



Reprinted
February 16, 2007

HOUSE BILL No. 1821

DIGEST OF HB 1821 (Updated February 15, 2007 6:24 pm - DI 114)

Citations Affected: IC 10-13; IC 12-10; IC 16-27; IC 20-12; IC 20-28; IC 25-23.5; IC 34-6; noncode.

Synopsis: Licensure of occupational therapists. Provides that licensed home health agency and licensed personal services agency: (1) may request national criminal background checks; and (2) must require a limited criminal history). Requires the licensure of occupational therapists and occupational therapy assistants (current law requires certification). Requires the occupational therapy committee to propose rules to the medical licensing board (board) concerning the continuing competency requirements for the renewal of an occupational therapy license. Requires the board to approve a nationally recognized examination for occupational therapy licensure and establish the passing score needed to obtain a license. Provides that an occupational therapist may not perform certain spinal or joint adjustment procedures. Provides that an occupational therapist may not provide certain services unless the patient has been referred by a physician or chiropractor. Specifies when a temporary occupational therapy license expires.

Effective: July 1, 2007.

Klinker, Brown T, Brown C

January 26, 2007, read first time and referred to Committee on Public Health.
February 8, 2007, amended, reported — Do Pass.
February 15, 2007, read second time, amended, ordered engrossed.

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First Regular Session 115th General Assembly (2007)

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 2006 Regular Session of the General Assembly.

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HOUSE BILL No. 1821

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 10-13-3-16 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 16. (a) As used in this
3 chapter, "qualified entity" means a business or an organization, whether
4 public, private, for-profit, nonprofit, or voluntary, that provides care or
5 care placement services.

6 (b) The term includes **the following**:
7 (1) A business or an organization that licenses or certifies others
8 to provide care or care placement services.
9 (2) **A home health agency licensed under IC 16-27-1.**
10 (3) **A personal services agency licensed under IC 16-27-4.**

11 SECTION 2. IC 12-10-17.1-7, AS ADDED BY P.L.141-2006,
12 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2007]: Sec. 7. As used in this chapter, "licensed health
14 professional" means any of the following:

15 (1) A registered nurse.
16 (2) A licensed practical nurse.
17 (3) A physician with an unlimited license to practice medicine or

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- 1 osteopathic medicine.
- 2 (4) A licensed dentist.
- 3 (5) A licensed chiropractor.
- 4 (6) A licensed optometrist.
- 5 (7) A licensed pharmacist.
- 6 (8) A licensed physical therapist.
- 7 (9) A ~~certified~~ **licensed** occupational therapist.
- 8 (10) A certified psychologist.
- 9 (11) A licensed podiatrist.
- 10 (12) A licensed speech-language pathologist or audiologist.
- 11 SECTION 3. IC 16-27-0.5-1, AS AMENDED BY P.L.152-2005,
- 12 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 13 JULY 1, 2007]: Sec. 1. (a) The home health care services and hospice
- 14 services council is established.
- 15 (b) The council consists of sixteen (16) members as follows:
- 16 (1) One (1) licensed physician experienced in home health care.
- 17 (2) One (1) licensed physician with certification in hospice and
- 18 palliative medicine.
- 19 (3) Four (4) individuals as follows:
- 20 (A) One (1) individual engaged in the administration of a
- 21 nonhospital based home health agency.
- 22 (B) One (1) individual engaged in the administration of a
- 23 hospital based home health agency.
- 24 (C) One (1) individual engaged in the administration of:
- 25 (i) a nonhospital based hospice; or
- 26 (ii) a hospice licensed under IC 16-25-3 that provides
- 27 in-patient care.
- 28 (D) One (1) individual engaged in the administration of a
- 29 hospital based hospice.
- 30 (4) One (1) registered nurse who is licensed under IC 25-23 and
- 31 experienced in home health care.
- 32 (5) One (1) registered nurse who is licensed under IC 25-23 with
- 33 certification in hospice and palliative medicine.
- 34 (6) One (1):
- 35 (A) physical therapist licensed under IC 25-27;
- 36 (B) occupational therapist ~~certified~~ **licensed** under IC 25-23.5;
- 37 or
- 38 (C) speech-language pathologist licensed under IC 25-35.6;
- 39 experienced in home health care.
- 40 (7) One (1) citizen having knowledge of or experience in hospice
- 41 care.
- 42 (8) One (1) citizen having knowledge of or experience in home

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- 1 health agency care.
- 2 (9) One (1) registered pharmacist who is licensed under IC 25-26
- 3 with experience in hospice and palliative medicine.
- 4 (10) One (1) respiratory care practitioner who is licensed under
- 5 IC 25-34.5 and experienced in home care.
- 6 (11) One (1) individual who is a bereavement counselor with
- 7 experience in hospice care.
- 8 (12) The commissioner or the commissioner's designee.
- 9 (13) The secretary of family and social services or the secretary's
- 10 designee.

11 (c) The governor shall appoint the members of the council
 12 designated by subsection (b)(1) through (b)(11).

13 (d) Except for the members of the council designated by subsection
 14 (b)(12) through (b)(13), all appointments are for four (4) years. If a
 15 vacancy occurs, the appointee serves for the remainder of the
 16 unexpired term. A vacancy shall be filled from the same group that was
 17 represented by the outgoing member.

18 (e) Except for the members of the council designated by subsection
 19 (b)(3), a member of the council may not:

- 20 (1) have an ownership interest in the operation of; or
- 21 (2) serve as a voting member on the governing body of;
- 22 a home health agency licensed under this article or a hospice licensed
- 23 under IC 16-25.

