

IC 25-1-9

Chapter 9. Health Professions Standards of Practice

IC 25-1-9-1

"Board" defined

Sec. 1. As used in this chapter, "board" means any of the following:

- (1) Board of chiropractic examiners (IC 25-10-1).
- (2) State board of dentistry (IC 25-14-1).
- (3) Indiana state board of health facility administrators (IC 25-19-1).
- (4) Medical licensing board of Indiana (IC 25-22.5-2).
- (5) Indiana state board of nursing (IC 25-23-1).
- (6) Indiana optometry board (IC 25-24).
- (7) Indiana board of pharmacy (IC 25-26).
- (8) Board of podiatric medicine (IC 25-29-2-1).
- (9) Board of environmental health specialists (IC 25-32).
- (10) Speech-language pathology and audiology board (IC 25-35.6-2).
- (11) State psychology board (IC 25-33).
- (12) Indiana board of veterinary medical examiners (IC 25-38.1-2).
- (13) Indiana physical therapy committee (IC 25-27-1).
- (14) Respiratory care committee (IC 25-34.5).
- (15) Occupational therapy committee (IC 25-23.5).
- (16) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).
- (17) Physician assistant committee (IC 25-27.5).
- (18) Indiana athletic trainers board (IC 25-5.1-2-1).
- (19) Indiana dietitians certification board (IC 25-14.5-2-1).
- (20) Indiana hypnotist committee (IC 25-20.5-1-7).

As added by P.L.152-1988, SEC.1. Amended by P.L.242-1989, SEC.7; P.L.238-1989, SEC.7; P.L.186-1990, SEC.7; P.L.48-1991, SEC.20; P.L.227-1993, SEC.7; P.L.33-1993, SEC.14; P.L.213-1993, SEC.4; P.L.1-1994, SEC.122; P.L.124-1994, SEC.6; P.L.175-1997, SEC.6; P.L.147-1997, SEC.10; P.L.84-1998, SEC.5; P.L.24-1999, SEC.6; P.L.2-2008, SEC.59.

IC 25-1-9-2

"Practitioner" defined

Sec. 2. As used in this chapter, "practitioner" means an individual who holds:

- (1) an unlimited license, certificate, or registration;
- (2) a limited or probationary license, certificate, or registration;
- (3) a temporary license, certificate, registration, or permit;
- (4) an intern permit; or
- (5) a provisional license;

issued by the board regulating the profession in question, including a certificate of registration issued under IC 25-20.

As added by P.L.152-1988, SEC.1.

IC 25-1-9-3

"License" defined

Sec. 3. As used in this chapter, "license" includes a license, certificate, registration, or permit.

As added by P.L.152-1988, SEC.1.

IC 25-1-9-3.5

"Sexual contact" defined

Sec. 3.5. As used in this chapter, "sexual contact" means:

- (1) sexual intercourse (as defined in IC 35-41-1-26);
- (2) deviate sexual conduct (as defined in IC 35-41-1-9); or
- (3) any fondling or touching intended to arouse or satisfy the sexual desires of either the

individual performing the fondling or touching or the individual being fondled or touched.
As added by P.L.200-2001, SEC.1.

IC 25-1-9-4

Standards of professional practice; findings required for sanctions; evidence of foreign discipline

Sec. 4. (a) A practitioner shall conduct the practitioner's practice in accordance with the standards established by the board regulating the profession in question and is subject to the exercise of the disciplinary sanctions under section 9 of this chapter if, after a hearing, the board finds:

- (1) a practitioner has:
 - (A) engaged in or knowingly cooperated in fraud or material deception in order to obtain a license to practice, including cheating on a licensing examination;
 - (B) engaged in fraud or material deception in the course of professional services or activities;
 - (C) advertised services in a false or misleading manner; or
 - (D) been convicted of a crime or assessed a civil penalty involving fraudulent billing practices, including fraud under:
 - (i) Medicaid (42 U.S.C. 1396 et seq.);
 - (ii) Medicare (42 U.S.C. 1395 et seq.);
 - (iii) the children's health insurance program under IC 12-17.6; or
 - (iv) insurance claims;
- (2) a practitioner has been convicted of a crime that:
 - (A) has a direct bearing on the practitioner's ability to continue to practice competently; or
 - (B) is harmful to the public;
- (3) a practitioner has knowingly violated any state statute or rule, or federal statute or regulation, regulating the profession in question;
- (4) a practitioner has continued to practice although the practitioner has become unfit to practice due to:
 - (A) professional incompetence that:
 - (i) may include the undertaking of professional activities that the practitioner is not qualified by training or experience to undertake; and
 - (ii) does not include activities performed under IC 16-21-2-9;
 - (B) failure to keep abreast of current professional theory or practice;
 - (C) physical or mental disability; or
 - (D) addiction to, abuse of, or severe dependency upon alcohol or other drugs that endanger the public by impairing a practitioner's ability to practice safely;
- (5) a practitioner has engaged in a course of lewd or immoral conduct in connection with the delivery of services to the public;
- (6) a practitioner has allowed the practitioner's name or a license issued under this chapter to be used in connection with an individual who renders services beyond the scope of that individual's training, experience, or competence;
- (7) a practitioner has had disciplinary action taken against the practitioner or the practitioner's license to practice in any state or jurisdiction on grounds similar to those under this chapter;
- (8) a practitioner has diverted:
 - (A) a legend drug (as defined in IC 16-18-2-199); or
 - (B) any other drug or device issued under a drug order (as defined in IC 16-42-19-3) for another person;
- (9) a practitioner, except as otherwise provided by law, has knowingly prescribed, sold, or administered any drug classified as a narcotic, addicting, or dangerous drug to a habitue or addict;
- (10) a practitioner has failed to comply with an order imposing a sanction under section 9 of this chapter;
- (11) a practitioner has engaged in sexual contact with a patient under the practitioner's care or has used the practitioner-patient relationship to solicit sexual contact with a patient under the

practitioner's care;

(12) a practitioner who is a participating provider of a health maintenance organization has knowingly collected or attempted to collect from a subscriber or enrollee of the health maintenance organization any sums that are owed by the health maintenance organization; or

(13) a practitioner has assisted another person in committing an act that would be grounds for disciplinary sanctions under this chapter.

(b) A practitioner who provides health care services to the practitioner's spouse is not subject to disciplinary action under subsection (a)(11).

(c) A certified copy of the record of disciplinary action is conclusive evidence of the other jurisdiction's disciplinary action under subsection (a)(7).

As added by P.L.152-1988, SEC.1. Amended by P.L.2-1993, SEC.136; P.L.149-1997, SEC.7; P.L.22-1999, SEC.4; P.L.200-2001, SEC.2; P.L.203-2001, SEC.3; P.L.1-2002, SEC.96; P.L.197-2007,

SEC.22.

IC 25-1-9-5

Optometry employment practice

Sec. 5. In addition to section 4 of this chapter, a practitioner licensed to practice optometry is subject to the exercise of disciplinary sanctions under section 9 of this chapter if, after a hearing, the board finds a practitioner has accepted employment to practice optometry from a person other than:

(1) a corporation formed by an optometrist under IC 23-1.5; or

(2) an individual who is licensed as an optometrist under this article and whose legal residence is in Indiana.

As added by P.L.152-1988, SEC.1.

IC 25-1-9-6

Veterinary practitioners; cruelty to animals

Sec. 6. In addition to section 4 of this chapter, a practitioner licensed to practice veterinary medicine or registered as a veterinary technician is subject to the exercise of the disciplinary sanctions under section 9 of this chapter if, after a hearing, the board finds a practitioner has engaged in cruelty to animals.

As added by P.L.152-1988, SEC.1.

IC 25-1-9-6.5

Chiropractors; waiver of deductible or copayment

Sec. 6.5. (a) In addition to section 4 of this chapter, a practitioner licensed to practice chiropractic is subject to the exercise of the disciplinary sanctions under section 9 of this chapter if, after a hearing, the board regulating the profession finds a practitioner has:

(1) waived a payment of a deductible or a copayment required to be made to the practitioner by a patient under the patient's insurance or health care plan; and

(2) advertised the waiver of a payment described in subdivision (1).

