

**Proposed Rule**  
LSA Document #07-488

DIGEST

Adds [410 IAC 31](#) to establish minimum standards for use by a small employer in establishing a wellness program to improve the health of employees of the small employer and to establish criteria and a process for certification and recertification of a small employer's wellness program for purposes of [IC 6-3.1-31.2](#). Effective 30 days after filing with the Publisher.

[IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses](#)

[410 IAC 31](#)

SECTION 1. [410 IAC 31](#) IS ADDED TO READ AS FOLLOWS:

**ARTICLE 31. SMALL EMPLOYER QUALIFIED WELLNESS PROGRAM**

**Rule 1. Definitions**

[410 IAC 31-1-1](#) **Applicability**

Authority: [IC 16-19-3-5](#); [IC 16-46-13](#)

Affected: [IC 6-3.1-31.2](#)

**Sec. 1. The definitions in this rule apply throughout this article.**

(Indiana State Department of Health; [410 IAC 31-1-1](#))

[410 IAC 31-1-2](#) **"Certification" defined**

Authority: [IC 16-19-3-5](#); [IC 16-46-13](#)

Affected: [IC 6-3.1-31.2](#)

**Sec. 2. "Certification" means the approval of a wellness program by the state department.**

(Indiana State Department of Health; [410 IAC 31-1-2](#))

[410 IAC 31-1-3](#) **"Employee" defined**

Authority: [IC 16-19-3-5](#); [IC 16-46-13](#)

Affected: [IC 6-3.1-31.2](#)

**Sec. 3. "Employee" means a full-time employee who is employed to work at least thirty (30) hours each week.**

(Indiana State Department of Health; [410 IAC 31-1-3](#))

[410 IAC 31-1-4](#) **"Small employer" defined**

Authority: [IC 16-19-3-5](#); [IC 16-46-13](#)

Affected: [IC 6-3.1-31.2-3](#)

**Sec. 4. "Small employer" has the meaning set forth in [IC 6-3.1-31.2-3](#).**

*(Indiana State Department of Health; [410 IAC 31-1-4](#))*

**[410 IAC 31-1-5](#) "State department" defined**

Authority: [IC 16-19-3-5](#); [IC 16-46-13](#)

Affected: [IC 6-3.1-31.2](#)

**Sec. 5. "State department" refers to the state department of health.**

*(Indiana State Department of Health; [410 IAC 31-1-5](#))*

**[410 IAC 31-1-6](#) "State health commissioner" defined**

Authority: [IC 16-19-3-5](#); [IC 16-46-13](#)

Affected: [IC 6-3.1-31.2](#)

**Sec. 6. "State health commissioner" means the state health commissioner of the state department.**

*(Indiana State Department of Health; [410 IAC 31-1-6](#))*

**[410 IAC 31-1-7](#) "Vendor" defined**

Authority: [IC 16-19-3-5](#); [IC 16-46-13](#)

Affected: [IC 6-3.1-31.2](#)

**Sec. 7. "Vendor" means a business or organization that directly provides wellness programs to employers as part of its normal business practice. The term does not include a business or organization that acts in the capacity of a broker, or something similar, for this type of service.**

*(Indiana State Department of Health; [410 IAC 31-1-7](#))*

**[410 IAC 31-1-8](#) "Wellness program" defined**

Authority: [IC 16-19-3-5](#); [IC 16-46-13](#)

Affected: [IC 6-3.1-31.2](#)

**Sec. 8. "Wellness program" means a plan designed to improve the health of employees of a small employer that addresses the following:**

- (1) Appropriate weight loss.**
- (2) Smoking cessation.**
- (3) The pursuit of preventative health care services.**

*(Indiana State Department of Health; [410 IAC 31-1-8](#))*

**Rule 2. Wellness Program Certification**

**[410 IAC 31-2-1](#) Advisory committee**

Authority: [IC 16-19-3-5](#); [IC 16-46-13](#)

Affected: [IC 6-3.1-31.2](#)

**Sec. 1. The state department may organize an advisory committee for the purpose of advising the**

state health commissioner on the registration of vendors and certification of wellness programs. The state health commissioner or a designee will serve as an ex officio member.

(Indiana State Department of Health; [410 IAC 31-2-1](#))

#### [410 IAC 31-2-2](#) Written description of wellness program

Authority: [IC 16-19-3-5](#); [IC 16-46-13](#)

Affected: [IC 6-3.1-31.2](#)

Sec. 2. Before the state department may consider a wellness program for certification, a written description must be submitted electronically to the state department that includes detailed information about each of the following required components of a wellness program:

- (1) Educational materials that provide information to employees about the following health topics:
  - (A) Appropriate weight loss.
  - (B) Smoking cessation.
  - (C) Preventative health care services.
- (2) Assessments that serve as a means of evaluating the health status of employees in each of the following areas:
  - (A) Appropriate weight loss.
  - (B) Smoking cessation.
  - (C) The pursuit of preventative health care services.
- (3) A rewards program that provides incentives for motivating employees in each of the following areas:
  - (A) Appropriate weight loss.
  - (B) Smoking cessation.
  - (C) The pursuit of preventative health care services.
- (4) A measurement tool that evaluates the success and validity of the wellness program in each of the following areas:
  - (A) Appropriate weight loss.
  - (B) Smoking cessation.
  - (C) Preventative health care services.

