



March 31, 2017

ENGROSSED

HOUSE BILL No. 1337

DIGEST OF HB 1337 (Updated March 29, 2017 12:09 pm - DI 104)

Citations Affected: IC 12-15; IC 25-1.

Synopsis: Telemedicine matters. Requires the office of Medicaid policy and planning (office) to reimburse a Medicaid provider, determined by the office to be eligible, for covered telemedicine services. Prohibits the office from setting any distance restrictions under Medicaid on telehealth services and telemedicine services. Adds podiatrist to the definition of "prescriber" for purposes of telemedicine services. Requires a telemedicine services prescriber to contact the patient's primary care provider if the telemedicine services prescriber has provided care to the patient at least two consecutive times through the use of telemedicine services. Removes a limitation on prescribing controlled substances except for opioids through the use of telemedicine if: (1) the prescriber maintains a controlled substance registration; (2) meets federal requirements concerning the prescribing of the controlled substance; (3) the patient has been examined in person by a licensed Indiana health care provider that has diagnosed the patient and established a treatment plan for the diagnosis for the patient; (4) the prescriber has reviewed and approved the treatment plan and is prescribing for the patient pursuant to the diagnosis included in the treatment plan; and (5) The prescriber complies with the requirements of the INSPECT program. Allows for the prescribing of an opioid using telemedicine services if the opioid being prescribed is a partial agonist being prescribed to treat or manage an opioid dependence.

Effective: July 1, 2017.

Kirchhofer, Bacon, Shackelford

(SENATE SPONSORS — CHARBONNEAU, HEAD, BREAUX)

January 12, 2017, read first time and referred to Committee on Public Health.
February 16, 2017, amended, reported — Do Pass.
February 21, 2017, read second time, amended, ordered engrossed.
February 22, 2017, engrossed. Read third time, passed. Yeas 91, nays 3.

SENATE ACTION

February 27, 2017, read first time and referred to Committee on Health and Provider Services.
March 30, 2017, amended, reported favorably — Do Pass.

EH 1337—LS 6947/DI 104



March 31, 2017

First Regular Session of the 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1337

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 12-15-5-11, AS ADDED BY P.L.204-2013,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2017]: Sec. 11. (a) As used in this section, "telehealth
4 services" means the use of telecommunications and information
5 technology to provide access to health assessment, diagnosis,
6 intervention, consultation, supervision, and information across a
7 distance.

8 (b) As used in this section, "telemedicine services" ~~means a specific~~
9 ~~method of delivery of services, including medical exams and~~
10 ~~consultations and behavioral health evaluations and treatment,~~
11 ~~including those for substance abuse, using videoconferencing~~
12 ~~equipment to allow a provider to render an examination or other service~~
13 ~~to a patient at a distant location. The term does not include the use of~~
14 ~~the following: has the meaning set forth for "telemedicine" in~~
15 ~~IC 25-1-9.5-6.~~

16 (1) ~~A telephone transmitter for transtelephonic monitoring.~~

17 (2) ~~A telephone or any other means of communication for the~~

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- 1 ~~consultation from one (1) provider to another provider.~~
- 2 (c) The office shall reimburse a Medicaid provider who is licensed
- 3 as a home health agency under IC 16-27-1 for telehealth services.
- 4 (d) The office shall reimburse the following Medicaid providers for
- 5 **medically necessary** telemedicine services:
- 6 (1) A federally qualified health center (as defined in 42 U.S.C.
- 7 1396d(l)(2)(B)).
- 8 (2) A rural health clinic (as defined in 42 U.S.C. 1396d(l)(1)).
- 9 (e) The office shall reimburse the following Medicaid providers for
- 10 telemedicine services regardless of the distance between the provider
- 11 and the patient:
- 12 (1) A federally qualified health center (as defined in 42 U.S.C.
- 13 1396d(l)(2)(B)).
- 14 (2) A rural health clinic (as defined in 42 U.S.C. 1396d(l)(1)).
- 15 (3) A community mental health center certified under
- 16 IC 12-21-2-3(5)(C).
- 17 (4) A critical access hospital that meets the criteria under 42 CFR
- 18 485.601 et seq.
- 19 **(5) A provider, as determined by the office to be eligible,**
- 20 **providing a covered telemedicine service.**
- 21 ~~(f) The office shall, not later than December 1, 2013, file any~~
- 22 ~~Medicaid state plan amendment with the United States Department of~~
- 23 ~~Health and Human Services necessary to implement and administer~~
- 24 ~~this section including an amendment to eliminate the current twenty~~
- 25 ~~(20) mile distance restriction.~~
- 26 **(f) The office may not impose any distance restrictions on**
- 27 **providers of telehealth services or telemedicine services. Before**
- 28 **December 31, 2017, the office shall do the following:**
- 29 **(1) Submit a Medicaid state plan amendment with the United**
- 30 **States Department of Health and Human Services that**
- 31 **eliminates distance restrictions for telehealth services or**
- 32 **telemedicine services in the state Medicaid plan.**
- 33 **(2) Issue a notice of intent to adopt a rule to amend any**
- 34 **administrative rules that include distance restrictions for the**
- 35 **provision of telehealth services or telemedicine services.**
- 36 (g) The office shall implement any part of this section that is
- 37 approved by the United States Department of Health and Human
- 38 Services.
- 39 (h) The office may adopt rules under IC 4-22-2 necessary to
- 40 implement and administer this section.
- 41 SECTION 2. IC 25-1-9.5-1, AS ADDED BY P.L.78-2016,
- 42 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2017]: Sec. 1. (a) This chapter does not prohibit a provider,
 2 **prescriber**, insurer, or patient from agreeing to an alternative location
 3 of the patient ~~or provider~~, **or prescriber** to conduct telemedicine.