24 SECTION 4. IC 16-27-1-1 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. As used in this
 26 chapter, "health care professional" means any of the following:

- 27 (1) A licensed physician.
- 28 (2) A licensed dentist.
- 29 (3) A licensed chiropractor.
- 30 (4) A licensed podiatrist.
- 31 (5) A licensed optometrist.
- 32 (6) A nurse licensed under IC 25-23-1.
- 33 (7) A physical therapist licensed under IC 25-27 or a physical
- 34 therapy assistant certified under IC 25-27.
- 35 (8) A speech-language pathologist or an audiologist licensed
- 36 under IC 25-35.6-3.
- 37 (9) A speech-language pathology aide or an audiology aide (as
- 38 defined in IC 25-35.6-1-2).
- 39 (10) An:
- 40 (A) occupational therapist; or
- 41 (B) occupational ~~therapist~~ **therapy** assistant;
- 42 ~~certified~~ **licensed** under IC 25-23.5.

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1 (11) A social worker licensed under IC 25-23.6 or a social work
 2 assistant.
 3 (12) A pharmacist licensed under IC 25-26-13.
 4 SECTION 5. IC 16-27-2-1 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. As used in this
 6 chapter, "health care professional" means any of the following:
 7 (1) A licensed physician or a physician's assistant (as defined in
 8 IC 25-22.5-1-1.1).
 9 (2) A dentist licensed under IC 25-14.
 10 (3) A chiropractor licensed under IC 25-10-1.
 11 (4) A podiatrist licensed under IC 25-29.
 12 (5) An optometrist licensed under IC 25-24.
 13 (6) A nurse licensed under IC 25-23-1.
 14 (7) A physical therapist licensed under IC 25-27 or a physical
 15 therapy assistant certified under IC 25-27.
 16 (8) A speech-language pathologist or an audiologist licensed
 17 under IC 25-35.6-3.
 18 (9) A speech-language pathology aide or an audiology aide (as
 19 defined in IC 25-35.6-1-2).
 20 (10) An:
 21 (A) occupational therapist; or
 22 (B) occupational ~~therapist~~ **therapy** assistant;
 23 **certified licensed** under IC 25-23.5.
 24 (11) A social worker licensed under IC 25-23.6 or a clinical social
 25 worker licensed under IC 25-23.6.
 26 (12) A pharmacist licensed under IC 25-26-13.
 27 SECTION 6. IC 16-27-2-4, AS AMENDED BY P.L.212-2005,
 28 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2007]: Sec. 4. (a) A person who operates a home health
 30 agency under IC 16-27-1 or a personal services agency under
 31 IC 16-27-4 shall apply, not more than three (3) business days after the
 32 date that an employee begins to provide services in a patient's
 33 temporary or permanent residence, for a copy of the employee's ~~limited~~
 34 **national criminal history background check** from the Indiana central
 35 repository for criminal history information under ~~IC 10-13-3-~~
 36 **IC 10-13-3-39**.
 37 (b) **Except as provided in subsection (c)**, a home health agency or
 38 personal services agency may not employ a person to provide services
 39 in a patient's or client's temporary or permanent residence for more than
 40 three (3) business days without applying for that person's ~~limited~~
 41 **national criminal history background check** as required by subsection
 42 (a).

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1 (c) Subsection (b) does not apply to a person who is an employee
2 of a home health agency or a personal services agency as of June
3 30, 2007.

4 (d) A home health agency or personal services agency shall
5 apply for the national criminal history background check required
6 by subsection (a) for each person who is a an employee as of June
7 30, 2007, by December 1, 2007.

8 SECTION 7. IC 16-27-2-5, AS AMENDED BY P.L.212-2005,
9 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2007]: Sec. 5. (a) Except as provided in subsection (b), a
11 person who operates a home health agency under IC 16-27-1 or a
12 personal services agency under IC 16-27-4 may not employ a person to
13 provide services in a patient's or client's temporary or permanent
14 residence if that person's ~~limited~~ national criminal history **background**
15 **check** indicates that the person has been convicted of any of the
16 following:

- 17 (1) Rape (IC 35-42-4-1).
- 18 (2) Criminal deviate conduct (IC 35-42-4-2).
- 19 (3) Exploitation of an endangered adult (IC 35-46-1-12).
- 20 (4) Failure to report battery, neglect, or exploitation of an
21 endangered adult (IC 35-46-1-13).
- 22 (5) Theft (IC 35-43-4), if the conviction for theft occurred less
23 than ten (10) years before the person's employment application
24 date.

25 (b) Except as provided in subsection (c), a home health agency or
26 personal services agency may not employ a person to provide services
27 in a patient's or client's temporary or permanent residence for more than
28 twenty-one (21) calendar days without receipt of that person's ~~limited~~
29 **national** criminal history **background check** required by section 4 of
30 this chapter, unless ~~either the Indiana central repository for criminal~~
31 ~~history information under IC 10-13-3~~ **state police department or the**
32 **Federal Bureau of Investigation under IC 10-13-3-39** is ~~solo~~
33 responsible for failing to provide the person's ~~limited~~ **national** criminal
34 history **background check** to the home health agency or personal
35 services agency within the time required under this subsection.

36 (c) Subsection (b) does not apply to a person who is an employee
37 of a home health agency or personal services agency as of June 30,
38 2007.

