

HOUSE BILL No. 1145

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-27-1-8; IC 25-19-1.

Synopsis: Licensure of home health care administrators. Requires an individual who will administer a home health agency to obtain a health facility and home health agency administrator's license under the same procedure currently used to license health facility administrators. Alters the composition of the Indiana state board of health facility administrators by removing two administrators of licensed proprietary health facilities and one administrator of a licensed nonproprietary health facility and adding two administrators of licensed proprietary home health agencies and one administrator of a licensed nonproprietary home health agency. Makes conforming changes.

Effective: July 1, 1999.

Gregg

January 6, 1999, read first time and referred to Committee on Public Health.

C
O
P
Y



First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

C
O
P
Y

HOUSE BILL No. 1145



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 16-27-1-8 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. (a) To operate a
- 3 home health agency, **the following must first occur:**
- 4 (1) A person must **first** obtain a license from the state health
- 5 commissioner, unless the person is exempted by a rule adopted by
- 6 the state department.
- 7 (2) **The individual who will administer the home health**
- 8 **agency must obtain a health facility and home health agency**
- 9 **administrator's license as provided under IC 25-19-1.**
- 10 (b) The state health commissioner may also permit persons who are
- 11 not required to be licensed under this chapter to be voluntarily licensed
- 12 if:
- 13 (1) the services provided by the person are substantially similar
- 14 to those provided by licensed home health agencies under this
- 15 chapter; and
- 16 (2) licensure will assist the person in obtaining:
- 17 (A) payment for services; or



1 (B) certification.

2 SECTION 2. IC 25-19-1-1 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) As used in this
4 chapter, "board" refers to the Indiana state board of health facility **and**
5 **home health agency** administrators.

6 (b) As used in this chapter, "health facility **and home health agency**
7 administrator" means a natural person who administers, manages,
8 supervises, or is in general administrative charge of a licensed health
9 facility **or licensed home health agency** whether:

- 10 (1) ~~such individual~~ **the person** has an ownership interest in the
11 health facility **or home health agency**; and ~~whether~~
12 (2) the person's functions and duties are shared with one (1) or
13 more individuals.

14 (c) As used in this chapter, "health facility" means any institution or
15 facility defined as such for licensing under IC 16-28 and classified into
16 care categories by rules adopted under IC 16-28.

17 (d) **As used in this chapter, "home health agency" has the**
18 **meaning set forth in IC 16-27-1-2.**

19 SECTION 3. IC 25-19-1-2 IS AMENDED TO READ AS
20 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) There is created
21 the Indiana state board of health facility **and home health agency**
22 administrators composed of fourteen (14) members as follows:

- 23 (1) The state health commissioner or the commissioner's
24 designee.
25 (2) The director of the division of family and children or the
26 director's designee.
27 (3) The state long term care ombudsman or the state long term
28 care ombudsman's designee.
29 (4) The chief administrative officer of the Indiana University
30 medical center at Indianapolis or the chief administrative officer's
31 designee.
32 (5) One (1) member of the medical profession holding an
33 unlimited license to practice medicine in Indiana.
34 (6) One (1) hospital administrator who must hold an executive
35 position in an Indiana hospital.
36 (7) ~~Four (4)~~ **Two (2)** administrators of licensed proprietary health
37 facilities.
38 (8) **Two (2) administrators of licensed proprietary home health**
39 **agencies.**
40 (9) **One (1) administrator** of a licensed nonproprietary health
41 ~~facilities.~~ **facility.**
42 (10) **One (1) administrator of a licensed nonproprietary home**



C
O
P
Y

1 **health agency.**

2 (9) (11) Two (2) members representing the public at large, who:

3 (A) are residents of Indiana; and

4 (B) have never been associated with health facility **or home**
 5 **health agency** services or administration in any way other
 6 than as a:

7 (i) resident or a family member of a resident of a health
 8 facility; **or**

9 (ii) **consumer or a family member of a consumer of home**
 10 **health agency services.**

11 (b) Those members of the board other than the representatives of
 12 state agencies and institutions shall be appointed by the governor after
 13 consultation with the associations and societies appropriate to the
 14 disciplines and professions representative of the position to be filled.
 15 The original and all subsequent physician and hospital administrator
 16 appointments shall be for terms of four (4) years. All appointments
 17 shall be for four (4) year terms, except that in case of a vacancy prior
 18 to term completion, the appointment shall be for the remainder of the
 19 unexpired term. Any vacancy, either prior to or at term completion,
 20 shall be filled by the governor after consultation with the associations
 21 and societies appropriate to the discipline or professions representative
 22 of the vacancy. In all cases, the appointees shall serve until their
 23 successors are appointed and qualified.