4 (b) This chapter does not supersede any other statute concerning a
 5 provider **or prescriber** who provides health care to a patient.

6 SECTION 3. IC 25-1-9.5-2, AS ADDED BY P.L.78-2016,
 7 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2017]: Sec. 2. As used in this chapter, "distant site" means a
 9 site at which a **provider prescriber** is located while providing health
 10 care services through telemedicine.

11 SECTION 4. IC 25-1-9.5-4, AS ADDED BY P.L.78-2016,
 12 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2017]: Sec. 4. As used in this chapter, "~~provider~~"
 14 "**prescriber**" means any of the following:

15 (1) A physician licensed under IC 25-22.5.

16 (2) A physician assistant licensed under IC 25-27.5 and granted
 17 the authority to prescribe by the physician assistant's supervisory
 18 physician in accordance with IC 25-27.5-5-4.

19 (3) An advanced practice nurse licensed and granted the authority
 20 to prescribe drugs under IC 25-23.

21 (4) An optometrist licensed under IC 25-24.

22 **(5) A podiatrist licensed under IC 25-29.**

23 SECTION 5. IC 25-1-9.5-5, AS ADDED BY P.L.78-2016,
 24 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2017]: Sec. 5. As used in this chapter, "store and forward"
 26 means the transmission of a patient's medical information from an
 27 originating site to the **provider prescriber** at a distant site without the
 28 patient being present.

29 SECTION 6. IC 25-1-9.5-7, AS ADDED BY P.L.78-2016,
 30 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2017]: Sec. 7. (a) A **provider prescriber** who provides health
 32 care services through telemedicine shall be held to the same standards
 33 of appropriate practice as those standards for health care services
 34 provided at an in-person setting.

35 (b) A **provider prescriber** may not use telemedicine, including
 36 issuing a prescription, for an individual who is located in Indiana
 37 unless a provider-patient relationship between the **provider prescriber**
 38 and the individual has been established. A **provider prescriber** who
 39 uses telemedicine shall, if such action would otherwise be required in
 40 the provision of the same health care services in a manner other than
 41 telemedicine, ensure that a proper provider-patient relationship is
 42 established. The provider-patient relationship by a **provider prescriber**



1 who uses telemedicine must at a minimum include the following:

- 2 (1) Obtain the patient's name and contact information and:
 3 (A) a verbal statement or other data from the patient
 4 identifying the patient's location; and
 5 (B) to the extent reasonably possible, the identity of the
 6 requesting patient.
- 7 (2) Disclose the **provider's prescriber's** name and disclose
 8 whether the **provider prescriber** is a physician, physician
 9 assistant, advanced practice nurse, **or** optometrist, **or podiatrist**.
- 10 (3) Obtain informed consent from the patient.
- 11 (4) Obtain the patient's medical history and other information
 12 necessary to establish a diagnosis.
- 13 (5) Discuss with the patient the:
 14 (A) diagnosis;
 15 (B) evidence for the diagnosis; and
 16 (C) risks and benefits of various treatment options, including
 17 when it is advisable to seek in-person care.
- 18 (6) Create and maintain a medical record for the patient and,
 19 subject to the consent of the patient, notify the patient's primary
 20 care provider of any prescriptions the **provider prescriber** has
 21 **written issued** for the patient if the primary care provider's contact
 22 information is provided by the patient. The requirements in this
 23 subdivision do not apply when **any of the following are met**:
 24 (A) The **provider prescriber** is using an electronic health
 25 record system that the patient's primary care provider is
 26 authorized to access.
 27 (B) **The prescriber has established an ongoing**
 28 **provider-patient relationship with the patient by providing**
 29 **care to the patient at least two (2) consecutive times**
 30 **through the use of telemedicine services. If the conditions**
 31 **of this clause are met, the prescriber shall maintain a**
 32 **medical record for the patient and shall notify the patient's**
 33 **primary care provider of any issued prescriptions.**
- 34 (7) Issue proper instructions for appropriate follow-up care.
- 35 (8) Provide a telemedicine visit summary to the patient, including
 36 information that indicates any prescription that is being
 37 prescribed.

38 SECTION 7. IC 25-1-9.5-8, AS ADDED BY P.L.78-2016,
 39 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2017]: Sec. 8. (a) A **provider prescriber** may issue a
 41 prescription to a patient who is receiving services through the use of
 42 telemedicine ~~even~~ if the patient has not been ~~seen~~ **examined** previously



1 by the **provider prescriber** in person if the following conditions are
 2 met:

3 (1) The **provider prescriber** has satisfied the applicable standard
 4 of care in the treatment of the patient.

5 (2) The issuance of the prescription by the **provider prescriber** is
 6 within the **provider's prescriber's** scope of practice and
 7 certification.

8 (3) The prescription:

9 (A) **meets the requirements of subsection (b); and**

10 (B) **is not for a controlled substance (as defined in**
 11 **IC 35-48-1-9): an opioid. However, an opioid may be**
 12 **prescribed if the opioid is a partial agonist that is used to**
 13 **treat or manage opioid dependence.**

14 (4) The prescription is not for an abortion inducing drug (as
 15 defined in IC 16-18-2-1.6).

16 (5) The prescription is not for an ophthalmic device, including:

17 (A) glasses;

18 (B) contact lenses; or

19 (C) low vision devices.

20 (b) **Except as provided in subsection (a), a prescriber may issue**
 21 **a prescription for a controlled substance (as defined in**
 22 **IC 35-48-1-9) to a patient who is receiving services through the use**
 23 **of telemedicine, even if the patient has not been examined**
 24 **previously by the prescriber in person, if the following conditions**
 25 **are met:**

26 (1) **The prescriber maintains a valid controlled substance**
 27 **registration under IC 35-48-3.**

28 (2) **The prescriber meets the conditions set forth in 21 U.S.C.**
 29 **829 et seq.**

30 (3) **The patient has been examined in person by a licensed**
 31 **Indiana health care provider and the licensed health care**
 32 **provider has diagnosed the patient and established a**
 33 **treatment plan for the diagnosis of the patient.**

34 (4) **The prescriber has reviewed and approved the treatment**
 35 **plan described in subdivision (3) and is prescribing for the**
 36 **patient pursuant to the diagnosis included in the treatment**
 37 **plan.**

38 (5) **The prescriber complies with the requirements of the**
 39 **INSPECT program (IC 35-48-7).**

40 (c) **A prescription for a controlled substance under this section**
 41 **must be prescribed and dispensed in accordance with IC 35-48-7.**

42 SECTION 8. IC 25-1-9.5-9, AS ADDED BY P.L.78-2016,



1 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2017]: Sec. 9. (a) A ~~provider~~ **prescriber** who is physically
3 located outside Indiana is engaged in the provision of health care
4 services in Indiana when the ~~provider:~~ **prescriber:**

5 (1) establishes a provider-patient relationship under this chapter
6 with; or

7 (2) determines whether to issue a prescription under this chapter
8 for;

9 an individual who is located in Indiana.