39 SECTION 8. IC 20-12-21.7-8 IS AMENDED TO READ AS
40 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) The commission
41 for higher education under IC 20-12-0.5 shall provide the commission
42 with the most recent information concerning:

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1 (1) the number of minority students enrolled at each eligible
 2 institution; and
 3 (2) the number of individuals who are:
 4 (A) enrolled at each eligible institution; and
 5 (B) pursuing a course of study that would enable the student,
 6 upon graduation, to be:
 7 (i) licensed to teach special education in an accredited
 8 school; or
 9 (ii) ~~certified~~ **licensed** to practice occupational therapy or
 10 licensed to practice physical therapy in an accredited school,
 11 in a vocational rehabilitation center under
 12 IC 12-12-1-4.1(a)(1), or in a community mental retardation
 13 or other developmental disabilities center under IC 12-29 as
 14 part of the special education program.
 15 (b) The commission shall allocate the available money from the
 16 fund to each eligible institution in proportion to the number of minority
 17 students enrolled at each eligible institution as described in subsection
 18 (a) based upon the information received by the commission under
 19 subsection (a).
 20 (c) Each eligible institution shall determine the scholarship
 21 recipients under this chapter:
 22 (1) based upon the criteria set forth in section 9 of this chapter or
 23 section 9.1 of this chapter, whichever applies, and the rules
 24 adopted by the commission under section 12 of this chapter; and
 25 (2) with a priority on granting scholarships in the following order:
 26 (A) Minority students seeking a renewal scholarship.
 27 (B) Newly enrolling minority students.
 28 (C) Special education services students seeking a renewal
 29 scholarship.
 30 (D) Newly enrolling special education services students.
 31 However, the eligible institution may not grant a scholarship renewal
 32 to a student for an academic year that ends later than six (6) years after
 33 the date the student received the initial scholarship under this chapter.
 34 (d) Any funds that:
 35 (1) are allocated to an eligible institution; and
 36 (2) are not utilized for scholarships under this chapter;
 37 shall be returned to the commission for reallocation by the commission
 38 to any other eligible institution in need of additional funds.
 39 SECTION 9. IC 20-12-21.7-9.1 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9.1. (a) To initially
 41 qualify for a scholarship from the fund as the fund pertains to
 42 individuals described in section 8(a)(2) of this chapter, an individual

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- 1 must:
- 2 (1) be admitted to an eligible institution of higher learning as a
- 3 full-time student or be attending an eligible institution of higher
- 4 learning as a full-time student;
- 5 (2) intend to pursue or, in the case of a student who is attending
- 6 an eligible institution of higher learning, pursue a course of study
- 7 that would enable the student, upon graduation:
- 8 (A) to be licensed to teach special education in an accredited
- 9 school under rules adopted by the Indiana state board of
- 10 education;
- 11 (B) to be ~~certified~~ **licensed** to practice occupational therapy:
- 12 (i) in an accredited school;
- 13 (ii) in a vocational rehabilitation center under
- 14 IC 12-12-1-4.1(a)(1); or
- 15 (iii) in a community mental retardation or other
- 16 developmental disabilities center under IC 12-29 except
- 17 IC 12-29-3-6; or
- 18 (C) to be licensed to practice physical therapy:
- 19 (i) in an accredited school;
- 20 (ii) in a vocational rehabilitation center under
- 21 IC 12-12-1-4.1(a)(1); or
- 22 (iii) in a community mental retardation or other
- 23 developmental disabilities center under IC 12-29 except
- 24 IC 12-29-3-6;
- 25 (3) agree, in writing, to:
- 26 (A) teach in an accredited school; or
- 27 (B) practice occupational therapy or physical therapy,
- 28 whichever applies:
- 29 (i) in an accredited school in Indiana;
- 30 (ii) in a vocational rehabilitation center under
- 31 IC 12-12-1-4.1(a)(1); or
- 32 (iii) in a community mental retardation or other
- 33 developmental disabilities center under IC 12-29 except
- 34 IC 12-29-3-6;
- 35 at least three (3) of the first five (5) years following the student's
- 36 licensure as a teacher, ~~certification~~ **licensure** as an occupational
- 37 therapist, or licensure as a physical therapist; and
- 38 (4) meet any other minimum criteria established by the
- 39 commission.
- 40 (b) To qualify for a scholarship renewal from the fund under this
- 41 section, the individual must:
- 42 (1) comply with the criteria set forth in subsection (a); and

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1 (2) maintain at least the cumulative grade point average:
 2 (A) that is required by an eligible institution for admission to
 3 the eligible institution's school of education; or
 4 (B) of 2.0 on a 4.0 grading scale or its equivalent as
 5 established by the eligible institution if the eligible institution's
 6 school of education does not require a certain minimum
 7 cumulative grade point average.
 8 SECTION 10. IC 20-28-1-11, AS AMENDED BY P.L.157-2006,
 9 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2007]: Sec. 11. "School psychology" means the following:
 11 (1) Administering, scoring, and interpreting educational,
 12 cognitive, career, vocational, behavioral, and affective tests and
 13 procedures that address a student's:
 14 (A) education;
 15 (B) developmental status;
 16 (C) attention skills; and
 17 (D) social, emotional, and behavioral functioning;
 18 as they relate to the student's learning or training in the academic
 19 or vocational environment.
 20 (2) Providing consultation, collaboration, and intervention
 21 services (not including psychotherapy) and providing referral to
 22 community resources to:
 23 (A) students;
 24 (B) parents of students;
 25 (C) teachers;
 26 (D) school administrators; and
 27 (E) school staff;
 28 concerning learning and performance in the educational process.
 29 (3) Participating in or conducting research relating to a student's
 30 learning and performance in the educational process:
 31 (A) regarding the educational, developmental, career,
 32 vocational, or attention functioning of the student; or
 33 (B) screening social, affective, and behavioral functioning of
 34 the student.
 35 (4) Providing inservice or continuing education services relating
 36 to learning and performance in the educational process to schools,
 37 parents, or others.
 38 (5) Supervising school psychology services.
 39 (6) Referring a student to:
 40 (A) a speech-language pathologist or an audiologist licensed
 41 under IC 25-35.6 for services for speech, hearing, and
 42 language disorders; or

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1 (B) an occupational therapist ~~certified~~ **licensed** under
2 IC 25-23.5 for occupational therapy services;
3 by a school psychologist who is employed by a school corporation
4 and who is defined as a practitioner of the healing arts for the
5 purpose of referrals under 42 CFR 440.110.

