

SENATE BILL No. 213

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 34-30-2.1-374; IC 35-48-3-11.

Synopsis: Advanced practice registered nurses. Removes the requirements that an advanced practice registered nurse (APRN) have a practice agreement with a collaborating physician. Removes a provision requiring an APRN to operate under a collaborative practice agreement or the privileges granted by a hospital governing board. Repeals law concerning the audit of practice agreements. Allows an APRN with prescriptive authority to prescribe a schedule II controlled substance for weight reduction or to control obesity. Makes conforming changes.

Effective: July 1, 2023.

Breaux

January 10, 2023, read first time and referred to Committee on Health and Provider Services.



First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

SENATE BILL No. 213

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 P.L.129-2018,
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2023]: Sec. 14. (a) As used in this section, "advanced practice
4 registered nurse" means:
5 (1) a nurse practitioner; or
6 (2) a clinical nurse specialist;
7 who is a registered nurse licensed under IC 25-23 and qualified to
8 practice nursing in a specialty role based upon the additional
9 knowledge and skill gained through a formal organized program of
10 study and clinical experience, or the equivalent as determined by the
11 Indiana state board of nursing.
12 (b) As used in this section, "office" includes the following:
13 (1) The office of the secretary of family and social services.
14 (2) A managed care organization that has contracted with the
15 office of Medicaid policy and planning under this article.
16 (3) A person that has contracted with a managed care organization
17 described in subdivision (2).



(c) The office shall reimburse eligible Medicaid claims for the following services provided by an advanced practice registered nurse employed by a community mental health center if the services are part of the advanced practice registered nurse's scope of practice:

- (1) Mental health services.
- (2) Behavioral health services.
- (3) Substance abuse treatment.
- (4) Primary care services.
- (5) Evaluation and management services for inpatient or outpatient psychiatric treatment.
- (6) Prescription drugs.

(d) The office shall include an advanced practice registered nurse as an eligible provider for the supervision of a plan of treatment for a patient's outpatient mental health or substance abuse treatment services, if the supervision is in the advanced practice registered nurse's scope of practice, education, and training.

(e) This section

~~(1) may not be construed to expand an advanced practice registered nurse's scope of practice. and~~

~~(2) is subject to IC 25-23-1-19.4(c) and applies only if the service is included in the advanced practice registered nurse's practice agreement with a collaborating physician.~~

SECTION 2. IC 16-41-6-1, AS AMENDED BY P.L.112-2020, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. (a) As used in this section, "physician's authorized representative" means:

- (1) an advanced practice registered nurse (as defined by IC 25-23-1-1(b)); ~~who is operating in collaboration with a licensed physician;~~ or
- (2) an individual acting under the supervision of a licensed physician and within the individual's scope of employment.

(b) A physician or the physician's authorized representative shall not order an HIV test on an individual under the care of a physician unless the physician or the physician's authorized representative does the following:

- (1) Informs the patient of the test, orally or in writing.
- (2) Provides the patient with an explanation of the test orally, in writing, by video, or by a combination of these methods.
- (3) Informs the patient of the patient's right to ask questions and to refuse the test.

Subject to subsection (e), if the patient refuses the test, the physician or the physician's authorized representative may not perform the test



1 and shall document the patient's refusal in the patient's medical record.

2 (c) Unless it is clearly not feasible, the information delivered to the
3 patient who is to be tested under subsection (b) must be provided in the
4 native language or other communication used by the patient. If the
5 patient is unable to read written materials, the materials must be
6 translated or read to the patient in a language the patient understands.

7 (d) After ordering an HIV test for a patient, the physician or the
8 physician's authorized representative shall notify the patient of the test
9 results and the availability of HIV and other bloodborne disease
10 prevention counseling. If a test conducted under this section indicates
11 that a patient is HIV positive, in addition to the requirements set forth
12 in IC 16-41-2, the physician or the physician's authorized
13 representative shall inform the patient of the availability of counseling
14 and of the treatment and referral options available to the patient.

15 (e) A physician or a physician's authorized representative may order
16 an HIV test to be performed without informing the patient or the
17 patient's representative (as defined in IC 16-36-1-2) of the test or
18 regardless of the patient's or the patient's representative's refusal of the
19 HIV test if any of the following conditions apply:

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

23 (2) Under a court order based on clear and convincing evidence
24 of a serious and present health threat to others posed by an
25 individual. A patient shall be notified of the patient's right to:

26 (A) a hearing; and

27 (B) counsel;

28 before a hearing is held under this subdivision. Any hearing
29 conducted under this subdivision shall be held in camera at the
30 request of the individual.

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

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

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

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

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

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



(g) The state department may adopt rules under IC 4-22-2 necessary to implement this section.

SECTION 3. IC 25-1-9-6.8, AS AMENDED BY P.L.129-2018, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 6.8. (a) This section applies to a practitioner who is:

(1) licensed to practice medicine or osteopathic medicine under IC 25-22.5; or

(2) an advanced practice registered nurse granted prescriptive authority under IC 25-23. ~~and whose practice agreement with a collaborating physician reflects the conditions specified in subsection (b).~~

(b) Before prescribing a stimulant medication for a child for the treatment of attention deficit disorder or attention deficit hyperactivity disorder, a practitioner described in subsection (a) shall follow the most recent guidelines adopted by the American Academy of Pediatrics or the American Academy of Child and Adolescent Psychiatry for the diagnosis and evaluation of a child with attention deficit disorder or attention deficit hyperactivity disorder.