10 (b) A ~~provider~~ **prescriber** described in subsection (a) may not
11 establish a provider-patient relationship under this chapter with or issue
12 a prescription under this chapter for an individual who is located in
13 Indiana unless the ~~provider~~ **prescriber** and the ~~provider's~~ **prescriber's**
14 employer or the ~~provider's~~ **prescriber's** contractor, for purposes of
15 providing health care services under this chapter, have certified in
16 writing to the Indiana professional licensing agency, in a manner
17 specified by the Indiana professional licensing agency, that the
18 ~~provider~~ **prescriber** and the ~~provider's~~ **prescriber's** employer or
19 ~~provider's~~ **prescriber's** contractor agree to be subject to:

20 (1) the jurisdiction of the courts of law of Indiana; and

21 (2) Indiana substantive and procedural laws;

22 concerning any claim asserted against the ~~provider,~~ **prescriber,** the
23 ~~provider's~~ **prescriber's** employer, or the ~~provider's~~ **prescriber's**
24 contractor arising from the provision of health care services under this
25 chapter to an individual who is located in Indiana at the time the health
26 care services were provided. The filing of the certification under this
27 subsection shall constitute a voluntary waiver by the ~~provider,~~
28 **prescriber,** the ~~provider's~~ **prescriber's** employer, or the ~~provider's~~
29 **prescriber's** contractor of any respective right to avail themselves of
30 the jurisdiction or laws other than those specified in this subsection
31 concerning the claim. However, a ~~provider~~ **prescriber** that practices
32 predominately in Indiana is not required to file the certification
33 required by this subsection.

34 (c) A ~~provider~~ **prescriber** shall renew the certification required
35 under subsection (b) at the time the ~~provider~~ **prescriber** renews the
36 ~~provider's~~ **prescriber's** license.

37 (d) A ~~provider's~~ **prescriber's** employer or a ~~provider's~~ **prescriber's**
38 contractor is required to file the certification required by this section
39 only at the time of initial certification.

40 SECTION 9. IC 25-1-9.5-10, AS ADDED BY P.L.78-2016,
41 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
42 JULY 1, 2017]: Sec. 10. (a) A ~~provider~~ **prescriber** who violates this



1 chapter is subject to disciplinary action under IC 25-1-9.
2 (b) A ~~provider's~~ **prescriber's** employer or a ~~provider's~~ **prescriber's**
3 contractor that violates this section commits a Class B infraction for
4 each act in which a certification is not filed as required by section 9 of
5 this chapter.
6 SECTION 10. IC 25-1-9.5-11, AS ADDED BY P.L.78-2016,
7 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2017]: Sec. 11. A pharmacy does not violate this chapter if the
9 pharmacy fills a prescription for ~~a controlled substance~~ **an opioid** and
10 the pharmacy is unaware that the prescription was written by a ~~provider~~
11 **prescriber** providing telemedicine services under this chapter.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1337, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 12-15-5-11, AS ADDED BY P.L.204-2013, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 11. (a) As used in this section, "telehealth services" means the use of telecommunications and information technology to provide access to health assessment, diagnosis, intervention, consultation, supervision, and information across a distance.

(b) As used in this section, "telemedicine services" means a specific method of delivery of services, including medical exams and consultations and behavioral health evaluations and treatment, including those for substance abuse, using videoconferencing equipment to allow a provider to render an examination or other service to a patient at a distant location. The term does not include the use of the following: **has the meaning set forth for "telemedicine" in IC 25-1-9.5-6.**

(1) A telephone transmitter for transtelephonic monitoring;

(2) A telephone or any other means of communication for the consultation from one (1) provider to another provider;

(c) The office shall reimburse a Medicaid provider who is licensed as a home health agency under IC 16-27-1 for telehealth services.

(d) The office shall reimburse the following Medicaid providers for **medically necessary** telemedicine services **and facility costs related to the use of telemedicine:**

(1) A federally qualified health center (as defined in 42 U.S.C. 1396d(l)(2)(B)).

(2) A rural health clinic (as defined in 42 U.S.C. 1396d(l)(1)).

(e) The office shall reimburse the following Medicaid providers for telemedicine services regardless of the distance between the provider and the patient:

(1) A federally qualified health center (as defined in 42 U.S.C. 1396d(l)(2)(B)).

(2) A rural health clinic (as defined in 42 U.S.C. 1396d(l)(1)).

(3) A community mental health center certified under IC 12-21-2-3(5)(C).

(4) A critical access hospital that meets the criteria under 42 CFR



485.601 et seq.

(5) A provider, determined by the office, who meets the requirements under IC 25-1-9.5 and is enrolled as an Indiana Medicaid provider.