6 The term does not include the diagnosis or treatment of mental and
7 nervous disorders, except for conditions and interventions provided for
8 in state and federal mandates affecting special education and
9 vocational evaluations as the evaluations relate to the assessment of
10 handicapping conditions and special education decisions or as the
11 evaluations pertain to the placement of children and developmentally
12 disabled adults.

13 SECTION 11. IC 25-23.5-0.5 IS ADDED TO THE INDIANA
14 CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 2007]:

16 **Chapter 0.5. Applicability**

17 **Sec. 1. This article does not apply to the following:**

18 (1) **An individual licensed, certified, or registered to practice**
19 **any of the following:**

- 20 (A) **Medicine.**
- 21 (B) **Osteopathy.**
- 22 (C) **Chiropractic.**
- 23 (D) **Podiatric medicine.**
- 24 (E) **Physical therapy.**
- 25 (F) **Optometry.**
- 26 (G) **Nursing.**
- 27 (H) **Psychology.**

28 (2) **The performance of tasks by an individual providing**
29 **health care services that are delegated or ordered by a**
30 **licensed health care professional other than an occupational**
31 **therapist, as long as the task is within the scope of practice of**
32 **the licensed health care professional.**

33 **Sec. 2. The provisions of this article that require a license to**
34 **engage in the practice of occupational therapy do not apply to the**
35 **following:**

36 (1) **The practice of occupational therapy by an individual who**
37 **is practicing occupational therapy as part of a supervised**
38 **course of study in an educational program approved by the**
39 **board.**

40 (2) **The practice of occupational therapy by an occupational**
41 **therapy aide under the supervision of:**

- 42 (A) **an occupational therapist; or**

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1 **(B) an occupational therapy assistant.**

2 SECTION 12. IC 25-23.5-1-3.5 IS ADDED TO THE INDIANA
3 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2007]: **Sec. 3.5. "Examination" refers to a**
5 **nationally recognized test for occupational therapists or**
6 **occupational therapy assistants that has been approved by the**
7 **board under IC 25-23.5-5-4.5.**

8 SECTION 13. IC 25-23.5-1-5 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 5. "Practice of**
10 **occupational therapy"** means the functional assessment of learning and
11 performance skills and the analysis, selection, and adaptation of
12 exercises or equipment for a person whose abilities to perform the
13 requirements of daily living are threatened or impaired by physical
14 injury or disease, mental illness, a developmental deficit, the aging
15 process, or a learning disability. The term consists primarily of the
16 following functions:

17 (1) Planning and directing exercises and programs to improve
18 sensory-integration and motor functioning at a level of
19 performance neurologically appropriate for a person's stage of
20 development.

21 (2) Analyzing, selecting, and adapting functional exercises to
22 achieve and maintain a person's optimal functioning in daily
23 living tasks and to prevent further disability.

24 SECTION 14. IC 25-23.5-2-2 IS AMENDED TO READ AS
25 FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 2.** The committee
26 consists of five (5) members appointed by the governor for terms of
27 three (3) years. The committee must include the following:

28 (1) At least two (2) occupational therapists who:

29 (A) are residents of Indiana;

30 (B) have at least three (3) years experience as occupational
31 therapists; and

32 (C) are ~~certified~~ **licensed** under this article.

33 (2) At least one (1) physician licensed under IC 25-22.5 who is
34 familiar with **the practice of** occupational therapy.

35 (3) At least one (1) person who:

36 (A) is a resident of Indiana; and

37 (B) is not associated with occupational therapy in any way
38 other than as a consumer.

39 SECTION 15. IC 25-23.5-2-5 IS AMENDED TO READ AS
40 FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 5.** The committee shall:

41 (1) consider the qualifications of persons who apply for
42 ~~certificates~~ **licenses** under this article;

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- 1 (2) provide for examinations required under this article;
- 2 (3) ~~certify license~~ qualified persons;
- 3 (4) propose rules to the board concerning the:
 - 4 (A) competent practice of occupational therapy;
 - 5 (B) **continuing competency requirement for the renewal of**
 - 6 **a license for an occupational therapist or an occupational**
 - 7 **therapy assistant; and the**
 - 8 (C) administration of this article; and
- 9 (5) recommend to the board the amounts of fees required under
- 10 this article.

11 SECTION 16. IC 25-23.5-2-6 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) After considering
 13 the committee's proposed rules, the board shall adopt rules under
 14 IC 4-22-2 establishing standards for:

- 15 (1) the competent practice of occupational therapy;
- 16 (2) the renewal of ~~certificates licenses~~ issued under this article;
- 17 and
- 18 (3) standards for the administration of this article.

19 (b) After considering the committee's recommendations for fees, the
 20 board shall establish fees under IC 25-1-8-2.

