

HOUSE BILL No. 1409

DIGEST OF INTRODUCED BILL

Citations Affected: IC 12-15-5-14; IC 16-41-6-1; IC 25-1-9-6.8; IC 25-23-1; IC 34-30-2-99.4.

Synopsis: Advanced practice nurses. Removes the requirements that an advanced practice nurse have a practice agreement with a collaborating physician. Repeals law concerning the audit of practice agreements. Makes conforming changes. Makes technical changes.

Effective: July 1, 2017.

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January 17, 2017, read first time and referred to Committee on Public Health.



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.

HOUSE BILL No. 1409

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

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

- 1 SECTION 1. IC 12-15-5-14, AS AMENDED BY THE
2 TECHNICAL CORRECTIONS BILL OF THE 2017 GENERAL
3 ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2017]: Sec. 14. (a) As used in this section, "advanced practice
5 nurse" means:
6 (1) a nurse practitioner; or
7 (2) a clinical nurse specialist;
8 who is a registered nurse licensed under IC 25-23 and qualified to
9 practice nursing in a specialty role based upon the additional
10 knowledge and skill gained through a formal organized program of
11 study and clinical experience, or the equivalent as determined by the
12 Indiana state board of nursing.
13 (b) As used in this section, "office" includes the following:
14 (1) The office of the secretary of family and social services.
15 (2) A managed care organization that has contracted with the
16 office of Medicaid policy and planning under this article.
17 (3) A person that has contracted with a managed care organization



- 1 described in subdivision (2).
- 2 (c) The office shall reimburse eligible Medicaid claims for the
- 3 following services provided by an advanced practice nurse employed
- 4 by a community mental health center if the services are part of the
- 5 advanced practice nurse's scope of practice:
- 6 (1) Mental health services.
- 7 (2) Behavioral health services.
- 8 (3) Substance ~~use~~ **abuse** treatment.
- 9 (4) Primary care services.
- 10 (5) Evaluation and management services for inpatient or
- 11 outpatient psychiatric treatment.
- 12 (6) Prescription drugs.
- 13 (d) The office shall include an advanced practice nurse as an
- 14 eligible provider for the supervision of a plan of treatment for a
- 15 patient's outpatient mental health or substance abuse treatment
- 16 services, if the supervision is in the advanced practice nurse's scope of
- 17 practice, education, and training.
- 18 (e) This section:
- 19 (1) may not be construed to expand an advanced practice nurse's
- 20 scope of practice; and
- 21 (2) is subject to IC 25-23-1-19.4(c). ~~and applies only if the service~~
- 22 ~~is included in the advance advanced practice nurse's practice~~
- 23 ~~agreement with a collaborating physician.~~
- 24 SECTION 2. IC 16-41-6-1, AS AMENDED BY P.L.147-2012,
- 25 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 26 JULY 1, 2017]: Sec. 1. (a) As used in this section, "physician's
- 27 authorized representative" means:
- 28 (1) an advanced practice nurse (as defined by IC 25-23-1-1(b))
- 29 who is operating ~~in collaboration~~ with a licensed physician; or
- 30 (2) an individual acting under the supervision of a licensed
- 31 physician and within the individual's scope of employment.
- 32 (b) If a physician or the physician's authorized representative
- 33 determines that it is medically necessary to conduct an HIV test on an
- 34 individual under the care of a physician, the physician or physician's
- 35 authorized representative may order the test if the physician or the
- 36 physician's authorized representative:
- 37 (1) informs the patient of the test;
- 38 (2) provides an explanation of the test; and
- 39 (3) informs the patient of the patient's right to refuse the test.
- 40 Subject to subsection (d), if the patient refuses the test, the physician
- 41 or the physician's authorized representative may not perform the test
- 42 and shall document the patient's refusal in the patient's medical record.



1 (c) After ordering an HIV test for a patient, the physician or the
2 physician's authorized representative shall:

3 (1) discuss with the patient the availability of counseling
4 concerning the test results; and

5 (2) notify the patient of the test results.

6 If a test conducted under this section indicates that a patient is HIV
7 infected, in addition to the requirements set forth in IC 16-41-2, the
8 physician or the physician's authorized representative shall inform the
9 patient of treatment and referral options available to the patient.