24 (c) The governor may remove any member of the board other than
 25 the representative of a state agency or institution for misconduct,
 26 incapacity, incompetence, or neglect of duty after the member has been
 27 served with a written statement of charges and has been given an
 28 opportunity to be heard. Designated representatives of the state
 29 agencies or institutions may be removed by the original appointing
 30 authority for any of those causes.

31 SECTION 4. IC 25-19-1-3 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) The board may
 33 issue licenses to qualified persons as health facility **and home health**
 34 **agency** administrators and shall establish qualification criteria for
 35 health facility **and home health agency** administrators. The board
 36 shall adopt rules establishing standards for the competent practice of
 37 a health facility ~~administrator.~~ **and home health agency**
 38 **administrators.** A person who applies to the board to practice as a
 39 health facility **and home health agency** administrator must:

40 (1) not have been convicted of a crime that has a direct bearing on
 41 the person's ability to practice competently;

42 (2) have:



C
O
P
Y

1 (A) satisfactorily completed a course of instruction and
 2 training prescribed by the board, which course shall be so
 3 designed as to content and so administered as to present:

4 (i) sufficient knowledge of the needs properly to be served
 5 by health facilities **and home health agencies;**

6 (ii) laws governing the operation of health facilities and
 7 **home health agencies and** the protection of the interests of
 8 patients therein; and

9 (iii) the elements of good health ~~facilities~~ **facility and home**
 10 **health agency** administration; or

11 (B) presented evidence satisfactory to the board of sufficient
 12 education, training, or experience in the foregoing fields to
 13 administer, supervise, and manage a health facility **and home**
 14 **health agency;** and

15 (3) have passed an examination administered by the board and
 16 designed to test for competence in the subject matter referred to
 17 in subdivision (2).

18 (b) The board may issue a provisional license for a single period not
 19 to exceed six (6) months for the purpose of enabling a qualified
 20 individual to fill a health facility **or home health agency** administrator
 21 position that has been unexpectedly vacated. Before an individual is
 22 issued a provisional license, the individual must fulfill the requirements
 23 in subdivision (a)(1) in addition to complying with other standards and
 24 rules established by the board.

25 SECTION 5. IC 25-19-1-3.5 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3.5. (a) The board may
 27 issue a temporary permit to practice as a health facility **and home**
 28 **health agency** administrator to a person who **has:**

29 (1) ~~has~~ applied to the board for a license to practice as a health
 30 facility **and home health agency** administrator;

31 (2) ~~has~~ **obtained** a current license as a health facility **and home**
 32 **health agency** administrator ~~in~~ **or an equivalent license from**
 33 another state;

34 (3) ~~has~~ met the educational requirements of the board;

35 (4) ~~has~~ completed a board approved training program or board
 36 determined equivalent; and

37 (5) ~~has~~ successfully completed the national examination with a
 38 score equivalent to the score required by this state.

39 (b) The board may substitute for the requirements in subsection
 40 (a)(3) or (a)(4) the experience of a person as a licensed health facility
 41 **and home health agency** administrator in another state.

42 (c) A temporary permit issued under this section expires upon:



C
O
P
Y

1 (1) the issuance of a license to the holder of the temporary permit;
2 or

3 (2) the receipt by the holder of the temporary permit of notice
4 from the board that the holder of the temporary permit has failed
5 the required examination for licensure.

6 (d) A person holding a temporary permit to practice as a health
7 facility **and home health agency** administrator is subject to the
8 disciplinary provisions of this chapter.

9 (e) The board may establish, by rules adopted under IC 4-22-2 and
10 IC 25-19-1-4, application procedures and requirements for the issuance
11 of temporary permits under this section.

12 SECTION 6. IC 25-19-1-4 IS AMENDED TO READ AS
13 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) The board shall
14 license health facility **and home health agency** administrators in
15 accordance with rules issued and from time to time revised by ~~it~~: **the**
16 **board**.