21 SECTION 17. IC 25-23.5-3-1 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) A person may
 23 not:

- 24 (1) ~~profess to be practice as~~ an occupational therapist;
- 25 (2) ~~profess to be practice as~~ an occupational therapy assistant;
- 26 (3) use the title "occupational therapist";
- 27 (4) use the title "occupational therapy assistant"; or
- 28 (5) ~~use the initials "O.T.", "O.T.A.", "O.T.R.", or "C.O.T.A."~~ or
 29 any other words, letters, abbreviations, or insignia indicating or
 30 implying that the person is an occupational therapist or
 31 occupational therapy assistant certified under this article;

32 (5) **engage in the practice of occupational therapy;**
 33 unless the person is ~~certified licensed~~ under this article.

34 SECTION 18. IC 25-23.5-3-1.5 IS ADDED TO THE INDIANA
 35 CODE AS A **NEW SECTION** TO READ AS FOLLOWS
 36 [EFFECTIVE JULY 1, 2007]: **Sec. 1.5. (a) Except as provided in**
 37 **subsection (b), an occupational therapy practitioner may not**
 38 **provide occupational therapy services to a person until the person**
 39 **has been referred to the occupational therapy practitioner by a**
 40 **physician licensed under IC 25-22.5, a psychologist licensed under**
 41 **IC 25-33, or a chiropractor licensed under IC 25-10.**

42 (b) **An occupational therapy practitioner may provide the**

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1 following services without a referral from a physician licensed
2 under IC 25-22.5:

- 3 (1) Ergonomic or home assessment.
- 4 (2) Injury or illness prevention education, and wellness
5 services.
- 6 (3) Education related services.
- 7 (4) Occupational therapy activities that the board determines,
8 after reviewing the recommendations of the committee, are
9 appropriate to be conducted in a community based
10 environment.

11 (c) An occupational therapist licensed under this article may not
12 perform any of the following:

- 13 (1) A spinal adjustment.
- 14 (2) A spinal manipulation.
- 15 (3) A Grade 5 mobilization.
- 16 (4) Any manual or mechanical intervention that:
 - 17 (A) may have velocity, lever, amplitude, or recoil;
 - 18 (B) may carry a joint complex beyond the normal
19 physiological range of motion;
 - 20 (C) is applied without exceeding the boundaries of
21 anatomical integrity of the joint complex or other
22 articulation; and
 - 23 (D) is intended to result in a cavitation of the joint or a
24 reduction of a subluxation.

25 SECTION 19. IC 25-23.5-3-2 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. A person who
27 knowingly or intentionally violates this chapter commits a Class B
28 misdemeanor.

29 SECTION 20. IC 25-23.5-5-1 IS AMENDED TO READ AS
30 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. A person who
31 applies for a ~~certificate~~ license as an occupational therapist or
32 occupational therapy assistant must present satisfactory evidence to the
33 committee that the person:

- 34 (1) does not have a conviction for a crime that has a direct bearing
35 on the person's ability to practice competently;
- 36 (2) has not been the subject of a disciplinary action by a licensing
37 or certification agency of another state or jurisdiction on the
38 grounds that the person was not able to practice as an
39 occupational therapist or occupational therapy assistant without
40 endangering the public;
- 41 (3) has graduated from a school or program of occupational
42 therapy or a program for occupational therapy assistants approved

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by the board; and
(4) has passed an occupational therapist or occupational therapy assistant licensing or certifying examination approved by the board **under section 4.5 of this chapter.**

SECTION 21. IC 25-23.5-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) The board may require a person who applies for a ~~certificate~~ **license** as an occupational therapist to have successfully completed supervised fieldwork experience arranged and approved by the school or program from which the person graduated.

(b) The board may require a person who applies for a ~~certificate~~ **license** as an occupational therapy assistant to have successfully completed supervised fieldwork experience arranged and approved by the program from which the person graduated.

SECTION 22. IC 25-23.5-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. A person applying for a ~~certificate~~ **license** under this article must pay a fee.

SECTION 23. IC 25-23.5-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. A person who satisfies the requirements of sections 1 through 3 of this chapter may take the examination ~~provided~~ **approved** by the board **under section 4.5 of this chapter.**

SECTION 24. IC 25-23.5-5-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4.5. (a) **The board shall do the following:**

- (1) **Approve a nationally recognized examination for each type of license issued under this article.**
- (2) **Establish the passing score necessary to obtain a license under this article.**

(b) **The board may use any part of an examination administered by:**

- (1) **the National Board for Certification in Occupational Therapy, or its successor; or**
- (2) **another nationally recognized body that provides examination services for occupational therapists or occupational therapy assistants, as determined by the committee;**

as the examination required to obtain a license under this article.

SECTION 25. IC 25-23.5-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) The committee shall provide for examinations to be given at least two (2) times a year

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at times and places established by the board.

(b) The committee shall provide for examinations that test a person's knowledge of the basic and clinical sciences as they relate to **the practice of** occupational therapy, occupational therapy theory and procedures, and other subjects the committee considers useful to test a person's fitness to practice as an occupational therapist or occupational therapy assistant.

SECTION 26. IC 25-23.5-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. The committee shall issue a ~~certificate license~~ to a person who

(1) achieves a passing score, as determined by the board, on the examination provided under this chapter; and

(2) is otherwise qualified meets the requirements for a license under this article.

SECTION 27. IC 25-23.5-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. The committee may refuse to issue a ~~certificate license~~ or may issue a ~~probationary certificate temporary license~~ to a person if:

(1) the person has been disciplined by an administrative agency in another jurisdiction; and

(2) the committee determines that the violation for which the person was disciplined has a direct bearing on the person's ability to practice **occupational therapy** as an occupational therapist or occupational therapy assistant.