(Indiana State Department of Health; [410 IAC 31-2-2](#))

#### [410 IAC 31-2-3](#) Supporting documentation

Authority: [IC 16-19-3-5](#); [IC 16-19-5-1](#); [IC 16-46-13](#)

Affected: [IC 6-3.1-31.2](#)

Sec. 3. The state department may request supporting documentation to be submitted either with the written description or after reviewing the written description. The state department will not certify a wellness program until all such documentation is submitted to the satisfaction of the state department.

(Indiana State Department of Health; [410 IAC 31-2-3](#))

#### [410 IAC 31-2-4](#) Wellness program submission deadline

Authority: [IC 16-19-3-5](#); [IC 16-46-13](#)

Affected: [IC 6-3.1-31.2](#)

Sec. 4. Wellness programs must be submitted to the state department by October 1 to be considered for certification in the year of submission. Wellness programs submitted after October 1 will be considered for certification in the year following submission.

(Indiana State Department of Health; [410 IAC 31-2-4](#))

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**[410 IAC 31-2-5](#) Recertification of wellness program**

Authority: [IC 16-19-3-5](#); [IC 16-46-13](#)

Affected: [IC 6-3.1-31.2](#)

**Sec. 5.** To maintain certification of a wellness program, registered vendors and small employers must recertify annually by October 1 that the wellness program is the same program that was certified by the state department in the prior year. The state department may request supporting documentation before recertifying a wellness program.

*(Indiana State Department of Health; [410 IAC 31-2-5](#))*

**[410 IAC 31-2-6](#) Written certificate**

Authority: [IC 16-19-3-5](#); [IC 16-46-13](#)

Affected: [IC 6-3.1-31.2-9](#)

**Sec. 6.** After a wellness program is certified by the state department, if the submitting business or organization is a small employer, the state department shall issue a written certificate for purposes of [IC 6-3.1-31.2-9](#). The written certificate expires on December 31 of the calendar year in which it is issued.

*(Indiana State Department of Health; [410 IAC 31-2-6](#))*

**[410 IAC 31-2-7](#) Cooperation with department of state revenue**

Authority: [IC 16-19-3-5](#); [IC 16-46-13](#)

Affected: [IC 6-3.1-31.2](#)

**Sec. 7.** The state department may provide a list of all small employers that have received certification to the department of state revenue.

*(Indiana State Department of Health; [410 IAC 31-2-7](#))*

**Rule 3. Vendors of Wellness Programs**

**[410 IAC 31-3-1](#) Vendor registration**

Authority: [IC 16-19-3-5](#); [IC 16-46-13](#)

Affected: [IC 6-3.1-31.2](#)

**Sec. 1.** After a wellness program is certified by the state department, if the submitting business or organization qualifies as a vendor, the state department may add the vendor to a published list of registered vendors at the request of the vendor.

*(Indiana State Department of Health; [410 IAC 31-3-1](#))*

**[410 IAC 31-3-2](#) Small employer use of registered vendor**

Authority: [IC 16-19-3-5](#); [IC 16-46-13](#)

Affected: [IC 6-3.1-31.2-9](#)

**Sec. 2.** Instead of submitting a wellness program for certification, a small employer may provide to its employees a certified wellness program through a registered vendor. The registered vendor and the small employer shall document to the state department that the small employer is utilizing a certified wellness program through the registered vendor. Within thirty (30) days of the receipt of satisfactory

documentation, the state department shall issue a certificate to the small employer for purposes of [IC 6-3.1-31.2-9](#).

(Indiana State Department of Health; [410 IAC 31-3-2](#))

#### [410 IAC 31-3-3](#) Submission deadline for vendors

Authority: [IC 16-19-3-5](#); [IC 16-46-13](#)

Affected: [IC 6-3.1-31.2](#)

**Sec. 3. Registered vendors that provide a certified wellness program on behalf of a small employer must submit documentation to this effect by November 30 for the small employer to be eligible for a certificate in that same calendar year.**

(Indiana State Department of Health; [410 IAC 31-3-3](#))

#### [410 IAC 31-3-4](#) Request by vendor for registration

Authority: [IC 16-19-3-5](#); [IC 16-46-13](#)

Affected: [IC 6-3.1-31.2](#)

**Sec. 4. Any vendor registered by the state department prior to the effective date of this rule must submit a new request to the state department for inclusion on the published list of registered vendors. Previously registered vendors that do not meet the definition as established by this rule shall be immediately removed from the list.**

(Indiana State Department of Health; [410 IAC 31-3-4](#))

#### [Notice of Public Hearing](#)

Posted: 05/07/2008 by Legislative Services Agency  
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