17 (b) A health facility **and home health agency** administrator's
18 license ~~shall be~~ **is not be** transferable and ~~shall be~~ **is** valid until
19 surrendered for cancellation or suspended or revoked for violation of
20 this chapter or any other laws or rules relating to the proper
21 administration and management of a health facility **or a home health**
22 **agency**.

23 (c) Any denial of issuance or renewal, suspension, or revocation
24 under any section of this chapter ~~shall be~~ **is** appealable upon the timely
25 request of the applicant or licensee and ~~pursuant to~~ **conducted under**
26 IC 4-21.5.

27 SECTION 7. IC 25-19-1-6 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. (a) The board shall
29 elect from its membership annually a chairman, vice chairman, and
30 secretary, and shall adopt rules to govern its proceedings.

31 (b) Each member of the board who is not a state employee is
32 entitled to:

33 (1) the minimum salary per diem provided by IC 4-10-11-2.1(b);
34 ~~Such a member is also entitled to and~~

35 (2) reimbursement for traveling expenses and other expenses
36 actually incurred in connection with the member's duties, as
37 provided in the state travel policies and procedures established by
38 the department of administration and approved by the state budget
39 agency.

40 (c) The health professions bureau shall supply necessary personnel
41 to assist the board in the performance of its duties.

42 ~~(b)~~ (d) Six (6) members of the board, including two (2) members



C
O
P
Y

1 who are health facility **or home health agency** administrators and one
 2 (1) member who is an officer of the board, constitute a quorum for
 3 consideration of all matters before the board.

4 (e) A majority vote of the quorum is required for action of the board.

5 SECTION 8. IC 25-19-1-7 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. (a) The board ~~shall~~
 7 **have has** sole and exclusive authority to determine the qualifications,
 8 skill, and fitness of any person to serve as an administrator of a health
 9 facility **or home health agency** under the provisions of this chapter,
 10 and the holder of a license under the provisions of this chapter ~~shall be~~
 11 **is** deemed qualified to serve as the administrator of that type of health
 12 facility **or home health agency** for which ~~he~~ **the person** is licensed.

13 (b) In carrying out its responsibilities under this chapter, the board
 14 may seek the advice of various disciplines, agencies, institutions, and
 15 individuals having an interest in long term care.

16 SECTION 9. IC 25-19-1-8 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. The board shall do
 18 the following:

19 (1) Adopt rules establishing standards for the competent practice
 20 of a health facility **and home health agency** administrator.

21 (2) Develop and apply appropriate techniques, including
 22 examination and investigations, for determining whether an
 23 individual meets the standards.

24 (3) Issue licenses to individuals determined, after application of
 25 the appropriate criteria, to meet the standards, and for cause, after
 26 due notice and hearing, impose sanctions under IC 25-1-9,
 27 including placing the licensee on probation and revoking or
 28 suspending licenses previously issued by the board in any case
 29 where the individual holding the license is determined
 30 substantially to have failed to conform to the requirements of the
 31 standards.

32 (4) Establish and carry out the procedures designed to ensure that
 33 individuals licensed as health facility **and home health agency**
 34 administrators will, during any period that they serve as ~~such~~
 35 **administrators**, comply with the requirements of the standards.

36 (5) Subject to IC 25-1-7, receive, investigate, and take appropriate
 37 action under IC 25-1-9 with respect to, and including probation,
 38 suspension, or the revocation of a license if necessary after due
 39 notice and hearing and for cause, any charge or complaint filed
 40 with the board to the effect that any individual licensed as a health
 41 facility **and home health agency** administrator has failed to
 42 comply with the requirements of the standards.



C
O
P
Y

1 (6) Conduct a continuing study and investigation of health
 2 facilities **and home health agencies** and administrators of health
 3 facilities **and home health agencies** in the state to improve:

4 (A) the standards imposed for ~~the~~ licensing of the
 5 administrators; and of

6 (B) procedures and methods for ~~the enforcement of enforcing~~
 7 the standards with respect to licensed health facility **and home**
 8 **health agency** administrators.

9 (7) Conduct, or cause to be conducted, one (1) or more courses of
 10 instruction and training sufficient to meet the requirements of this
 11 chapter, and ~~shall~~ make provisions for the courses and their
 12 accessibility to residents of this state unless ~~it~~ **the board** finds and
 13 approves a sufficient number of courses conducted by others
 14 within this state. The board may approve courses conducted in or
 15 outside this state sufficient to meet the education and training
 16 requirements of this chapter.