SECTION 28. IC 25-23.5-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) If the committee issues a ~~probationary certificate temporary license~~ under section 7 of this chapter, the committee may require the person who holds the ~~certificate temporary license~~ to perform one (1) or more of the following conditions:

(1) Report regularly to the committee upon a matter that is the basis for the probation.

(2) Limit practice to areas prescribed by the committee.

(3) Continue or renew professional education.

(4) Engage in community restitution or service without compensation for a number of hours specified by the committee.

(b) The committee shall remove a limitation placed on a ~~probationary certificate temporary license~~ if after a hearing the committee finds that the deficiency that caused the limitation has been remedied.

SECTION 29. IC 25-23.5-5-9, AS AMENDED BY P.L.1-2006, SECTION 457, IS AMENDED TO READ AS FOLLOWS

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1 [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) A ~~certificate~~ **license** issued
2 by the committee expires on a date established by the Indiana
3 professional licensing agency under IC 25-1-5-4 in the next
4 even-numbered year following the year in which the ~~certificate~~ **license**
5 was issued.

6 (b) A person may renew a ~~certificate~~ **license** by paying a renewal fee
7 on or before the expiration date of the ~~certificate~~ **license**.

8 (c) If a person fails to pay a renewal **fee** on or before the expiration
9 date of a ~~certificate~~ **license**, the ~~certificate~~ **license** becomes invalid.

10 SECTION 30. IC 25-23.5-5-10 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. (a) The committee
12 shall reinstate an invalid ~~certificate~~ **license** up to three (3) years after
13 the expiration date of the ~~certificate~~ **license** if the person holding the
14 invalid ~~certificate~~ **license** meets the requirements under IC 25-1-8-6.

15 (b) If more than three (3) years have elapsed since the date a
16 ~~certificate~~ **license** expired, the person holding the ~~certificate~~ **license**
17 may renew the ~~certificate~~ **license** by satisfying the requirements for
18 renewal established by the board and meeting the requirements under
19 IC 25-1-8-6.

20 SECTION 31. IC 25-23.5-5-11 IS AMENDED TO READ AS
21 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. (a) The committee
22 may issue a temporary ~~permit~~ **license** to a person to ~~profess to be~~
23 **engage in the practice of occupational therapy** as an occupational
24 therapist or occupational therapy assistant if the person pays a fee and
25 the person:

26 (1) has a valid license or certificate to practice from another state
27 and the person has applied for a ~~certificate~~ **license** from the
28 committee;

29 (2) is practicing **occupational therapy** in a state that does not
30 license or certify occupational therapists or occupational therapy
31 assistants but is certified by a national occupational therapy
32 association approved by the ~~committee~~ **board** and the person has
33 applied for a ~~certificate~~ **license** from the committee; or

34 (3) has been approved by the committee to take the next
35 examination and has graduated from a school or program
36 approved by the committee and the person has completed the
37 fieldwork experience requirement.

38 (3) meets all the following requirements:

39 (A) Has graduated from an accredited program.

40 (B) Has completed the fieldwork experience requirement
41 for a license under this article.

42 (C) Is eligible to take the entry level examination.

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1 (b) A person with a temporary ~~permit license~~ issued under
2 subsection (a)(3) may ~~profess to be engage in the practice of~~
3 **occupational therapy as** an occupational therapist or an occupational
4 therapy assistant only under the supervision of an occupational
5 therapist ~~certified licensed~~ under this article.

6 (c) A temporary ~~permit license~~ expires the earlier of:
7 (1) the date the person holding the ~~permit temporary license~~ is
8 issued a ~~certificate permanent license~~ under this article; ~~or~~
9 (2) the date the committee disapproves the person's ~~certificate~~
10 **license** application; ~~or~~
11 **(3) one hundred eighty days (180) days after the date the**
12 **temporary license is issued.**

13 (d) The committee may renew a temporary ~~permit license~~ if the
14 person holding the ~~permit temporary license~~ was scheduled to take the
15 next examination and the person:
16 (1) did not take the examination; and
17 (2) shows good cause for not taking the examination.

18 (e) A ~~permit temporary license~~ renewed under subsection ~~(c)~~ **(d)**
19 expires on the date the person holding the ~~permit temporary license~~
20 receives the results from the next examination given after the ~~permit~~
21 **temporary license** was issued.

22 SECTION 32. IC 25-23.5-5-12 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. (a) A person who
24 is ~~certified licensed~~ under this article shall notify the committee in
25 writing when the person retires from practice.

26 (b) Upon receipt of the notice, the committee shall:
27 (1) record the fact the person is retired; and
28 (2) release the person from further payment of renewal fees.

29 SECTION 33. IC 25-23.5-5-13 IS AMENDED TO READ AS
30 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. (a) If a person
31 surrenders a ~~certificate license~~ to the committee, the committee may
32 reinstate the ~~certificate license~~ upon written request by the person.

33 (b) If the committee reinstates a ~~certificate; license~~, the committee
34 may impose conditions on the ~~certificate license~~ appropriate to the
35 reinstatement.

36 (c) A person may not surrender a ~~certificate license~~ without written
37 approval by the committee if a disciplinary proceeding under this
38 article is pending against the person.

