March 8, 2019

ENGROSSED
SENATE BILL No. 141

DIGEST OF SB 141 (Updated March 6, 2019 5:42 pm - DI 133)

Citations Affected: IC 12-23; IC 25-22.5.

Synopsis: Office based opioid treatment providers. Specifies requirements that a health care provider that prescribes for a patient in an office based opioid treatment setting must meet in the treatment of the patient. Requires the medical licensing board of Indiana, in consultation with the state department of health and the office of the secretary of family and social services, to adopt rules or protocols concerning office based opioid treatment providers and: (1) treatment agreements; (2) periodic scheduled patient visits; (3) urine toxicology screenings; (4) HIV, hepatitis B, and hepatitis C testing; and (5) the medical record documentation required for the prescribing of buprenorphine over a specified dosage.

Effective: July 1, 2019.

Houchin, Charbonneau, Bassler, Zay, Randolph Lonnie M

(HOUSE SPONSOR — SMALTZ)

January 3, 2019, read first time and referred to Committee on Health and Provider Services.
January 17, 2019, amended, reported favorably — Do Pass.
January 22, 2019, read second time, ordered engrossed. Engrossed.
January 24, 2019, read third time, passed. Yeas 42, nays 6.

HOUSE ACTION

February 26, 2019, read first time and referred to Committee on Public Health.
March 7, 2019, reported — Do Pass.

March 8, 2019

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.

ENGROSSED
SENATE BILL No. 141

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

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

SECTION 1. IC 12-23-20-2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 2. (a) This section does not apply to a health care provider providing services in any of the following:**

(1) An adult or juvenile correctional facility operated by the state or a local unit.

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

(3) A facility that is certified by the division.

(4) An opioid treatment program that has been certified or licensed by the division under IC 12-23-18.

(5) A state institution.

(6) A health facility licensed under IC 16-28.

(7) The Indiana Veterans' Home.

(b) A physician who is providing office based opioid treatment or who is acting in a supervisory capacity to other health care providers that are providing office based opioid treatment must:

(1) have both:

(A) a waiver from the federal Substance Abuse and Mental Health Services Administration (SAMHSA) and meet the qualifying standards required to treat opioid addicted patients in an office based setting; and

(B) a valid federal Drug Enforcement Administration registration number and identification number that specifically authorizes treatment in an office based setting; and

(2) abide by all:

(A) federal; and

(B) state;

laws and regulations concerning the prescribing of medications.

(c) A health care provider that prescribes for a patient in an office based opioid treatment setting shall do and document the following:

(1) Determine the patient's age.

(2) Perform an initial assessment and a physical examination as appropriate for the patient's condition and the health care provider's scope of practice and obtain a medical history of the patient before treatment begins.

(3) Obtain substance use history and any substance use disorder diagnosis of the patient.

(4) Perform a mental health assessment.

(5) Obtain informed consent for treatment and establish a treatment agreement with the patient that meets the requirements set forth in subsection (d).

(6) If determined appropriate, prescribe office based opioid treatment for the patient and require office visits of the patient in person throughout treatment.

(7) Evaluate the patient's progress and compliance with the treatment agreement and document the patient's progress with the treatment plan.

(8) Perform toxicology screening for the following in accordance with rules adopted under IC 25-22.5-2-7(a)(14) in order to assess medication adherence and to screen for other substances:

(A) Stimulants.

(B) Alcohol.

(C) Opioids, including:

(i) oxycodone;

(ii) methadone; and

(iii) buprenorphine.

(D) Tetrahydrocannabinol.

(E) Benzodiazepines.

(F) Cocaine.

(9) Review INSPECT (as defined in IC 35-48-7-5.2) concerning controlled substance information for the patient before induction and at least four (4) times per year during treatment.

(10) If the patient is a female and has child bearing potential:

(A) perform a pregnancy test at the onset of treatment; and

(B) counsel the patient about the risks of treatment to a fetus, including fetal opioid dependency and neonatal abstinence syndrome.

(11) Prescribe an overdose intervention drug and education on how to fill the prescription when buprenorphine is initiated on the patient.

(12) Provide for an ongoing component of psychosocial supportive therapy, with direction from the health care provider on the amount of the therapy.

(d) The treatment agreement required in subsection (c)(5) must include at least the following:

(1) The goals of the treatment.

(2) The patient's consent to drug monitoring testing.

(3) The prescriber's prescribing policies that include at least the following:

(A) A requirement that the patient take the medication as prescribed.

(B) A prohibition on sharing or selling the medication.

(C) A requirement that the patient inform the prescriber about any:

(i) other controlled substances or other medication prescribed or taken by the patient; and

(ii) alcohol consumed by the patient.

(4) The patient's consent to allow the prescriber to conduct random pill counts for prescriptions.

(5) Reasons that the office based opioid treatment of the patient may be changed or discontinued by the prescriber.