10 (d) A physician or a physician's authorized representative may order
11 an HIV test to be performed without informing the patient or the
12 patient's representative (as defined in IC 16-36-1-2) of the test or
13 regardless of the patient's or the patient's representative's refusal of the
14 HIV test if any of the following conditions apply:

15 (1) If ordered by a physician, consent can be implied due to
16 emergency circumstances and the test is medically necessary to
17 diagnose or treat the patient's condition.

18 (2) Under a court order based on clear and convincing evidence
19 of a serious and present health threat to others posed by an
20 individual. A hearing held under this subdivision shall be held in
21 camera at the request of the individual.

22 (3) If the test is done on blood collected or tested anonymously as
23 part of an epidemiologic survey under IC 16-41-2-3 or
24 IC 16-41-17-10(a)(5).

25 (4) The test is ordered under section 4 of this chapter.

26 (5) The test is required or authorized under IC 11-10-3-2.5.

27 (6) The individual upon whom the test will be performed is
28 described in IC 16-41-8-6 or IC 16-41-10-2.5.

29 (7) A court has ordered the individual to undergo testing for HIV
30 under IC 35-38-1-10.5(a) or IC 35-38-2-2.3(a)(17).

31 (8) Both of the following are met:

32 (A) The individual is not capable of providing consent and an
33 authorized representative of the individual is not immediately
34 available to provide consent or refusal of the test.

35 (B) A health care provider acting within the scope of the
36 health care provider's employment comes into contact with the
37 blood or body fluids of the individual in a manner that has
38 been epidemiologically demonstrated to transmit HIV.

39 (e) The state department shall make HIV testing and treatment
40 information from the federal Centers for Disease Control and
41 Prevention available to health care providers.

42 (f) The state department may adopt rules under IC 4-22-2 necessary



- 1 to implement this section.
- 2 SECTION 3. IC 25-1-9-6.8 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 6.8. (a) This section
- 4 applies to a practitioner who is:
- 5 (1) licensed to practice medicine or osteopathic medicine under
- 6 IC 25-22.5; or
- 7 (2) an advanced practice nurse granted prescriptive authority
- 8 under IC 25-23. ~~and whose practice agreement with a~~
- 9 ~~collaborating physician reflects the conditions specified in~~
- 10 ~~subsection (b):~~
- 11 (b) Before prescribing a stimulant medication for a child for the
- 12 treatment of attention deficit disorder or attention deficit hyperactivity
- 13 disorder, a practitioner described in subsection (a) shall follow the most
- 14 recent guidelines adopted by the American Academy of Pediatrics or
- 15 the American Academy of Child and Adolescent Psychiatry for the
- 16 diagnosis and evaluation of a child with attention deficit disorder or
- 17 attention deficit hyperactivity disorder.
- 18 SECTION 4. IC 25-23-1-7, AS AMENDED BY P.L.138-2014,
- 19 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 20 JULY 1, 2017]: Sec. 7. (a) The board shall do the following:
- 21 (1) Adopt under IC 4-22-2 rules necessary to enable it to carry
- 22 into effect this chapter.
- 23 (2) Prescribe standards and approve curricula for nursing
- 24 education programs preparing persons for licensure under this
- 25 chapter.
- 26 (3) Provide for surveys of such programs at such times as it
- 27 considers necessary.
- 28 (4) Accredit such programs as meet the requirements of this
- 29 chapter and of the board.
- 30 (5) Deny or withdraw accreditation from nursing education
- 31 programs for failure to meet prescribed curricula or other
- 32 standards.
- 33 (6) Examine, license, and renew the license of qualified
- 34 applicants.
- 35 (7) Issue subpoenas, compel the attendance of witnesses, and
- 36 administer oaths to persons giving testimony at hearings.
- 37 (8) Cause the prosecution of all persons violating this chapter and
- 38 have power to incur necessary expenses for these prosecutions.
- 39 (9) Adopt rules under IC 4-22-2 that do the following:
- 40 (A) Prescribe standards for the competent practice of
- 41 registered, practical, and advanced practice nursing.
- 42 (B) Establish with the approval of the medical licensing board



1 created by IC 25-22.5-2-1 requirements that advanced practice
 2 nurses must meet to be granted authority to prescribe legend
 3 drugs and to retain that authority.