39 SECTION 34. IC 25-23.5-5-14 IS AMENDED TO READ AS
40 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. A person who
41 applies for a ~~certificate license~~ under this article may be exempted by
42 the committee from the examination requirement under section 6 of

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1 this chapter if the person:
 2 (1) is licensed or certified to practice **occupational therapy** as an
 3 occupational therapist or occupational therapy assistant in another
 4 state; or
 5 (2) is practicing **occupational therapy** in a state that does not
 6 license or certify occupational therapists or occupational therapy
 7 assistants and is certified by a national occupational therapy
 8 association approved by the board;
 9 and is otherwise qualified under sections 1 through 3 of this chapter
 10 and pays an additional fee.

11 SECTION 35. IC 25-23.5-5-15 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15. The committee may
 13 issue a ~~certificate~~ **license** to a person who has graduated as an
 14 occupational therapist or occupational therapy assistant from an
 15 educational program in a foreign country if the person:

- 16 (1) graduated from an educational program approved by the
 17 board;
- 18 (2) does not have a conviction for:
 19 (A) an act that would constitute a ground for a disciplinary
 20 sanction under IC 25-1-9; or
 21 (B) a crime that has a direct bearing on the person's ability to
 22 practice competently;
- 23 (3) has not been the subject of a disciplinary action initiated by a
 24 licensing agency of another state or jurisdiction on the ground that
 25 the person was not able to practice **occupational therapy** as an
 26 occupational therapist or occupational therapy assistant without
 27 endangering the public;
- 28 (4) passes the examination required under this chapter; and
 29 (5) pays a fee.

30 SECTION 36. IC 34-6-2-117 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 117. "Professional
 32 health care provider", for purposes of IC 34-30-15, means:

- 33 (1) a physician licensed under IC 25-22.5;
- 34 (2) a dentist licensed under IC 25-14;
- 35 (3) a hospital licensed under IC 16-21;
- 36 (4) a podiatrist licensed under IC 25-29;
- 37 (5) a chiropractor licensed under IC 25-10;
- 38 (6) an optometrist licensed under IC 25-24;
- 39 (7) a psychologist licensed under IC 25-33;
- 40 (8) a pharmacist licensed under IC 25-26;
- 41 (9) a health facility licensed under IC 16-28-2;
- 42 (10) a registered or licensed practical nurse licensed under

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- 1 IC 25-23;
- 2 (11) a physical therapist licensed under IC 25-27;
- 3 (12) a home health agency licensed under IC 16-27-1;
- 4 (13) a community mental health center (as defined in
- 5 IC 12-7-2-38);
- 6 (14) a health care organization whose members, shareholders, or
- 7 partners are:
 - 8 (A) professional health care providers described in
 - 9 subdivisions (1) through (13);
 - 10 (B) professional corporations comprised of health care
 - 11 professionals (as defined in IC 23-1.5-1-8); or
 - 12 (C) professional health care providers described in
 - 13 subdivisions (1) through (13) and professional corporations
 - 14 comprised of persons described in subdivisions (1) through
 - 15 (13);
- 16 (15) a private psychiatric hospital licensed under IC 12-25;
- 17 (16) a preferred provider organization (including a preferred
- 18 provider arrangement or reimbursement agreement under
- 19 IC 27-8-11);
- 20 (17) a health maintenance organization (as defined in
- 21 IC 27-13-1-19) or a limited service health maintenance
- 22 organization (as defined in IC 27-13-34-4);
- 23 (18) a respiratory care practitioner licensed under IC 25-34.5;
- 24 (19) an occupational therapist ~~certified~~ **licensed** under IC 25-23.5;
- 25 (20) a state institution (as defined in IC 12-7-2-184);
- 26 (21) a clinical social worker who is licensed under
- 27 IC 25-23.6-5-2;
- 28 (22) a managed care provider (as defined in IC 12-7-2-127(b));
- 29 (23) a nonprofit health care organization affiliated with a hospital
- 30 that is owned or operated by a religious order, whose members are
- 31 members of that religious order; or
- 32 (24) a nonprofit health care organization with one (1) or more
- 33 hospital affiliates.

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34 SECTION 37. [EFFECTIVE JULY 1, 2007] (a) **If an individual is**
35 **certified as:**

- 36 (1) **an occupational therapist under IC 25-23.5 on June 30,**
- 37 **2007, the individual is considered to be a licensed**
- 38 **occupational therapist under IC 25-23.5, as amended by this**
- 39 **act, on July 1, 2007; and**
- 40 (2) **an occupational therapy assistant under IC 25-23.5 on**
- 41 **June 30, 2007, the individual is considered to be a licensed**
- 42 **occupational therapy assistant under IC 25-23.5, as amended**



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by this act, on July 1, 2007.
The license of an individual described in this subsection expires on the date the individual's certification that the license is replacing would have expired if this act had not been enacted.

(b) The occupational therapy committee established by IC 25-23.5-2-1 shall issue a license under IC 25-23.5-5-6, as amended by this act, to an individual described in subsection (a). However, the occupational therapy committee and the Indiana professional licensing agency are not required to issue:

- (1) a wall license; or
- (2) a pocket license;

to an individual described in subsection (a) until the license renewal period beginning December 1, 2007.

(c) The medical licensing board of Indiana may adopt temporary rules in the manner provided for emergency rule adoption under IC 4-22-2-37.1 to implement IC 25-23.5, as amended by this act. A temporary rule adopted under this subsection expires on the earliest of the following:

- (1) The date that the temporary rule is superseded by another temporary rule adopted under this subsection.
- (2) The date that the temporary rule is superseded by a rule adopted under IC 4-22-2.
- (3) The date specified in the temporary rule.
- (4) July 1, 2009.

