

HOUSE BILL No. 1569

DIGEST OF INTRODUCED BILL

Citations Affected: IC 25-1-1.1; IC 25-20-1-2; IC 25-22.5-5-4.6; IC 25-34.1-11-10.

Synopsis: Professional licensing matters. Provides for an annual renewal process for appraisal management companies. Allows for a hearing aid dealer in training to fit or dispense hearing aids while under the supervision and direction of an individual who holds a temporary or valid hearing aid dealer certificate of registration. Defines a conviction of concern. Amends a provision concerning the way a conviction for a crime of concern affects an individual with a professional license or certification.

Effective: July 1, 2019.

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January 17, 2019, read first time and referred to Committee on Employment, Labor and Pensions.



First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

HOUSE BILL No. 1569

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 25-1-1.1-0.7 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO BE READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2019]: **Sec. 0.7. As used in this chapter,**
4 **"conviction of concern" means a criminal conviction related to the**
5 **duties and responsibilities of the occupation or profession for**
6 **which the individual is applying or holds a license or certification**
7 **as set by the board.**

8 SECTION 2. IC 25-1-1.1-6, AS ADDED BY P.L.182-2018,
9 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2019]: Sec. 6. (a) This section applies to a license or
11 certificate under this title that is in effect on July 1, 2018, or created on
12 or established after that date.

13 (b) As used in this section, "crime" has the meaning set forth in
14 IC 33-23-1-4.

15 (c) As used in this section, "criminal history information" has the
16 meaning set forth in IC 5-2-4-1.

17 (d) Not later than November 1, 2018, a board, commission, or



1 committee shall revise its licensing or certification requirements to the
 2 extent necessary to explicitly list the crimes that will disqualify an
 3 individual from receiving a license or certificate under this title. The
 4 board, commission, or committee may not:

- 5 (1) use nonspecific terms, such as moral turpitude or good
 6 character, as a licensing or certification requirement; or
- 7 (2) consider an arrest that does not result in a conviction.

8 (e) A board's, commission's, or committee's use of an individual's
 9 conviction of a crime as a ~~disqualifying criminal~~ **conviction of concern**
 10 is limited to a crime ~~that is specifically and directly~~ related to the duties
 11 and responsibilities of the occupation or profession for which the
 12 individual is applying for or holds a license or certification.

13 ~~(f) If an applicant has a disqualifying criminal history, the board,~~
 14 ~~commission, or committee shall consider the following in determining~~
 15 ~~whether to deny a license to the applicant, based on a clear and~~
 16 ~~convincing showing:~~

- 17 ~~(1) The nature and seriousness of the crime for which the~~
 18 ~~individual was convicted.~~
- 19 ~~(2) The passage of time since the commission of the crime.~~
- 20 ~~(3) The relationship of the crime to the ability, capacity, and~~
 21 ~~fitness required to perform the duties and discharge the~~
 22 ~~responsibilities of the occupation.~~
- 23 ~~(4) Evidence of rehabilitation or treatment undertaken by the~~
 24 ~~individual that might mitigate against a direct relation to the~~
 25 ~~ability, capacity, and fitness required to perform the duties and~~
 26 ~~discharge the responsibilities of the occupation.~~

27 ~~(g) (f) If an individual has a disqualifying criminal conviction,~~
 28 **conviction of concern**, the period of disqualification may not exceed
 29 five (5) years after the date of the conviction, unless the individual:

- 30 (1) was convicted of a crime of violence (as defined by
 31 IC 35-50-1-2(a));
- 32 (2) was convicted of an offense relating to a criminal sexual act
 33 (as defined by IC 35-31.5-2-216); or
- 34 (3) is convicted of a second or subsequent crime during the
 35 disqualification period.

36 ~~(h) (g) An individual having a misdemeanor or felony criminal~~
 37 **conviction of concern** may at any time petition a board, commission,
 38 or committee requiring a license or certificate for a determination as to
 39 whether the individual's ~~misdemeanor or felony criminal~~ **conviction of**
 40 **concern** will disqualify the individual from receiving the license or
 41 certification. An individual filing a petition under this subsection ~~must~~
 42 **submit: shall submit the following:**



1 (1) the individual's criminal history information or an
 2 authorization for the board, commission, or committee to obtain
 3 the individual's criminal history information; and **At no expense**
 4 **to the state, a national criminal background check by the**
 5 **Federal Bureau of Investigation.**

6 (2) Any additional information requested by the board,
 7 commission, or committee to assist the board, commission, or
 8 committee in its review of the individual's petition.

