include the following:
 5 (1) A private mental health institution licensed under IC 12-25.
 6 (2) A Medicare certified, freestanding rehabilitation hospital.
 7 SECTION 12. IC 27-2-25-11, AS AMENDED BY THE
 8 TECHNICAL CORRECTIONS BILL OF THE 2022 GENERAL
 9 ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2022]: Sec. 11. As used in this chapter, "provider facility"
 11 means any of the following:
 12 (1) A hospital licensed under IC 16-21-2.
 13 (2) An ambulatory outpatient ~~surgery~~ **surgical** center licensed
 14 under IC 16-21-2.
 15 (3) An abortion clinic licensed under IC 16-21-2.
 16 (4) A birthing center licensed under IC 16-21-2.
 17 (5) Except for an urgent care facility (as defined by
 18 IC 27-1-46-10.5), a facility that provides diagnostic services to
 19 the medical profession or the general public.
 20 (6) A laboratory where clinical pathology tests are carried out on
 21 specimens to obtain information about the health of a patient.
 22 (7) A facility where radiologic and electromagnetic images are
 23 made to obtain information about the health of a patient.
 24 (8) An infusion center that administers intravenous medications.
 25 SECTION 13. **An emergency is declared for this act.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1255, 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 1255 as introduced.)

BARRETT

Committee Vote: Yeas 10, Nays 0

COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred House Bill No. 1255, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to HB 1255 as printed January 20, 2022.)

CHARBONNEAU, Chairperson

Committee Vote: Yeas 9, Nays 0