(d) This SECTION expires July 1, 2010.
SECTION 38. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1821, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 8, line 29, delete ""Occupational" and insert ""**Practice of occupational**".

Page 8, line 30, after "therapy" insert ""

Page 8, line 30, reset in roman "means the functional assessment of learning and performance".

Page 8, reset in roman lines 31 through 41.

Page 8, line 42, reset in roman "living tasks and to prevent further disability."

Page 8, line 42, delete "service" refers to".

Delete pages 9 through 10.

Page 11, delete lines 1 through 27.

Page 12, line 28, delete "and".

Page 12, line 29, after "IC 25-35.6-1-2)" insert ", **and chiropractic (as defined in IC 25-10-1-1)**".

Page 13, line 11, after "IC 25-22.5" insert "**or a chiropractor licensed under IC 25-10**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1821 as introduced.)

BROWN C, Chair

Committee Vote: yeas 9, nays 0.

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 HOUSE MOTION

Mr. Speaker: I move that House Bill 1821 be amended to read as follows:

Page 7, line 38, delete "The practice of any occupation or profession for which an".

Page 7, delete lines 39 through 40.

Page 7, line 41, delete "subdivision includes an" and insert "**An**".

Page 8, between lines 5 and 6, begin a new line double block indented and insert: "**(F) Optometry.**"

Page 8, between lines 5 and 6, begin a new line double block

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indented and insert: **"(G) Nursing."**

Page 9, delete lines 41 through 42.

Page 10, delete lines 1 through 6.

(Reference is to HB 1821 as printed February 8, 2007.)

KLINKER

HOUSE MOTION

Mr. Speaker: I move that House Bill 1821 be amended to read as follows:

Page 8, between lines 5 and 6, begin a new line double block indented and insert:

"(F) Psychology."

Page 10, line 26, after "IC 25-22.5" insert **", a psychologist licensed under IC 25-33,"**.

Page 10, between lines 38 and 39, begin a new paragraph and insert:

"(c) An occupational therapist licensed under this article may not perform any of the following:

- (1) A spinal adjustment.**
- (2) A spinal manipulation.**
- (3) A Grade 5 mobilization.**
- (4) Any manual or mechanical intervention that:**
 - (A) may have velocity, lever, amplitude, or recoil;**
 - (B) may carry a joint complex beyond the normal physiological range of motion;**
 - (C) is applied without exceeding the boundaries of anatomical integrity of the joint complex or other articulation; and**
 - (D) is intended to result in a cavitation of the joint or a reduction of a subluxation."**

(Reference is to HB 1821 as printed February 9, 2007.)

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1821 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 10-13-3-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 16. (a) As used in this chapter, "qualified entity" means a business or an organization, whether public, private, for-profit, nonprofit, or voluntary, that provides care or care placement services.

(b) The term includes **the following:**

(1) A business or an organization that licenses or certifies others to provide care or care placement services.

(2) **A home health agency licensed under IC 16-27-1.**

(3) **A personal services agency licensed under IC 16-27-4."**

Page 4, between lines 16 and 17, begin a new paragraph and insert:

"SECTION 5. IC 16-27-2-4, AS AMENDED BY P.L.212-2005, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) A person who operates a home health agency under IC 16-27-1 or a personal services agency under IC 16-27-4 shall apply, not more than three (3) business days after the date that an employee begins to provide services in a patient's temporary or permanent residence, for a copy of the employee's ~~limited~~ **national criminal history background check** from the Indiana central repository for criminal history information under ~~IC 10-13-3-~~ **IC 10-13-3-39.**

(b) **Except as provided in subsection (c),** a home health agency or personal services agency may not employ a person to provide services in a patient's or client's temporary or permanent residence for more than three (3) business days without applying for that person's ~~limited~~ **national criminal history background check** as required by subsection (a).

(c) **Subsection (b) does not apply to a person who is an employee of a home health agency or a personal services agency as of June 30, 2007.**

(d) **A home health agency or personal services agency shall apply for the national criminal history background check required by subsection (a) for each person who is a an employee as of June 30, 2007, by December 1, 2007.**

SECTION 6. IC 16-27-2-5, AS AMENDED BY P.L.212-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2007]: Sec. 5. (a) Except as provided in subsection (b), a person who operates a home health agency under IC 16-27-1 or a personal services agency under IC 16-27-4 may not employ a person to provide services in a patient's or client's temporary or permanent residence if that person's ~~limited~~ **national criminal history background check** indicates that the person has been convicted of any of the following:

- (1) Rape (IC 35-42-4-1).
- (2) Criminal deviate conduct (IC 35-42-4-2).
- (3) Exploitation of an endangered adult (IC 35-46-1-12).
- (4) Failure to report battery, neglect, or exploitation of an endangered adult (IC 35-46-1-13).
- (5) Theft (IC 35-43-4), if the conviction for theft occurred less than ten (10) years before the person's employment application date.

(b) **Except as provided in subsection (c)**, a home health agency or personal services agency may not employ a person to provide services in a patient's or client's temporary or permanent residence for more than twenty-one (21) calendar days without receipt of that person's ~~limited~~ **national criminal history background check** required by section 4 of this chapter, unless **either the Indiana central repository for criminal history information under IC 10-13-3 state police department or the Federal Bureau of Investigation under IC 10-13-3-39** is ~~solely~~ responsible for failing to provide the person's ~~limited~~ **national criminal history background check** to the home health agency or personal services agency within the time required under this subsection.

(c) **Subsection (b) does not apply to a person who is an employee of a home health agency or personal services agency as of June 30, 2007."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1821 as printed February 9, 2007.)

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