9 **(h) If an individual has a conviction of concern, the board,**
 10 **commission, or committee shall consider the following in**
 11 **determining whether to deny a license or certification to the**
 12 **individual based on the following factors:**

13 **(1) The nature and seriousness of the crime for which the**
 14 **individual was convicted.**

15 **(2) The passage of time since the commission of the crime.**

16 **(3) The relationship of the crime to the ability, capacity, and**
 17 **fitness required to perform the duties and discharge the**
 18 **responsibilities of the occupation.**

19 **(4) Evidence of rehabilitation or treatment undertaken by the**
 20 **individual that might mitigate against a direct relation to the**
 21 **ability, capacity, and fitness required to perform the duties**
 22 **and discharge the responsibilities of the occupation.**

23 (i) If a board, commission, or committee ~~denies~~ **determines** an
 24 ~~individual~~ **individual's conviction of concern disqualifies the**
 25 **individual from receiving** a license or certification solely or in part
 26 because of the ~~applicant's~~ **individual's** criminal history, the board,
 27 commission, or committee shall notify the individual in writing of the
 28 following:

29 (1) The grounds and reasons for the denial or disqualification.

30 (2) The ~~applicant~~ **individual** has the right to a hearing to
 31 challenge the licensing authority's decision.

32 (3) The earliest date the ~~applicant~~ **individual** may reapply for a
 33 license or certification or the earliest date the individual can
 34 petition the board, commission, or committee for a review.

35 (4) Evidence of rehabilitation may be considered upon
 36 reapplication.

37 **(5) Findings for each of the factors specified in subdivisions**
 38 **(1) through (4).**

39 Any written determination by the board, commission, or committee that
 40 an individual's criminal history is specifically listed as a disqualifying
 41 conviction and is directly related to the duties and responsibilities for
 42 the licensed occupation must be documented in written findings for



1 each of the factors specified in subdivisions (1) through (4) by clear
 2 and convincing evidence sufficient for review by a court. In an
 3 administrative hearing or civil action reviewing the denial of a license;
 4 a board, commission, or committee has the burden of proof on the
 5 question of whether the individual's criminal history directly relates to
 6 the occupation for which the license is sought.

7 (j) The board, commission, or committee shall inform the individual
 8 of its determination concerning the individual's petition not later than
 9 ~~thirty (30)~~ **one hundred twenty (120)** days after the petition, criminal
 10 history information, and any other information requested under
 11 subsection ~~(h)~~ **(g)** is received by the board, commission, or committee.

12 (k) The board, commission, or committee may charge a fee
 13 established under IC 25-1-8 that does not exceed twenty-five dollars
 14 (\$25) to pay its costs of reviewing a petition filed under subsection ~~(h)~~
 15 **(g)**.

16 (l) A board, commission, or committee may adopt rules under
 17 IC 4-22-2 to implement this section, including emergency rules under
 18 IC 4-22-2-37.1. **Notwithstanding IC 4-22-2-37.1(g), an emergency**
 19 **rule adopted by the board, commission, or committee under this**
 20 **section and in the manner provided by IC 4-22-2-37.1 expires on**
 21 **the date on which a rule that supersedes the emergency rule is**
 22 **adopted by the board, commission, or committee under**
 23 **IC 4-22-2-24 through IC 4-22-2-36.**

24 SECTION 3. IC 25-20-1-2, AS AMENDED BY P.L.180-2018,
 25 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2019]: Sec. 2. (a) This section does not apply to:

- 27 (1) a person who is an audiologist licensed under IC 25-35.6; or
- 28 (2) the sale of hearing aid batteries or cords.

29 (b) It is unlawful for a person to fit or dispense hearing aids in
 30 Indiana unless the person is:

- 31 (1) an individual who holds a valid hearing aid dealer certificate
 32 of registration; or
- 33 (2) ~~an individual~~ **a hearing aid dealer in training** who fits or
 34 dispenses hearing aids while under the supervision and direction
 35 of an individual who holds a temporary or valid hearing aid dealer
 36 certificate of registration;

37 issued by the committee.