The provider shall maintain a copy of the informed consent for treatment in the patient's medical record.

(e) During the examinations required by subsection (c)(6), the prescriber shall do the following:

(1) Evaluate and document patient progress and compliance

with the patient's treatment plan.

(2) Document in the patient's medical record whether the patient is meeting treatment goals.

(3) Discuss with the patient the benefits and risks, if relevant, of ongoing buprenorphine treatment.

(f) If a toxicology screening described in subsection (c)(8) shows an absence of a prescribed drug, the provider must discuss and implement a plan with the patient to optimize medication adherence and schedule an earlier follow up appointment with the patient. The provider shall document the discussion in the patient's medical record.

(g) If a toxicology screening described in subsection (c)(8) shows a presence of an illegal or nonprescribed drug, the provider shall assess the risk of the patient to be successfully treated and document the results in the patient's medical record.

(h) The provider may perform a subsequent confirmation toxicology screening of the patient if the provider considers it medically necessary or to clarify an inconsistent or unexpected toxicology screening result.

SECTION 2. IC 25-22.5-2-7, AS AMENDED BY P.L.78-2016, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 7. (a) The board shall do the following:

(1) Adopt rules and forms necessary to implement this article that concern, but are not limited to, the following areas:

(A) Qualification by education, residence, citizenship, training, and character for admission to an examination for licensure or by endorsement for licensure.

(B) The examination for licensure.

(C) The license or permit.

(D) Fees for examination, permit, licensure, and registration.

(E) Reinstatement of licenses and permits.

(F) Payment of costs in disciplinary proceedings conducted by the board.

(2) Administer oaths in matters relating to the discharge of the board's official duties.

(3) Enforce this article and assign to the personnel of the agency duties as may be necessary in the discharge of the board's duty.

(4) Maintain, through the agency, full and complete records of all applicants for licensure or permit and of all licenses and permits issued.

(5) Make available, upon request, the complete schedule of minimum requirements for licensure or permit.

(6) Issue, at the board's discretion, a temporary permit to an applicant for the interim from the date of application until the next regular meeting of the board.

(7) Issue an unlimited license, a limited license, or a temporary medical permit, depending upon the qualifications of the applicant, to any applicant who successfully fulfills all of the requirements of this article.

(8) Adopt rules establishing standards for the competent practice of medicine, osteopathic medicine, or any other form of practice regulated by a limited license or permit issued under this article.

(9) Adopt rules regarding the appropriate prescribing of Schedule III or Schedule IV controlled substances for the purpose of weight reduction or to control obesity.

(10) Adopt rules establishing standards for office based procedures that require moderate sedation, deep sedation, or general anesthesia.

(11) Adopt rules or protocol establishing the following:

(A) An education program to be used to educate women with high breast density.

(B) Standards for providing an annual screening or diagnostic test for a woman who is at least forty (40) years of age and who has been determined to have high breast density.

As used in this subdivision, "high breast density" means a condition in which there is a greater amount of breast and connective tissue in comparison to fat in the breast.

(12) Adopt rules establishing standards and protocols for the prescribing of controlled substances.

(13) Adopt rules as set forth in IC 25-23.4 concerning the certification of certified direct entry midwives.

(14) In consultation with the state department of health and the office of the secretary of family and social services, adopt rules under IC 4-22-2 or protocols concerning the following for providers that are providing office based opioid treatment:

(A) Requirements of a treatment agreement (as described in IC 12-23-20-2) concerning the proper referral and treatment of mental health and substance use.

(B) Parameters around the frequency and types of visits required for the periodic scheduled visits required by IC 12-23-20-2.

(C) Conditions on when the following should be ordered or performed:

(i) A urine toxicology screening.

(ii) HIV, hepatitis B, and hepatitis C testing.

(D) Required documentation in a patient's medical record when buprenorphine is prescribed over a specified dosage.

(b) The board may adopt rules that establish:

(1) certification requirements for child death pathologists;

(2) an annual training program for child death pathologists under IC 16-35-7-3(b)(2); and

(3) a process to certify a qualified child death pathologist.

(c) The board may adopt rules under IC 4-22-2 establishing guidelines for the practice of telemedicine in Indiana. Adoption of rules under this subsection may not delay the implementation and provision of telemedicine services by a provider under IC 25-1-9.5.

COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 141, 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 3, between lines 16 and 17, begin a new line block indented and insert:

"**(12) Provide for an ongoing component of psychosocial supportive therapy, with direction from the health care provider on the amount of the therapy.**".

and when so amended that said bill do pass.

(Reference is to SB 141 as introduced.)

CHARBONNEAU, Chairperson

Committee Vote: Yeas 11, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Senate Bill 141, 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 SB 141 as printed January 18, 2019.)

KIRCHHOFER

Committee Vote: Yeas 13, Nays 0