~~(f) The office shall, not later than December 1, 2013, file any Medicaid state plan amendment with the United States Department of Health and Human Services necessary to implement and administer this section including an amendment to eliminate the current twenty (20) mile distance restriction.~~

(f) The office may not impose any distance restrictions on providers of telehealth services or telemedicine services. Before December 31, 2017, the office shall do the following:

(1) Submit a Medicaid state plan amendment with the United States Department of Health and Human Services that eliminates distance restrictions for telehealth services or telemedicine services in the state Medicaid plan.

(2) Issue a notice of intent to adopt a rule to amend any administrative rules that include distance restrictions for the provision of telehealth services or telemedicine services.

(g) The office shall implement any part of this section that is approved by the United States Department of Health and Human Services.

(h) The office may adopt rules under IC 4-22-2 necessary to implement and administer this section."

Delete pages 2 through 3.

Page 4, delete lines 1 through 22.

Page 4, between lines 34 and 35, begin a new line block indented and insert:

"(6) A health service provider in psychology.

(7) A federally qualified health center (as defined in 42 U.S.C. 1396d(l)(2)(B)).

(8) A rural health clinic (as defined in 42 U.S.C. 1396d(l)(1)).

(9) A community mental health center certified under IC 12-21-2-3(5)(C).

(10) A critical access hospital that meets the criteria under 42 CFR 485.601 et seq.

(11) A provider, determined by the office, who meets the requirements under IC 25-1-9.5 and is enrolled as an Indiana Medicaid provider."

Page 6, line 3, delete "JULY 1, 2017]:" and insert "UPON PASSAGE]:".

Page 6, line 13, delete "overdose intervention drug (as" and insert



"agonist or partial agonist that is used to treat or manage opioid dependence."

Page 6, delete lines 14 through 15.

Page 6, after line 21, begin a new paragraph and insert:

"SECTION 5. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1337 as introduced.)

KIRCHHOFER

Committee Vote: yeas 11, nays 0.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1337 be amended to read as follows:

Page 5, line 2, delete "an agonist or" and insert "**a**".

(Reference is to HB 1337 as printed February 17, 2017.)

KIRCHHOFER

COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred House Bill No. 1337, 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 2, line 5, delete "and facility costs related" and insert ":",

Page 2, delete line 6.

Page 2, line 20, after "provider," insert "**as**".

Page 2, line 20, delete "office, who meets the" and insert "**office to be eligible, providing a covered telemedicine service.**".

Page 2, delete lines 21 through 22.

Page 2, after line 42, begin a new paragraph and insert:

"SECTION 2. IC 25-1-9.5-1, AS ADDED BY P.L.78-2016, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1. (a) This chapter does not prohibit a provider,

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prescriber, insurer, or patient from agreeing to an alternative location of the patient ~~or~~ provider, **or prescriber** to conduct telemedicine.

(b) This chapter does not supersede any other statute concerning a provider **or prescriber** who provides health care to a patient.

SECTION 3. IC 25-1-9.5-2, AS ADDED BY P.L.78-2016, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 2. As used in this chapter, "distant site" means a site at which a ~~provider~~ **prescriber** is located while providing health care services through telemedicine."

Page 3, line 3, strike ""provider"" and insert ""**prescriber**"".

Page 3, delete lines 13 through 23, begin a new paragraph and insert:

"SECTION 5. IC 25-1-9.5-5, AS ADDED BY P.L.78-2016, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. As used in this chapter, "store and forward" means the transmission of a patient's medical information from an originating site to the ~~provider~~ **prescriber** at a distant site without the patient being present."

Page 3, line 26, strike "provider" and insert "**prescriber**".

Page 3, line 30, strike "provider" and insert "**prescriber**".

Page 3, line 32, after "between the" strike "provider" and insert "**prescriber**".

Page 3, line 33, strike "provider" and insert "**prescriber**".

Page 3, line 37, strike "provider" and insert "**prescriber**".

Page 4, line 2, strike "provider's" and insert "**prescriber's**".

Page 4, line 3, strike "provider" and insert "**prescriber**".

Page 4, line 4, strike "or".

Page 4, line 4, delete "." and insert ", **or podiatrist**".

Page 4, line 15, after "the" strike "provider" and insert "**prescriber**".

Page 4, line 19, strike "provider" and insert "**prescriber**".

Page 4, line 21, delete "provider" and insert "**prescriber**".

Page 4, line 25, delete "provider" and insert "**prescriber**".

Page 4, line 26, delete "may" and insert "**shall**".

Page 4, line 34, delete "UPON PASSAGE]:" and insert "JULY 1, 2017]:".

Page 4, line 34, after "8." insert "(a)".