38 SECTION 4. IC 25-22.5-5-4.6, AS AMENDED BY P.L.180-2018,
 39 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2019]: Sec. 4.6. (a) The board may authorize the agency to
 41 issue noneducational commission for foreign medical graduates
 42 certified graduate permits for the practice of medicine or osteopathic



1 medicine. A noneducational commission for foreign medical graduates
2 certified graduate permit is subject to any termination date specified by
3 the board.

4 (b) The board may issue a noneducational commission for foreign
5 medical graduates certified graduate permit to a graduate of a school
6 located outside the United States, its possessions, or Canada if the
7 graduate:

- 8 (1) applies in the form and manner required by the board;
- 9 (2) pays a fee set by the board;
- 10 (3) has completed the academic requirements for the degree of
11 doctor of medicine or doctor of osteopathic medicine from a
12 medical school approved by the board;
- 13 (4) has been issued a valid permit by another state for
14 participation in a postgraduate medical education or training
15 program located in a state that has standards for postgraduate
16 medical education and training satisfactory to the board;
- 17 (5) has been accepted into a postgraduate medical training
18 program that:
 - 19 (A) is affiliated with a medical school located in a state that
20 issued a permit under subdivision (4);
 - 21 (B) has a training site located in Indiana; and
 - 22 (C) has standards for postgraduate medical education and
23 training satisfactory to the board;
- 24 (6) provides the board with documentation of the areas of medical
25 practice for which the training is sought;
- 26 (7) provides the board with at least two (2) letters of reference
27 documenting the individual's character; and
- 28 (8) demonstrates to the board that the individual is a physician of
29 good character who is in good standing outside the United States,
30 its possessions, or Canada where the person normally would
31 practice.

32 (c) Applications for a noneducational commission for foreign
33 medical graduates certified graduate permit for graduates of foreign
34 medical schools must be made to the board subject to this section.

35 (d) A permit issued under this section expires one (1) year after the
36 date it is issued and, at the discretion of the board, may be renewed for
37 additional one (1) year periods upon the payment of a renewal fee set
38 by the board by rule.

39 (e) An individual who applies for a noneducational commission for
40 foreign medical graduates certified graduate permit under this section
41 is not required to take any step of the United States Medical Licensure
42 Examination.



1 (f) A noneducational commission for foreign medical graduates
 2 certified graduate permit must be kept in the possession of the
 3 fellowship training institution and surrendered by the institution to the
 4 board within thirty (30) days after the person ceases training in Indiana.

5 (g) A noneducational commission for foreign medical graduates
 6 certified graduate permit authorizes a person to practice in the training
 7 institution only and, in the course of training, to practice only those
 8 medical acts approved by the board but does not authorize the person
 9 to practice medicine or osteopathic medicine otherwise.

10 (h) The board may deny an application for a noneducational
 11 commission for foreign medical graduates certified graduate permit if
 12 the training program that has accepted the applicant has:

13 (1) violated; or

14 (2) authorized or permitted a physician to violate;

15 this section.

16 (i) A person issued a noneducational commission for foreign
 17 medical graduates certified graduate permit under this section must file
 18 an affidavit that:

19 (1) is signed by a physician licensed in Indiana;

20 (2) includes the license number of the signing physician; **and**

21 (3) attests that the physician will monitor the work of the
 22 physician holding the noneducational commission for foreign
 23 medical graduates certified graduate permit. ~~and~~

24 ~~(4) is notarized.~~

25 The affidavit must be filed with the agency before the person holding
 26 the noneducational commission for foreign medical graduates certified
 27 graduate permit may provide medical services.

28 SECTION 5. IC 25-34.1-11-10, AS AMENDED BY P.L. 177-2015,
 29 SECTION 74, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2019]: Sec. 10. (a) The board shall issue a certificate of
 31 registration to an appraisal management company that:

32 (1) has furnished the information required by section 9(a) of this
 33 chapter in the manner prescribed by the board; and

34 (2) paid the fee required under section 9(b) of this chapter.

35 (b) Subject to IC 25-1-2-6(e), a certificate of registration issued to
 36 an appraisal management company under this chapter expires ~~two (2)~~
 37 **years one (1) year** after the date on which the certificate of registration
 38 is issued.