(b) This section does not apply to the waiver of a deductible or a copayment by a practitioner if:

(1) the practitioner determines chiropractic service is necessary for the immediate health and welfare of a patient;

(2) the practitioner determines the payment of a deductible or a copayment would create a substantial financial hardship for the patient; and

(3) the waiver is based on the evaluation of the individual patient and is not a regular business practice of the practitioner.

As added by P.L.151-1989, SEC.9.

IC 25-1-9-6.7

Marriage and family therapists; disciplinary sanctions

Sec. 6.7. In addition to the actions listed under section 4 of this chapter that subject a

practitioner to the exercise of disciplinary sanctions, a practitioner who is licensed under IC 25-23.6 is subject

to the exercise of disciplinary sanctions under section 9 of this chapter if, after a hearing, the board regulating the profession finds that the practitioner has:

(1) performed any therapy that, by the prevailing standards of the mental health professions in the community where the services were provided, would constitute experimentation on human subjects, without first obtaining full, informed, and written consent;

(2) failed to meet the minimum standards of performance in professional activities when measured against generally prevailing peer performance in professional activities, including the undertaking of activities that the practitioner is not qualified by training or experience to undertake;

(3) performed services, including any duties required of the individual under IC 31, in reckless disregard of the best interests of a patient, a client, or the public;

(4) without the consent of the child's parent, guardian, or custodian, knowingly participated in the child's removal or precipitated others to remove a child from the child's home unless:

(A) the child's physical health was endangered due to injury as a result of the act or omission of the child's parent, guardian, or custodian;

(B) the child had been or was in danger of being a victim of an offense under IC 35-42-4, IC 35-45-4-1, IC 35-45-4-2, IC 35-46-1-3, IC 35-49-2-2, or IC 35-49-3-2; or

(C) the child was in danger of serious bodily harm as a result of the inability, refusal, or neglect of the child's parent, guardian, or custodian to supply the child with necessary food, shelter, or medical care, and a court order was first obtained;

(5) willfully made or filed a false report or record, failed to file a report or record required by law, willfully impeded or obstructed the filing of a report or record, or induced another individual to:

(A) make or file a false report or record; or

(B) impede or obstruct the filing of a report or record; or

(6) performed a diagnosis (as defined in IC 25-22.5-1-1.1(c));

(7) provided evidence in an administrative or judicial proceeding that had insufficient factual basis for the conclusions rendered by the practitioner;

(8) willfully planted in the mind of the patient suggestions that are not based in facts known to the practitioner; or

(9) performed services outside of the scope of practice of the license issued under IC 25-23.6. *As added by P.L.147-1997, SEC.11. Amended by P.L.2-1998, SEC.65.*

IC 25-1-9-6.8

Practitioner guidelines before prescribing stimulant medication for

a child for treatment of certain disorders

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 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.

As added by P.L.107-2002, SEC.28.

IC 25-1-9-6.9

Failing to provide or providing false information to agency

Sec. 6.9. In addition to the actions listed under section 4 of this chapter that subject a practitioner to disciplinary sanctions, a practitioner is subject to the exercise of disciplinary sanctions under section 9 of this chapter if, after a hearing, the board finds that the practitioner

has:

- (1) failed to provide information requested by the Indiana professional licensing agency; or
 - (2) knowingly provided false information to the Indiana professional licensing agency;
- for a provider profile required under IC 25-1-5-10.

As added by P.L.211-2001, SEC.2. Amended by P.L.206-2005, SEC.14.

IC 25-1-9-7

Physical or mental examination; power to require

Sec. 7. The board may order a practitioner to submit to a reasonable physical or mental examination, at the practitioner's own expense, if the practitioner's physical or mental capacity to practice safely is at issue in a disciplinary proceeding.

As added by P.L.152-1988, SEC.1. Amended by P.L.158-2003, SEC.2.