17 (8) Take other actions, not inconsistent with law, including:

18 (A) establishing and approving requirements for continuing
 19 professional education for licensure renewal;

20 (B) making provisions for accepting and disbursing funds for
 21 educational purposes, as may be necessary to enable the state
 22 to meet the requirements set forth in:

23 (i) Section 1908 of the Social Security Act (42 U.S.C.
 24 1396g);

25 (ii) the federal regulations adopted under that law; and

26 (iii) other pertinent federal authority; and

27 (C) designing any other action to improve the professional
 28 competence of licensees.

29 SECTION 10. IC 25-19-1-9 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 9. (a) Every holder of
 31 a health facility **and home health agency** administrator's license shall
 32 renew ~~it~~ **the license** biennially, on or before August 31 of
 33 even-numbered years, by making an application to the board. The
 34 renewals shall be granted as a matter of course, unless the board finds,
 35 after due notice and hearing, that the applicant has acted or failed to act
 36 in a manner or under circumstances that would constitute grounds for
 37 nonrenewal, suspension, or revocation of a license.

38 (b) A health facility **and home health agency** administrator's
 39 license expires at midnight on the renewal date specified by the health
 40 professions bureau. Failure to renew a license on or before the renewal
 41 date automatically renders the license invalid.

42 (c) A person who fails to renew a license before ~~it~~ **the license**



C
O
P
Y

1 expires and becomes invalid at midnight of the renewal date shall be
 2 reinstated by the board upon payment of all current and delinquent
 3 renewal fees and an additional late fee set by the board by rule.
 4 However, a person who fails to apply to reinstate a license under this
 5 section within three (3) years after the date the license expires and
 6 becomes invalid may be issued a license by:

- 7 (1) filing an application in the form and manner prescribed by the
 8 board;
 9 (2) paying all current and delinquent renewal fees;
 10 (3) paying a late fee set by the board by rule under section 4 of
 11 this chapter; and
 12 (4) submitting proof of completion of continuing education in an
 13 amount set by the board by rule.

14 (d) The board may require an applicant under subsection (c) to
 15 appear before the board to explain the applicant's failure to renew.

16 SECTION 11. IC 25-19-1-10 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. (a) The board may
 18 issue a health facility **and home health agency** administrator's license
 19 to any person who holds a current comparable license from another
 20 jurisdiction, if the board finds that the applicant has:

- 21 (1) met the educational requirements of the board;
 22 (2) completed a board approved training program or board
 23 determined equivalent;
 24 (3) successfully completed the national examination with a score
 25 equivalent to the score required by this state; and
 26 (4) successfully completed the state examination conducted by the
 27 board.

28 (b) The board may substitute for the requirements in subsection
 29 (a)(1) or (a)(2) the experience of a person as a licensed health facility
 30 **and home health agency** administrator in another state.

31 SECTION 12. IC 25-19-1-11 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 11. ~~No~~ (a) A health
 33 facility **or home health agency** may **not** operate unless it is under the
 34 supervision of an administrator who holds a currently valid health
 35 facility **and home health agency** administrator's license, provisional
 36 license, or temporary permit issued under this chapter. ~~No~~

37 (b) A person may **not** practice or offer to practice health facility **and**
 38 **home health agency** administration or use any title, sign, card, or
 39 device to indicate that the person is a health facility **and home health**
 40 **agency** administrator, unless the person has been duly licensed as a
 41 health facility **and home health agency** administrator or provisional
 42 health facility **and home health agency** administrator.



C
O
P
Y

1 (c) A person who violates this section commits a Class C infraction,
2 and each day of continuing violation after entry of judgment constitutes
3 a separate infraction.
4 SECTION 13. IC 25-19-1-12 IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 12. All rules and
6 regulations authorized by this chapter, to become effective, shall be
7 first approved by the board and then promulgated in the manner
8 provided by law for the promulgation of rules and regulations of
9 administrative bodies and when so promulgated shall be the only rules
10 and regulations governing the licensing of health facility **and home**
11 **health agency** administrators, as defined in this chapter, in the state.

C
o
p
y

