

Second Regular Session of the 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1263

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

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

SECTION 1. IC 12-15-27-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]; Sec. 2. (a) The use and the disclosure of the information described in this chapter to persons authorized by law in connection with the official duties relating to:

- (1) financial audits;
- (2) legislative investigations; or
- (3) other purposes directly connected with the administration of the plan;

is permitted.

(b) The secretary shall provide to the legislative services agency, in the form and on the schedule specified by the executive director of the legislative services agency, all information or data described in section 1(1) through 1(4) of this chapter (including, but not limited to, applications, enrollments, claims, and encounters) and any additional information or data concerning a program described in this article or concerning the children's health insurance program established under IC 12-17.6 that is requested by the executive director of the legislative services agency. The legislative services agency:

- (1) shall maintain the confidentiality of confidential information or data received under this subsection; and**

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(2) may use information or data received under this subsection only to estimate the fiscal impact of proposed legislation, prepare program evaluation reports, and forecast enrollment and program costs of the Medicaid program, the healthy Indiana plan, and the children's health insurance program.

(c) Unless:

(1) redaction of an identifier is required under subsection (d);
or

(2) the executive director of the legislative services agency requests redaction of an identifier;

from the information or data requested under subsection (b), the information or data received under subsection (a) or (b) must include all identifiers specified in 45 CFR 164.514(b).

(d) Before information or data with names, addresses, or individualized identification numbers of applicants or individuals receiving services under the Medicaid program, the healthy Indiana plan, or the children's health insurance program is provided to the legislative services agency under subsection (a) or (b), the secretary or office shall as soon as practicable after a request provide the information or data to the legislative services agency after:

(1) redacting names, street addresses (other than county and ZIP code information), and individualized identification numbers used in the operation of the Medicaid program, the healthy Indiana plan, or the children's health insurance program; and

(2) generating and substituting for each applicant or individual a unique number that is not used in the Medicaid program, the healthy Indiana plan, or the children's health insurance program but is maintained over time and is useful for longitudinal analysis described in subsection (b).

The system of numbering under subdivision (2) must be approved by the executive director of the legislative services agency.

SECTION 2. IC 25-1-9.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]:

Chapter 9.5. Telemedicine Services and Prescriptions

Sec. 1. (a) This chapter does not prohibit a provider, insurer, or patient from agreeing to an alternative location of the patient or provider to conduct telemedicine.

(b) This chapter does not supersede any other statute



concerning a provider who provides health care to a patient.

Sec. 2. As used in this chapter, "distant site" means a site at which a provider is located while providing health care services through telemedicine.

Sec. 3. As used in this chapter, "originating site" means any site at which a patient is located at the time health care services through telemedicine are provided to the individual.

Sec. 4. As used in this chapter, "provider" means any of the following:

- (1) A physician licensed under IC 25-22.5.
- (2) A physician assistant licensed under IC 25-27.5 and granted the authority to prescribe by the physician assistant's supervisory physician in accordance with IC 25-27.5-5-4.
- (3) An advanced practice nurse licensed and granted the authority to prescribe drugs under IC 25-23.
- (4) An optometrist licensed under IC 25-24.

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 at a distant site without the patient being present.

Sec. 6. (a) As used in this chapter, "telemedicine" means the delivery of health care services using electronic communications and information technology, including:

- (1) secure videoconferencing;
- (2) interactive audio-using store and forward technology; or
- (3) remote patient monitoring technology;

between a provider in one (1) location and a patient in another location.

(b) The term does not include the use of the following:

- (1) Audio-only communication.
- (2) A telephone call.
- (3) Electronic mail.
- (4) An instant messaging conversation.
- (5) Facsimile.
- (6) Internet questionnaire.
- (7) Telephone consultation.
- (8) Internet consultation.

Sec. 7. (a) A provider who provides health care services through telemedicine shall be held to the same standards of appropriate practice as those standards for health care services provided at an in-person setting.

(b) A provider may not use telemedicine, including issuing a



prescription, for an individual who is located in Indiana unless a provider-patient relationship between the provider and the individual has been established. A provider who uses telemedicine shall, if such action would otherwise be required in the provision of the same health care services in a manner other than telemedicine, ensure that a proper provider-patient relationship is established. The provider-patient relationship by a provider who uses telemedicine must at a minimum include the following:

- (1) Obtain the patient's name and contact information and:
 - (A) a verbal statement or other data from the patient identifying the patient's location; and
 - (B) to the extent reasonably possible, the identity of the requesting patient.
- (2) Disclose the provider's name and disclose whether the provider is a physician, physician assistant, advanced practice nurse, or optometrist.
- (3) Obtain informed consent from the patient.
- (4) Obtain the patient's medical history and other information necessary to establish a diagnosis.
- (5) Discuss with the patient the:
 - (A) diagnosis;
 - (B) evidence for the diagnosis; and
 - (C) risks and benefits of various treatment options, including when it is advisable to seek in-person care.
- (6) Create and maintain a medical record for the patient and, subject to the consent of the patient, notify the patient's primary care provider of any prescriptions the provider has written for the patient if the primary care provider's contact information is provided by the patient. The requirements in this subdivision do not apply when the provider is using an electronic health record system that the patient's primary care provider is authorized to access.
- (7) Issue proper instructions for appropriate follow-up care.
- (8) Provide a telemedicine visit summary to the patient, including information that indicates any prescription that is being prescribed.

Sec. 8. A provider may issue a prescription to a patient who is receiving services through the use of telemedicine even if the patient has not been seen previously by the provider in person if the following conditions are met:

- (1) The provider has satisfied the applicable standard of care in the treatment of the patient.



- (2) The issuance of the prescription by the provider is within the provider's scope of practice and certification.
- (3) The prescription is not for a controlled substance (as defined in IC 35-48-1-9).
- (4) The prescription is not for an abortion inducing drug (as defined in IC 16-18-2-1.6).
- (5) The prescription is not for an ophthalmic device, including:
 - (A) glasses;
 - (B) contact lenses; or
 - (C) low vision devices.

Sec. 9. (a) A provider who is physically located outside Indiana is engaged in the provision of health care services in Indiana when the provider:

- (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 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 and the provider's employer or the provider'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 and the provider's employer or provider'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, the provider's employer, or the provider'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, the provider's employer, or the provider'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 that practices predominately in Indiana is not required to file the certification required by this subsection.

(c) A provider shall renew the certification required under



subsection (b) at the time the provider renews the provider's license.

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

Sec. 10. (a) A provider who violates this chapter is subject to disciplinary action under IC 25-1-9.

(b) A provider's employer or a provider'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.

Sec. 11. A pharmacy does not violate this chapter if the pharmacy fills a prescription for a controlled substance and the pharmacy is unaware that the prescription was written by a provider providing telemedicine services under this chapter.

Sec. 12. The Indiana professional licensing agency may adopt policies or rules under IC 4-22-2 necessary to implement this chapter. Adoption of policies or rules under this section may not delay the implementation and provision of telemedicine services under this chapter.

SECTION 3. IC 25-22.5-2-7, AS AMENDED BY P.L.232-2013, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: 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.

(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.

SECTION 4. An emergency is declared for this act.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