IC 25-1-9-8

Failure to submit to physical or mental examination; sanctions

Sec. 8. Failure to comply with a board order to submit to a physical or mental examination makes a practitioner liable to summary suspension under section 10 of this chapter.

As added by P.L.152-1988, SEC.1.

IC 25-1-9-9

Disciplinary sanctions

Sec. 9. (a) The board may impose any of the following sanctions, singly or in combination, if it finds that a practitioner is subject to disciplinary sanctions under section 4, 5, 6, 6.7, or 6.9 of this chapter or IC 25-1-5-4:

- (1) Permanently revoke a practitioner's license.
- (2) Suspend a practitioner's license.
- (3) Censure a practitioner.
- (4) Issue a letter of reprimand.
- (5) Place a practitioner on probation status and require the practitioner to:
 - (A) report regularly to the board upon the matters that are the basis of probation;
 - (B) limit practice to those areas prescribed by the board;
 - (C) continue or renew professional education under a preceptor, or as otherwise directed or approved by the board, until a satisfactory degree of skill has been attained in those areas that are the basis of the probation; or
 - (D) perform or refrain from performing any acts, including community restitution or service without compensation, that the board considers appropriate to the public interest or to the rehabilitation or treatment of the practitioner.

(6) Assess a fine against the practitioner in an amount not to exceed one thousand dollars (\$1,000) for each violation listed in section 4 of this chapter, except for a finding of incompetency due to a physical or mental disability. When imposing a fine, the board shall consider a practitioner's ability to pay the amount assessed. If the practitioner fails to pay the fine within the time specified by the board, the board may suspend the practitioner's license without additional proceedings. However, a suspension may not be imposed if the sole basis for the suspension is the practitioner's inability to pay a fine.

(b) The board may withdraw or modify the probation under subsection (a)(5) if it finds, after a hearing, that the deficiency that required disciplinary action has been remedied, or that changed circumstances warrant a modification of the order.

As added by P.L.152-1988, SEC.1. Amended by P.L.48-1991, SEC.21; P.L.22-1999, SEC.5; P.L.32-2000, SEC.10; P.L.211-2001, SEC.3.

IC 25-1-9-10

Summary license suspension pending final adjudication; notice; opportunity to be heard

Sec. 10. (a) The board may summarily suspend a practitioner's license for ninety (90) days before a final adjudication or during the appeals process if the board finds that a practitioner

represents a clear and immediate danger to the public health and safety if the practitioner is allowed to continue to practice. The summary suspension may be renewed upon a hearing before the board, and each renewal may be for ninety (90) days or less.

(b) Before the board may summarily suspend a license that has been issued under IC 25-22.5, IC 25-38.1, or IC 25-14, the consumer protection division of the attorney general's office shall make a reasonable attempt to notify a practitioner of a hearing by the board to suspend a practitioner's license and of information regarding the allegation against the practitioner. The consumer protection division of the attorney general's office shall also notify the practitioner that the practitioner may provide a written or an oral statement to the board on the practitioner's behalf before the board issues an order for summary suspension. A reasonable attempt to reach the practitioner is made if the consumer protection division of the attorney general's office attempts to reach the practitioner by telephone or facsimile at the last telephone number of the practitioner on file with the board.

(c) After a reasonable attempt is made to notify a practitioner under subsection (b):

(1) a court may not stay or vacate a summary suspension of a practitioner's license for the sole reason that the practitioner was not notified; and

(2) the practitioner may not petition the board for a delay of the summary suspension proceedings.

As added by P.L.152-1988, SEC.1. Amended by P.L.43-1995, SEC.2; P.L.71-2000, SEC.18; P.L.2-2008, SEC.60.

IC 25-1-9-10.1

Retention of clinical consultants and experts to advise on suspension

Sec. 10.1. The attorney general may retain the services of a clinical consultant or an expert to provide the attorney general with advice concerning the acts that are the subject of a suspension under this chapter.

As added by P.L.43-1995, SEC.3.