4 ~~(C) Establish, with the approval of the medical licensing board~~
 5 ~~created by IC 25-22.5-2-1, requirements for the renewal of a~~
 6 ~~practice agreement under section 19.4 of this chapter, which~~
 7 ~~shall expire on October 31 in each odd-numbered year.~~

8 (10) Keep a record of all its proceedings.

9 (11) Collect and distribute annually demographic information on
 10 the number and type of registered nurses and licensed practical
 11 nurses employed in Indiana.

12 (b) The board may do the following:

13 (1) Create ad hoc subcommittees representing the various nursing
 14 specialties and interests of the profession of nursing. Persons
 15 appointed to a subcommittee serve for terms as determined by the
 16 board.

17 (2) Utilize the appropriate subcommittees so as to assist the board
 18 with its responsibilities. The assistance provided by the
 19 subcommittees may include the following:

20 (A) Recommendation of rules necessary to carry out the duties
 21 of the board.

22 (B) Recommendations concerning educational programs and
 23 requirements.

24 (C) Recommendations regarding examinations and licensure
 25 of applicants.

26 (3) Appoint nurses to serve on each of the ad hoc subcommittees.

27 ~~(4) Withdraw from the interstate nurse licensure compact under~~
 28 ~~IC 25-23.2 (repealed).~~

29 (c) Nurses appointed under subsection (b) must:

30 (1) be committed to advancing and safeguarding the nursing
 31 profession as a whole; and

32 (2) represent nurses who practice in the field directly affected by
 33 a subcommittee's actions.

34 SECTION 5. IC 25-23-1-19.4, AS AMENDED BY P.L.35-2016,
 35 SECTION 85, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 2017]: Sec. 19.4. (a) This section does not apply to certified
 37 registered nurse anesthetists.

38 (b) As used in this section, "practitioner" has the meaning set forth
 39 in IC 16-42-19-5. However, the term does not include the following:

40 (1) A veterinarian.

41 (2) An advanced practice nurse.

42 (3) A physician assistant.



- 1 (c) An advanced practice nurse shall operate:
 2 (1) ~~in collaboration with a licensed practitioner as evidenced by~~
 3 ~~a practice agreement;~~
 4 (2) ~~(1)~~ by privileges granted by the governing board of a hospital
 5 licensed under IC 16-21 with the advice of the medical staff of the
 6 hospital that sets forth the manner in which an advanced practice
 7 nurse and a licensed practitioner will cooperate, coordinate, and
 8 consult with each other in the provision of health care to their
 9 patients; or
 10 (3) ~~(2)~~ by privileges granted by the governing body of a hospital
 11 operated under IC 12-24-1 that sets forth the manner in which an
 12 advanced practice nurse and a licensed practitioner will
 13 cooperate, coordinate, and consult with each other in the
 14 provision of health care to their patients.

15 SECTION 6. IC 25-23-1-19.6 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 19.6. (a) When the
 17 board grants authority to an advanced practice nurse to prescribe
 18 legend drugs under this chapter, the board shall assign an identification
 19 number to the advanced practice nurse.

20 (b) An advanced practice nurse who is granted authority by the
 21 board to prescribe legend drugs must do the following:

- 22 (1) Enter on each prescription form that the advanced practice
 23 nurse uses to prescribe a legend drug:
 24 (A) the signature of the advanced practice nurse;
 25 (B) initials indicating the credentials awarded to the advanced
 26 practice nurse under this chapter; and
 27 (C) the identification number assigned to the advanced
 28 practice nurse under subsection (a).

29 (2) Comply with all applicable state and federal laws concerning
 30 prescriptions for legend drugs.

