

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.

## HOUSE ENROLLED ACT No. 1255

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AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 12-10-17.1-1, AS ADDED BY P.L.141-2006, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. This chapter does not apply to the following:

- (1) An individual who provides attendant care services and who is employed by and under the direct control of a home health agency (as defined in IC 12-15-34-1).
- (2) An individual who provides attendant care services and who is employed by and under the direct control of a licensed hospice program under IC 16-25.
- (3) An individual who provides attendant care services and who is employed by and under the control of an employer that is not the individual who is receiving the services.
- (4) A practitioner (as defined in ~~IC 25-1-9-2~~) **IC 25-1-9-2(a)** who is practicing under the scope of the practitioner's license (as defined in IC 25-1-9-3).

SECTION 2. IC 16-19-4-1, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2022 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 1. (a) The state health commissioner, by virtue of the state health commissioner's office, is secretary and executive officer of the executive board.

**HEA 1255**



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

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

- (1) the declarant and witness are:
  - (A) directly present with each other in the same physical space;
  - (B) able to interact with each other in real time through use of any audiovisual communications technology now known or later developed; or
  - (C) ~~are~~ able to speak to and hear each other in real time through telephonic interaction;
- (2) the:
  - (A) identity of the declarant is personally known to all witnesses;
  - (B) witnesses are able to view a government issued, photographic identification of the declarant; or
  - (C) witnesses are able to ask any question of the declarant that:
    - (i) authenticates the identity of the declarant; and
    - (ii) establishes the capacity and sound mind of the declarant to the satisfaction of the witnesses; and
- (3) each witness is able to interact with the declarant and each other when observing or hearing in real time, as applicable:
  - (A) the declarant's expression of intent to execute an out of hospital DNR declaration under this chapter;
  - (B) the declarant's actions in executing or directing the execution of the out of hospital DNR declaration under this chapter; and
  - (C) the actions of the declarant and all other witnesses when signing the out of hospital DNR declaration.

The term includes the use of technology or learned skills for the purpose of assisting with hearing, eyesight, and speech or for the purpose of compensating for a hearing, eyesight, or speech impairment.

SECTION 4. IC 16-36-5-11, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2022 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

**HEA 1255**



JULY 1, 2022]: Sec. 11. (a) A person who is of sound mind and at least eighteen (18) years of age may execute an out of hospital DNR declaration.

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

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

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

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

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

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

The person who combines the separately signed counterparts into a single composite document must do so not later than ten (10) business days after the person receives all of the separately signed tangible, paper counterparts. Any scanned, photocopied, or other accurate copy of the single, composite document shall be treated as validly signed

**HEA 1255**



under this subsection if the single, composite document contains the complete text of the out of hospital DNR declaration and all required signatures.

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

(1) the:

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

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

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

(i) authenticates the identity of the declarant; and

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

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

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

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

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

SECTION 5. IC 25-1-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) As used in this chapter, "practitioner" means an individual who holds:

(1) an unlimited license, certificate, or registration;

(2) a limited or probationary license, certificate, or registration;

(3) a temporary license, certificate, registration, or permit;

**HEA 1255**



(4) an intern permit; or  
(5) a provisional license;  
issued by the board regulating the profession in question, including a certificate of registration issued under IC 25-20.

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

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

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

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

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

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

(c) The term includes a provider group.

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

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

issued by the board regulating a profession.

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

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

**issued by the board regulating a profession when the alleged violation of this chapter occurred.**



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

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

(2) ~~applicant~~ received an honorable discharge from ~~such the~~ armed forces; ~~shall be~~

is entitled to have ~~his the applicant's~~ date of graduation determined as if ~~he the applicant~~ had completed ~~his the applicant's~~ course of study in chiropractic without ~~such the~~ interruption.

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

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

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

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

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

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

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

(B) does not provide home medical equipment services through a separate business entity.

(3) A manufacturer or wholesale distributor that does not sell, lease, or rent home medical equipment directly to a consumer.

(4) Except as provided under subsection (b), a practitioner (as

HEA 1255



defined in ~~IC 25-1-9-2~~ **IC 25-1-9-2(a)**) who does not sell, lease, or rent home medical equipment.

(5) A veterinarian licensed under IC 25-38.1-3.

(6) A hospice program (as defined in IC 16-25-1.1-4) that does not sell, lease, or rent home medical equipment.

(7) A health facility licensed under IC 16-28 that does not sell, lease, or rent home medical equipment.

(8) A provider that:

(A) provides home medical equipment services within the scope of the licensed provider's professional practice;

(B) is otherwise licensed by the state; and

(C) receives annual continuing education that is documented by the provider or the licensing entity.

(9) An employee of a person licensed under this chapter.

(b) A pharmacist licensed in Indiana or a pharmacy that holds a permit issued under IC 25-26 that sells, leases, or rents home medical equipment:

(1) is not required to obtain a license under this chapter; and

(2) is otherwise subject to the:

(A) requirements of this chapter; and

(B) requirements established by the board by rule under this chapter.

SECTION 11. IC 27-1-46-10, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2022 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 10. (a) As used in this chapter, "provider facility" means any of the following:

(1) A hospital licensed under IC 16-21-2.

(2) An ambulatory outpatient ~~surgery~~ **surgical** center licensed under IC 16-21-2.

(3) An abortion clinic licensed under IC 16-21-2.

(4) A birthing center licensed under IC 16-21-2.

(5) Except for an urgent care facility, a facility that provides diagnostic services to the medical profession or the general public, including outpatient facilities.

(6) A laboratory where clinical pathology tests are carried out on specimens to obtain information about the health of a patient.

(7) A facility where radiologic and electromagnetic images are made to obtain information about the health of a patient.

(8) An infusion center that administers intravenous medications.

(b) The term does not include the following:

(1) A private mental health institution licensed under IC 12-25.

**HEA 1255**



(2) A Medicare certified, freestanding rehabilitation hospital.

SECTION 12. IC 27-2-25-11, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2022 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 11. As used in this chapter, "provider facility" means any of the following:

(1) A hospital licensed under IC 16-21-2.

(2) An ambulatory outpatient ~~surgery~~ **surgical** center licensed under IC 16-21-2.

(3) An abortion clinic licensed under IC 16-21-2.

(4) A birthing center licensed under IC 16-21-2.

(5) Except for an urgent care facility (as defined by IC 27-1-46-10.5), a facility that provides diagnostic services to the medical profession or the general public.

(6) A laboratory where clinical pathology tests are carried out on specimens to obtain information about the health of a patient.

(7) A facility where radiologic and electromagnetic images are made to obtain information about the health of a patient.

(8) An infusion center that administers intravenous medications.

SECTION 13. **An emergency is declared for this act.**





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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

**HEA 1255**