IC 25-1-9-11

Reinstatement of suspended licenses

Sec. 11. The board may reinstate a license which has been suspended under this chapter if, after a hearing, the board is satisfied that the applicant is able to practice with reasonable skill and safety to the public. As a condition of reinstatement, the board may impose disciplinary or corrective measures authorized under this chapter.

As added by P.L.152-1988, SEC.1.

IC 25-1-9-12

Reinstatement of revoked license

Sec. 12. The board may not reinstate a license that has been revoked under this chapter. An individual whose license has been revoked under this chapter may not apply for a new license until seven (7) years after the date of revocation.

As added by P.L.152-1988, SEC.1.

IC 25-1-9-13

Consistency of sanctions prescribed

Sec. 13. The board shall seek to achieve consistency in the application of the sanctions authorized in this section. Significant departures from prior decisions involving similar conduct must be explained in the board's findings or orders.

As added by P.L.152-1988, SEC.1.

IC 25-1-9-14

Surrender of practitioners license instead of hearing; approval

Sec. 14. A practitioner may petition the board to accept the surrender of the practitioner's

license instead of a hearing before the board. The practitioner may not surrender the practitioner's license without the written approval of the board, and the board may impose any conditions appropriate to the surrender or reinstatement of a surrendered license.

As added by P.L.152-1988, SEC.1.

IC 25-1-9-15

Costs in disciplinary proceedings

Sec. 15. Practitioners who have been subjected to disciplinary sanctions may be required by a board to pay for the costs of the proceeding. The practitioner's ability to pay shall be considered when costs are assessed. If the practitioner fails to pay the costs, a suspension may not be imposed solely upon the practitioner's inability to pay the amount assessed. These costs are limited to costs for the following:

- (1) Court reporters.
- (2) Transcripts.
- (3) Certification of documents.
- (4) Photoduplication.
- (5) Witness attendance and mileage fees.
- (6) Postage.
- (7) Expert witnesses.
- (8) Depositions.
- (9) Notarizations.
- (10) Administrative law judges.

As added by P.L.152-1988, SEC.1. Amended by P.L.158-2003, SEC.3.

IC 25-1-9-16

Refusal of licensure or grant of probationary license

Sec. 16. (a) The board may refuse to issue a license or may issue a probationary license to an applicant for licensure if:

(1) the applicant has been disciplined by a licensing entity of any state or jurisdiction, or has committed an act that would have subjected the applicant to the disciplinary process had the applicant been licensed in Indiana when the act occurred; and

(2) the violation for which the applicant was, or could have been, disciplined has a direct bearing on the applicant's ability to competently practice in Indiana.

(b) The board may:

- (1) refuse to issue a license; or
- (2) issue a probationary license;

to an applicant for licensure if the applicant practiced without a license in violation of the law.

(c) Whenever the board issues a probationary license, the board may impose one (1) or more of the following conditions:

(1) Report regularly to the board upon the matters that are the basis of the discipline of the other state or jurisdiction.

(2) Limit practice to those areas prescribed by the board.

(3) Continue or renew professional education.

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

(5) Perform or refrain from performing an act that the board considers appropriate to the public interest or to the rehabilitation or treatment of the applicant.

(d) The board shall remove any limitations placed on a probationary license under this section if the board finds after a hearing that the deficiency that required disciplinary action has been remedied.

As added by P.L.33-1993, SEC.15. Amended by P.L.32-2000, SEC.11; P.L.197-2007, SEC.23.

IC 25-1-9-17

Applicant appearance before board or controlled substances advisory committee

Sec. 17. The board and the controlled substances advisory committee (IC 35-48-2-1) may require an applicant for licensure to appear before the board or committee before issuing a license. *As added by P.L.33-1993, SEC.16.*

IC 25-1-9-18

Fitness determination of health care provider; filing complaint

Sec. 18. (a) If the insurance commissioner forwards to the board the name of a practitioner under IC 34-18-9-4(a) (or IC 27-12-9-4(a) before its repeal), the board shall consider whether:

- (1) the practitioner has become unfit to practice under section 4 of this chapter; and
- (2) a complaint should be filed under IC 25-1-7-4.