31 (c) An advanced practice nurse may be granted authority to
 32 prescribe legend drugs under this chapter only within the scope of
 33 practice of the advanced practice nurse. ~~and the scope of the licensed~~
 34 ~~collaborating health practitioner.~~

35 SECTION 7. IC 25-23-1-19.8 IS REPEALED [EFFECTIVE JULY
 36 1, 2017]. ~~Sec. 19.8. (a) Before December 31 of an even-numbered year,~~
 37 ~~the Indiana professional licensing agency or the agency's designee shall~~
 38 ~~randomly audit at least one percent (1%) but not more than ten percent~~
 39 ~~(10%) of the practice agreements of advanced practice nurses with~~
 40 ~~authority to prescribe legend drugs under section 19.5 of this chapter~~
 41 ~~to determine whether the practice agreement meets the requirements of~~
 42 ~~this chapter or rules adopted by the board.~~



1 (b) The Indiana professional licensing agency shall establish an
2 audit procedure, which may include the following:

3 (1) Requiring the advanced practice nurse to provide the agency
4 with a copy of verification of attendance at or completion of a
5 continuing education course or program the advanced practice
6 nurse attended during the previous two (2) years.

7 (2) Requiring the advanced practice nurse and the licensed
8 practitioner who have entered into a practice agreement to submit
9 information on a form prescribed by the agency that must include
10 a sworn statement signed by the advanced practice nurse and the
11 licensed practitioner that the parties are operating within the
12 terms of the practice agreement and the requirements under this
13 chapter or rules adopted by the board.

14 (3) Reviewing patient health records and other patient information
15 at the practice location or by requiring the submission of accurate
16 copies to determine if the parties are operating within the terms
17 of the practice agreement and the requirements under this chapter
18 or rules adopted by the board.

19 (4) After a reasonable determination that the advanced practice
20 nurse and the licensed practitioner who have entered into a
21 practice agreement are not operating within the terms of the
22 practice agreement, requiring the parties to appear before the
23 agency or the agency's designee to provide evidence of
24 compliance with the practice agreement.

25 (c) Not more than sixty (60) days after the completion of the audit
26 required in subsection (a), the Indiana professional licensing agency
27 shall provide the board with the following:

28 (1) A summary of the information obtained in the audit.

29 (2) A statement regarding whether an advanced practice nurse
30 and a licensed practitioner who have entered into a practice
31 agreement that is audited under subsection (a) are operating
32 within the terms of the practice agreement.

33 The agency shall also provide a copy of the information described in
34 this subsection to the board that regulates the licensed practitioner.

35 (d) The Indiana professional licensing agency may cause to be
36 served upon the advanced practice nurse an order to show cause to the
37 board as to why the board should not impose disciplinary sanctions
38 under IC 25-1-9-9 on the advanced practice nurse for the advanced
39 practice nurse's failure to comply with:

40 (1) an audit conducted under this section; or

41 (2) the requirements of a practice agreement under this chapter.

42 (e) Except for a violation concerning continuing education



1 requirements under IC 25-1-4, the board shall hold a hearing in
 2 accordance with IC 4-21.5 and state the date, time, and location of the
 3 hearing in the order served under subsection (d).

4 (f) The board that regulates the licensed practitioner may cause to
 5 be served upon the licensed practitioner an order to show cause to the
 6 board as to why the board should not impose disciplinary sanctions
 7 under IC 25-1-9-9 on the licensed practitioner for the licensed
 8 practitioner's failure to comply with:

9 (1) an audit conducted under this section; or

10 (2) the requirements of a practice agreement under this chapter.

11 (g) The board that regulates the licensed practitioner shall hold a
 12 hearing in accordance with IC 4-21.5 and state the date, time, and
 13 location of the hearing in the order served under subsection (f).

14 (h) An order to show cause issued under this section must comply
 15 with the notice requirements of IC 4-21.5.

16 (i) The licensed practitioner may divulge health records and other
 17 patient information to the Indiana professional licensing agency or the
 18 agency's designee. The licensed practitioner is immune from civil
 19 liability for any action based upon release of the patient information
 20 under this section.

21 SECTION 8. IC 34-30-2-99.4 IS REPEALED [EFFECTIVE JULY
 22 1, 2017]. Sec. 99.4. IC 25-23-1-19.8(i) (Concerning licensed
 23 practitioners who release health records and patient information to the
 24 Indiana professional licensing agency):