SECTION 4. IC 25-23-1-1, AS AMENDED BY P.L.129-2018, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. As used in this chapter:

(a) "Board" means the Indiana state board of nursing.

(b) "Advanced practice registered nurse" means:

(1) a nurse practitioner;

(2) a certified nurse midwife;

(3) a clinical nurse specialist; or

(4) a certified registered nurse anesthetist;

who is a registered nurse qualified to practice nursing in a specialty role based upon the additional knowledge and skill gained through a formal organized program of study and clinical experience, or the equivalent as determined by the board, which does not limit but extends or expands the function of the nurse which may be initiated by the client or provider. ~~in settings that shall include hospital outpatient clinics and health maintenance organizations.~~ Notwithstanding any other law, this subsection does not add to the powers and duties or scope of practice of certified registered nurse anesthetists as described in section 30 of this chapter.

(c) "Human response" means those signs, symptoms, behaviors, and processes that denote the individual's interaction with the environment.

SECTION 5. IC 25-23-1-7, AS AMENDED BY P.L.69-2022, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



JULY 1, 2023]: Sec. 7. (a) The board shall do the following:

- (1) Adopt under IC 4-22-2 rules necessary to enable it to carry into effect this chapter.
 - (2) Prescribe standards and approve curricula for nursing education programs preparing persons for licensure under this chapter.
 - (3) Provide for surveys of such programs at such times as it considers necessary.
 - (4) Accredite such programs as meet the requirements of this chapter and of the board.
 - (5) Deny or withdraw accreditation from nursing education programs for failure to meet prescribed curricula or other standards.
 - (6) Examine, license, and renew the license of qualified applicants.
 - (7) Issue subpoenas, compel the attendance of witnesses, and administer oaths to persons giving testimony at hearings.
 - (8) Cause the prosecution of all persons violating this chapter and have power to incur necessary expenses for these prosecutions.
 - (9) Adopt rules under IC 4-22-2 that do the following:
 - (A) Prescribe standards for the competent practice of registered, practical, and advanced practice registered nursing.
 - (B) Establish ~~with the approval of the medical licensing board created by IC 25-22.5-2-1~~ requirements that advanced practice registered nurses must meet to be granted authority to prescribe legend drugs and to retain that authority.
 - ~~(C) Establish, with the approval of the medical licensing board created by IC 25-22.5-2-1, requirements for the renewal of a practice agreement under section 19.4 of this chapter, which shall expire on October 31 in each odd-numbered year.~~
 - (10) Keep a record of all its proceedings.
 - (11) Collect and distribute annually demographic information on the number and type of registered nurses and licensed practical nurses employed in Indiana.
 - (12) Adopt rules and administer the interstate nurse licensure compact under IC 25-42.
 - (13) Adopt or amend rules to implement the nursing licensure by endorsement available for foreign nursing school graduates under sections 11 and 12 of this chapter.
- (b) The board may do the following:
- (1) Create ad hoc subcommittees representing the various nursing specialties and interests of the profession of nursing. Persons



1 appointed to a subcommittee serve for terms as determined by the
2 board.

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

6 (A) Recommendation of rules necessary to carry out the duties
7 of the board.

8 (B) Recommendations concerning educational programs and
9 requirements.

10 (C) Recommendations regarding examinations and licensure
11 of applicants.

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

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

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

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

18 SECTION 6. IC 25-23-1-19.4, AS AMENDED BY P.L.127-2020,
19 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
20 JULY 1, 2023]: Sec. 19.4. (a) This section does not apply to certified
21 registered nurse anesthetists.

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

24 (1) A veterinarian;

25 (2) An advanced practice registered nurse;

26 (3) A physician assistant.

27 (c) An advanced practice registered nurse shall operate:

28 (1) in collaboration with a licensed practitioner as evidenced by
29 a practice agreement;

30 (2) by privileges granted by the governing board of a hospital
31 licensed under IC 16-21 with the advice of the medical staff of the
32 hospital that sets forth the manner in which an advanced practice
33 registered nurse and a licensed practitioner will cooperate;
34 coordinate, and consult with each other in the provision of health
35 care to their patients; or

36 (3) by privileges granted by the governing body of a hospital
37 operated under IC 12-24-1 that sets forth the manner in which an
38 advanced practice registered nurse and a licensed practitioner will
39 cooperate, coordinate, and consult with each other in the
40 provision of health care to their patients.

41 (d) (b) This subsection applies for purposes of the Medicaid
42 program to an advanced practice registered nurse who:



(1) is licensed pursuant to IC 25-23-1-19.5; and

(2) has been educated and trained to work with patients with addiction and mental health needs.