(b) If the board determines that a complaint should be filed under subsection (a), the board must report to the consumer protection division whether the board will schedule the matter:

- (1) for informal negotiation under IC 25-1-7-6;
- (2) on the board's agenda for a vote requesting that the attorney general prosecute the matter before the board under IC 25-1-7-7; or
- (3) on the board's agenda for a vote on summary suspension of the practitioner's license pending prosecution of the matter before the board under IC 25-1-7-7.

(c) A board may designate a board member or staff member to act

on behalf of the board under this section.

As added by P.L.43-1995, SEC.4. Amended by P.L.1-1998, SEC.131.

IC 25-1-9-19

Third party billing notice

Sec. 19. A practitioner that provides to a patient notice concerning a third party billing for a health care service provided to the patient shall ensure that the notice:

- (1) conspicuously states that the notice is not a bill;
- (2) does not include a tear-off portion; and
- (3) is not accompanied by a return mailing envelope.

As added by P.L.178-2003, SEC.12.

IC 25-1-9-20

Authority to adopt rules

Sec. 20. The board may adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, to establish procedures to expedite the issuance or renewal of a:

- (1) license;
- (2) certificate;
- (3) registration; or
- (4) permit;

of a person whose spouse serves on active duty (as defined in IC 25-1-12-2) and is assigned to a duty station in Indiana.

As added by P.L.144-2007, SEC.25.

IC 16-28-13

Chapter 13. Criminal History of Nurse Aides and Other Unlicensed Employees

IC 16-28-13-0.5

"Health care facility" defined

Sec. 0.5. As used in this chapter, "health care facility" includes the following:

- (1) An ambulatory outpatient surgical center licensed under IC 16-21-2.
- (2) A health facility licensed under IC 16-28-2 or IC 16-28-3.
- (3) A home health agency licensed under IC 16-27-1.
- (4) A hospice program licensed under IC 16-25-3.
- (5) A hospital licensed under IC 16-21-2.

As added by P.L.108-1999, SEC.3. Amended by P.L.14-2000, SEC.44.

IC 16-28-13-1

"Nurse aide" defined

Sec. 1. (a) As used in this chapter, "nurse aide" means an individual who provides nursing or nursing related services to residents in the following:

(1) A health facility.

(2) A hospital based health facility.

(3) An ambulatory outpatient surgical center licensed under IC 16-21-2. Under this subdivision, the term applies to an individual who was employed by the center after July 1, 1999.

(4) A home health agency licensed under IC 16-27-1. Under this subdivision, the term applies to an individual who was employed by the agency after July 1, 1999.

(5) A hospice program licensed under IC 16-25-3. Under this subdivision, the term applies to an individual who was employed by the program after July 1, 1999.

(6) A hospital licensed under IC 16-21-2. Under this subdivision, the term applies to an individual who was employed by the hospital after July 1, 1999.

(b) The term does not include the following:

(1) A licensed health professional (as defined in IC 25-1-9-3).

(2) A registered dietician.

(3) An individual who volunteers to provide nursing or nursing related services without pay.

As added by P.L.152-1995, SEC.18. Amended by P.L.108-1999, SEC.4; P.L.14-2000, SEC.45.

IC 16-28-13-2

"Other unlicensed employee" defined

Sec. 2. (a) As used in this chapter, "other unlicensed employee" means:

(1) an employee of a health facility;

(2) a hospital based health facility; or

(3) a personal services attendant (as defined in IC 12-10-17.1-8);
who is not licensed (as defined in IC 25-1-9-3) by a board (as defined in IC 25-1-9-1).

(b) The term does not include an employee of an ambulatory outpatient surgical center, a home health agency, a hospice program, or a hospital that is not licensed (as defined in IC 25-1-9-3) by a board (as defined in IC 25-1-9-1).

As added by P.L.152-1995, SEC.18. Amended by P.L.108-1999, SEC.5; P.L.255-2001, SEC.16; P.L.141-2006, SEC.85.