Page 4, line 34, strike "provider" and insert "**prescriber**".

Page 4, line 36, strike "provider" and insert "**prescriber**".

Page 4, line 38, strike "provider" and insert "**prescriber**".

Page 4, line 40, strike "provider" and insert "**prescriber**".

Page 4, line 41, strike "provider's" and insert "**prescriber's**".

Page 4, line 42, after "prescription" insert ":



**(A) meets the requirements of subsection (b); and
(B)".**

Page 5, delete line 10, begin a new paragraph and insert:

"(b) Except as provided in subsection (a), a prescriber may issue a prescription for a controlled substance (as defined in IC 35-48-1-9) to a patient who is receiving services through the use of telemedicine, even if the patient has not been examined previously by the prescriber in person, if the following conditions are met:

- (1) The prescriber maintains a valid controlled substance registration under IC 35-48-3.**
- (2) The prescriber meets the conditions set forth in 21 U.S.C. 829 et seq.**
- (3) The patient has been examined in person by a licensed Indiana health care provider and the licensed health care provider has diagnosed the patient and established a treatment plan for the diagnosis of the patient.**
- (4) The prescriber has reviewed and approved the treatment plan described in subdivision (3) and is prescribing for the patient pursuant to the diagnosis included in the treatment plan.**
- (5) The prescriber complies with the requirements of the INSPECT program (IC 35-48-7).**

(c) A prescription for a controlled substance under this section must be prescribed and dispensed in accordance with IC 35-48-7.

SECTION 7. IC 25-1-9.5-9, AS ADDED BY P.L.78-2016, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 9. (a) A ~~provider~~ **prescriber** who is physically located outside Indiana is engaged in the provision of health care services in Indiana when the ~~provider:~~ **prescriber:**

- (1) establishes a provider-patient relationship under this chapter with; or
- (2) determines whether to issue a prescription under this chapter for;

an individual who is located in Indiana.

(b) A ~~provider~~ **prescriber** described in subsection (a) may not establish a provider-patient relationship under this chapter with or issue a prescription under this chapter for an individual who is located in Indiana unless the ~~provider~~ **prescriber** and the ~~provider's~~ **prescriber's** employer or the ~~provider's~~ **prescriber's** contractor, for purposes of providing health care services under this chapter, have certified in writing to the Indiana professional licensing agency, in a manner



specified by the Indiana professional licensing agency, that the **provider prescriber** and the ~~provider's prescriber's~~ employer or ~~provider's prescriber's~~ contractor agree to be subject to:

- (1) the jurisdiction of the courts of law of Indiana; and
- (2) Indiana substantive and procedural laws;

concerning any claim asserted against the ~~provider, prescriber,~~ the ~~provider's prescriber's~~ employer, or the ~~provider's prescriber's~~ contractor arising from the provision of health care services under this chapter to an individual who is located in Indiana at the time the health care services were provided. The filing of the certification under this subsection shall constitute a voluntary waiver by the ~~provider, prescriber,~~ the ~~provider's prescriber's~~ employer, or the ~~provider's prescriber's~~ contractor of any respective right to avail themselves of the jurisdiction or laws other than those specified in this subsection concerning the claim. However, a **provider prescriber** that practices predominately in Indiana is not required to file the certification required by this subsection.

(c) A **provider prescriber** shall renew the certification required under subsection (b) at the time the **provider prescriber** renews the ~~provider's prescriber's~~ license.

(d) A ~~provider's prescriber's~~ employer or a ~~provider's prescriber's~~ contractor is required to file the certification required by this section only at the time of initial certification.

SECTION 8. IC 25-1-9.5-10, AS ADDED BY P.L.78-2016, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 10. (a) A **provider prescriber** who violates this chapter is subject to disciplinary action under IC 25-1-9.

(b) A ~~provider's prescriber's~~ employer or a ~~provider's prescriber's~~ contractor that violates this section commits a Class B infraction for each act in which a certification is not filed as required by section 9 of this chapter.

SECTION 9. IC 25-1-9.5-11, AS ADDED BY P.L.78-2016, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 11. A pharmacy does not violate this chapter if the pharmacy fills a prescription for a ~~controlled substance~~ **an opioid** and



the pharmacy is unaware that the prescription was written by a ~~provider~~
prescriber providing telemedicine services under this chapter."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1337 as reprinted February 22, 2017.)

CHARBONNEAU, Chairperson

Committee Vote: Yeas 9, Nays 0.