An advanced practice registered nurse who meets the requirements of this subsection has all of the supervisory rights and responsibilities, including prior authorization, that are available to a licensed physician or a health service provider in psychology (HSPP) operating in a community mental health center certified under IC 12-21-2-3(5)(C).

~~(e)~~ (c) Before January 1, 2021, the office of the secretary shall apply to the United States Department of Health and Human Services for any state plan amendment necessary to implement subsection ~~(d)~~: (b).

SECTION 7. IC 25-23-1-19.6, AS AMENDED BY P.L.28-2019, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 19.6. (a) When the board grants authority to an advanced practice registered nurse to prescribe legend drugs under this chapter, the board shall assign an identification number to the advanced practice registered nurse.

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

(1) Enter on each prescription form that the advanced practice registered nurse uses to prescribe a legend drug:

(A) the signature of the advanced practice registered nurse;

(B) initials indicating the credentials awarded to the advanced practice registered nurse under this chapter; and

(C) the identification number assigned to the advanced practice registered nurse under subsection (a).

(2) Transmit the prescription in an electronic format for an electronically transmitted prescription.

(3) Comply with all applicable state and federal laws concerning prescriptions for legend drugs, including the requirement to issue electronically transmitted prescriptions under IC 25-1-9.3.

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

SECTION 8. IC 25-23-1-19.8 IS REPEALED [EFFECTIVE JULY 1, 2023]. ~~Sec. 19.8: (a) Before December 31 of an even-numbered year, the Indiana professional licensing agency or the agency's designee shall randomly audit at least one percent (1%) but not more than ten percent (10%) of the practice agreements of advanced practice registered nurses with authority to prescribe legend drugs under section 19.5 of this chapter to determine whether the practice agreement meets the~~



requirements of this chapter or rules adopted by the board:

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

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

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

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

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

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

(1) A summary of the information obtained in the audit:

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

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

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

(1) an audit conducted under this section; or



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

(e) Except for a violation concerning continuing education requirements under IC 25-1-4, the board shall hold a hearing in accordance with IC 4-21.5 and state the date, time, and location of the hearing in the order served under subsection (d):

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

(1) an audit conducted under this section; or

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

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

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

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

SECTION 9. IC 34-30-2.1-374 IS REPEALED [EFFECTIVE JULY 1, 2023]. Sec. 374. IC 25-23-1-19.8(i) (Concerning licensed practitioners who release health records and patient information to the Indiana professional licensing agency):

SECTION 10. IC 35-48-3-11, AS AMENDED BY P.L.129-2018, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 11. (a) Only a physician licensed under IC 25-22.5, a physician assistant licensed under IC 25-27.5, or an advanced practice registered nurse licensed under IC 25-23 with prescriptive authority may treat a patient with a Schedule III or Schedule IV controlled substance for the purpose of weight reduction or to control obesity.

(b) A physician licensed under IC 25-22.5, a physician assistant licensed under IC 25-27.5, or an advanced practice registered nurse licensed under IC 25-23 with prescriptive authority may not prescribe, dispense, administer, supply, sell, or give any amphetamine, sympathomimetic amine drug, or compound designated as a Schedule III or Schedule IV controlled substance under IC 35-48-2-8 and IC 35-48-2-10 for a patient for purposes of weight reduction or to control obesity, unless the physician, physician assistant, or advanced



practice registered nurse does the following:

(1) Determines:

(A) through review of:

(i) the physician's records of prior treatment of the patient;

or

(ii) the records of prior treatment of the patient provided by a previous treating physician or weight loss program;

that the physician's patient has made a reasonable effort to lose weight in a treatment program using a regimen of weight reduction based on caloric restriction, nutritional counseling, behavior modification, and exercise without using controlled substances; and

(B) that the treatment described in clause (A) has been ineffective for the physician's patient.

(2) Obtains a thorough history and performs a thorough physical examination of the physician's patient before initiating a treatment plan using a Schedule III or Schedule IV controlled substance for purposes of weight reduction or to control obesity.

(c) A physician licensed under IC 25-22.5, a physician assistant licensed under IC 25-27.5, or an advanced practice registered nurse licensed under IC 25-23 with prescriptive authority may not begin and shall discontinue using a Schedule III or Schedule IV controlled substance for purposes of weight reduction or to control obesity after the physician, physician assistant, or advanced practice registered nurse determines in the physician's, physician assistant's, or advanced practice registered nurse's professional judgment that:

(1) the physician's patient has failed to lose weight using a treatment plan involving the controlled substance;

(2) the controlled substance has provided a decreasing contribution toward further weight loss for the patient unless continuing to take the controlled substance is medically necessary or appropriate for maintenance therapy;

(3) the physician's patient:

(A) has a history of; or

(B) shows a propensity for;

alcohol or drug abuse; or

(4) the physician's patient has consumed or disposed of a controlled substance in a manner that does not strictly comply with a treating physician's, physician assistant's, or advanced practice registered nurse's direction.

(d) A physician assistant licensed under IC 25-27.5 ~~or an advanced practice registered nurse licensed under IC 25-23~~ with prescriptive



1 authority may not prescribe a schedule II controlled substance for the
 2 purpose of weight reduction or to control obesity.