IC 16-28-13-3

Crimes barring employment at certain health care facilities

Sec. 3. (a) A health care facility or an entity in the business of contracting to provide nurse aides or other unlicensed employees for a health care facility may not knowingly employ a person as a nurse aide or other unlicensed employee if one (1) or more of the following conditions exist:

(1) The person has been convicted of any of the following:

(A) A sex crime (IC 35-42-4).

(B) Exploitation of an endangered adult (IC 35-46-1-12).

(C) Failure to report battery, neglect, or exploitation of an endangered adult (IC 35-46-1-13).

(D) Theft (IC 35-43-4), if the person's conviction for theft occurred less than five (5) years before the individual's employment application date, except as provided in IC 16-27-2-5(a)(5).

(E) Murder (IC 35-42-1-1).

(F) Voluntary manslaughter (IC 35-42-1-3).

(G) Involuntary manslaughter (IC 35-42-1-4) within the previous five (5) years.

(H) Felony battery within the previous five (5) years.

(I) A felony offense relating to controlled substances within the previous five (5) years.

(2) The person:

(A) has abused, neglected, or mistreated a patient or misappropriated a patient's property;
and

(B) had a finding entered into the state nurse aide registry.

(b) A person who knowingly or intentionally applies for a job as a nurse aide or other unlicensed employee at:

(1) a health care facility; or

(2) an entity in the business of contracting to provide nurse aides or other unlicensed employees for a health care facility;

after a conviction of one (1) or more of the offenses listed in subsection (a)(1) commits a Class A infraction.

As added by P.L.152-1995, SEC.18. Amended by P.L.147-1996, SEC.1; P.L.108-1999, SEC.6.

IC 16-28-13-4

Operator of health care facility; request for nurse aide registry

report and limited criminal history

Sec. 4. (a) Except as provided in subsection (b), a person who:

(1) operates or administers a health care facility; or

(2) operates an entity in the business of contracting to provide nurse aides or other unlicensed employees for a health care facility;

shall apply within three (3) business days from the date a person is employed as a nurse aide or other unlicensed employee for a copy of the person's state nurse aide registry report from the state department and a limited criminal history from the Indiana central repository for criminal history information under IC 10-13-3 or another source allowed by law.

(b) A health care facility is not required to apply for the state nurse aide registry report and limited criminal history required by subsection (a) if the health care facility contracts to use the services of a nurse aide or other unlicensed employee who is employed by an entity in the business of contracting to provide nurse aides or other unlicensed employees to health care facilities.

As added by P.L.152-1995, SEC.18. Amended by P.L.147-1996, SEC.2; P.L.108-1999, SEC.7; P.L.2-2003, SEC.51.

IC 16-28-13-5

Operator of health care facility; prohibition from employing person with certain convictions

Sec. 5. A person who:

(1) operates or administers a health care facility; or

(2) operates an entity in the business of contracting to provide nurse aides or other unlicensed employees for a health care facility;

may not employ a person as a nurse aide or other unlicensed employee after receipt of the person's state nurse aide registry report if that person's report indicates that the person committed an offense under section (3)(a)(2) of this chapter and has been placed on the state nurse aide registry, or after receipt of the limited criminal history if that person's limited criminal history indicates that the person has been convicted of any of the offenses described in section 3(a)(1) of this chapter.

As added by P.L.152-1995, SEC.18. Amended by P.L.147-1996, SEC.3; P.L.108-1999, SEC.8.

IC 16-28-13-6

Operator of health care facility; fees for request of registry report and criminal history

Sec. 6. (a) A person who:

(1) operates or administers a health care facility; or

(2) operates an entity in the business of contracting to provide nurse aides or other unlicensed employees for a health care facility;

is responsible for the payment of fees under IC 10-13-3-30 and other fees required to process a state nurse aide registry report and a limited criminal history under section 4 of this chapter.

(b) A health care facility or an entity in the business of contracting to provide nurse aides or other unlicensed employees for a health care facility may require a person who applies to the health care facility or entity for employment as a nurse aide or other unlicensed employee:

(1) to pay the cost of fees described in subsection (a) to the health care facility or entity at the time the person submits an application for employment; or

(2) to reimburse the health care facility or entity for the cost of fees described in subsection (a).

As added by P.L.152-1995, SEC.18. Amended by P.L.147-1996, SEC.4; P.L.108-1999, SEC.9; P.L.2-2003, SEC.52.

IC 16-28-13-7

Applicability of chapter

Sec. 7. The application of this chapter to a health care facility or an entity in the business of contracting to provide nurse aides or other unlicensed employees for a health care facility is limited to an individual:

(1) who is employed by:

(A) a health care facility; or

(B) an entity in the business of contracting to provide nurse aides or other unlicensed employees for a health care facility; and

(2) whose employment or responsibilities are limited to activities primarily performed within a health care facility.

As added by P.L.152-1995, SEC.18. Amended by P.L.147-1996, SEC.5; P.L.108-1999, SEC.10; P.L.1-2002, SEC.73; P.L.1-2007, SEC.134.

IC 16-28-13-8

Rights of individuals denied or dismissed from employment

Sec. 8. An individual who is denied employment or dismissed from employment under this chapter:

(1) does not have a cause of action;

(2) is not eligible for unemployment compensation;

(3) does not acquire the rights of an unemployed individual; and

(4) does not have other rights under IC 22;

as a result of the denial or dismissal.

As added by P.L.152-1995, SEC.18.

IC 16-28-13-9

Immunity from civil and criminal liability

Sec. 9. A person, other than a person denied employment or dismissed under this chapter or against whom a finding is made for the nurse aide registry under 42 CFR 483.156, who in good faith:

(1) denies employment to an individual or dismisses an individual from employment under this chapter;

(2) testifies or participates in an investigation or an

administrative or a judicial proceeding arising from:

(A) this chapter; or

(B) 42 CFR 483 regarding the nurse aide registry; or

(3) makes a report to the state department or the nurse aide registry;

is immune from both civil and criminal liability arising from those actions.

As added by P.L.152-1995, SEC.18.

IC 16-28-13-10

Operator of health care facility; intentional violation of chapter

Sec. 10. A person:

(1) who:

(A) operates or administers a health care facility; or

(B) operates an entity in the business of contracting to provide nurse aides or other unlicensed employees for a health care facility; and

(2) who knowingly or intentionally violates section 4 or 5 of this chapter;

commits a Class A infraction.

As added by P.L.152-1995, SEC.18. Amended by P.L.147-1996, SEC.6; P.L.108-1999, SEC.11.

IC 16-28-13-11

Personnel record; providing limited criminal history

Sec. 11. (a) Each:

(1) health care facility; and

(2) entity in the business of contracting to provide nurse aides or other unlicensed employees for a health care facility;

shall maintain a personnel record for each nurse aide and other unlicensed employee employed by the health care facility or entity that includes the nurse aide's or other unlicensed employee's state nurse aide registry report and limited criminal history required by section 4 of this chapter.

(b) The personnel records of each health care facility shall be available for inspection by the state department to assure compliance with this chapter.

(c) An entity in the business of contracting to provide nurse aides or other unlicensed employees to health care facilities shall provide a copy of the state nurse aide registry report and limited criminal history obtained under section 4 of this chapter to each health care facility to which the entity provides a nurse aide or other unlicensed employee. If the entity fails to provide a copy of the state nurse aide registry report and limited criminal history to a health care facility, the health care facility is not in violation of this chapter.

As added by P.L.152-1995, SEC.18. Amended by P.L.147-1996, SEC.7; P.L.108-1999, SEC.12.

IC 16-28-13-12

Health care facility to report convictions of employees

Sec. 12. If a health care facility has knowledge of a conviction of an employee of the health care facility that would indicate unfitness for service as a nurse aide, other unlicensed employee, or other health care professional (as defined by IC 16-27-2-1), the health care facility shall report the information to the state nurse aide registry or the appropriate licensing authority.

As added by P.L.108-1999, SEC.13.

IC 16-28-13-13

Rules

Sec. 13. The state department may adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.108-1999, SEC.14.