



February 16, 2018

ENGROSSED HOUSE BILL No. 1116

DIGEST OF HB 1116 (Updated February 15, 2018 10:53 am - DI 84)

Citations Affected: IC 25-13.

Synopsis: Dental hygienist access practice agreements. Allows a dental hygienist to practice dental hygiene in a location and without supervision under an access practice agreement with an access practice dentist. Specifies the requirements to provide dental hygiene services under an access practice agreement. Requires an access practice dentist to be available to provide emergency communication and consultation with the dental hygienist. Establishes record keeping requirements. Requires a dental hygienist who provides services under an access practice agreement to maintain malpractice liability insurance. Requires a signed consent form before providing services under an access practice agreement. Requires that certain written information be provided to the patient or the parent or legal guardian of the patient after providing dental hygiene services. Requires patient records to be transferred to the access practice dentist when an access practice agreement is terminated.

Effective: July 1, 2018.

Frizzell, Zent, Shackelford, Bacon

(SENATE SPONSORS — LEISING, CHARBONNEAU)

January 4, 2018, read first time and referred to Committee on Public Health.

January 18, 2018, amended, reported — Do Pass.

January 22, 2018, read second time, ordered engrossed. Engrossed.

January 25, 2018, read third time, passed. Yeas 92, nays 0.

SENATE ACTION

February 1, 2018, read first time and referred to Committee on Commerce and Technology.

February 15, 2018, reported favorably — Do Pass.

EH 1116—LS 6178/DI 77



February 16, 2018

Second Regular Session of the 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1116

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 25-13-1-10, AS AMENDED BY P.L.140-2015,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2018]: Sec. 10. (a) A licensed dental hygienist may practice
4 dental hygiene in Indiana in the following:
5 (1) A dental office, clinical setting, or health facility where the
6 dental hygienist is practicing under the direct supervision or
7 prescriptive supervision of a licensed dentist.
8 (2) A dental school or dental hygiene school to teach and
9 demonstrate the practice of dental hygiene if direct supervision by
10 a licensed dentist is provided for training on providing local
11 anesthetics by injection.
12 (3) The dental clinic of any public, parochial, or private school or
13 other institution supported by public or private funds in which the
14 licensee is employed by the state department of health or any
15 county or city board of health or board of education or school
16 trustee or parochial authority or the governing body of any private
17 school where the dental hygienist is practicing under the direct or

EH 1116—LS 6178/DI 77



1 prescriptive supervision of a licensed dentist.

2 (4) The dental clinic of a bona fide hospital, sanitarium, or
 3 charitable institution duly established and being operated under
 4 the laws of Indiana in which the licensee is employed by the
 5 directors or governing board of such hospital, sanitarium, or
 6 institution. However, such practice must be under the direct or
 7 prescriptive supervision at all times of a licensed dentist who is
 8 a staff member of the hospital or sanitarium or a member of the
 9 governing board of the institution.

10 (5) A:

11 (A) fixed charitable dental care clinic;

12 (B) public health setting;

13 (C) correctional institution; or

14 (D) location other than one described in clauses (A) through

15 (C);

16 that has been approved by the board and where the dental
 17 hygienist is under the direct or prescriptive supervision of a
 18 licensed dentist.

19 **(6) Settings, other than a private dental practice, allowed**
 20 **under an access practice agreement that complies with the**
 21 **requirements under IC 25-13-3.**

22 (b) A licensed dental hygienist may provide without supervision the
 23 following:

24 (1) Dental hygiene instruction and in-service training without
 25 restriction on location.

26 (2) Screening and referrals for any person in a public health
 27 setting.

28 **(3) Dental hygiene services under an access practice**
 29 **agreement that complies with the requirements under**
 30 **IC 25-13-3.**

31 (c) A dental hygienist may not use a laser to cut, ablate, or cauterize
 32 hard or soft tissue to provide treatment to a patient.

33 (d) The board may adopt rules under IC 4-22-2 concerning
 34 subsection (a)(5)(D).

35 (e) If a dental hygienist practices under the prescriptive supervision
 36 of a licensed dentist, the dentist's written order must be recorded,
 37 signed, and dated in the patient's records.

38 (f) Before October 1, 2017, the board, with assistance from the
 39 professional licensing agency, shall report to the legislative council in
 40 an electronic format under IC 5-14-6 on the effectiveness of the
 41 prescriptive supervision laws and rules and any changes that are
 42 needed in the law concerning prescriptive supervision. This subsection



1 expires December 31, 2017.

2 SECTION 2. IC 25-13-3 IS ADDED TO THE INDIANA CODE AS
3 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
4 1, 2018]:

5 **Chapter 3. Access Practice Agreements**

6 **Sec. 1. The definitions in IC 25-13-1-2 apply to this chapter.**

7 **Sec. 2. As used in this chapter, "access practice agreement"**
8 **means an agreement that:**

- 9 (1) is entered into by a licensed dentist and a dental hygienist
10 that allows the dental hygienist to provide preventive dental
11 hygiene services directly to a patient; and
12 (2) complies with the requirements of this chapter.

13 **Sec. 3. As used in this chapter, "access practice dentist" means**
14 **a licensed dentist who is licensed under IC 25-14 and has entered**
15 **into an access practice agreement under this chapter with a dental**
16 **hygienist.**

17 **Sec. 4. This chapter does not allow a dental hygienist to provide**
18 **services specifically prohibited in the access practice agreement.**

19 **Sec. 5. (a) A dental hygienist who meets the following**
20 **requirements may provide preventive dental hygiene services**
21 **directly to a patient without a prior examination, presence, or**
22 **authorization of the access practice dentist:**

- 23 (1) The dental hygienist is licensed under IC 25-13-1.
24 (2) The dental hygienist has at least two thousand (2,000)
25 documented clinical hours of dental hygiene services during
26 two (2) years of active practice under the direct supervision of
27 a dentist.
28 (3) The dental hygienist obtains and maintains a national
29 provider identifier number.
30 (4) The dental hygienist has entered into an access practice
31 agreement that meets the requirements under section 6 of this
32 chapter with a licensed dentist.
33 (5) The dental hygienist maintains liability insurance that
34 meets the requirements under section 10 of this chapter.
35 (6) Before providing dental hygiene services to a patient under
36 an access practice agreement, the dental hygienist has
37 obtained a signed consent form that includes the information
38 under section 11 of this chapter.
39 (7) The dental hygienist has met any other requirements of
40 this chapter.

41 (b) A dental hygienist who meets the requirements under
42 subsection (a) and has provided preventive dental hygiene services



1 directly to a patient under an access practice agreement may not
2 perform subsequent therapeutic procedures on the patient under
3 an access practice agreement until after the access practice dentist
4 has performed a clinical evaluation of the patient.

5 Sec. 6. (a) An access practice agreement between a dental
6 hygienist and an access practice dentist must meet the following
7 requirements:

8 (1) The access practice agreement must be in writing, dated,
9 and signed by the dental hygienist, the access practice dentist,
10 and a representative of the setting where the access practice
11 services will be performed.

12 (2) The access practice agreement must contain protocols
13 prepared by the access practice dentist and dental hygienist
14 to be used by the dental hygienist when treating patients.

15 (3) The access practice agreement must be reviewed by the
16 dental hygienist and access practice dentist at least every two
17 (2) years and signed and dated when the agreement is
18 reviewed.

19 (b) The dental hygienist and access practice dentist must do the
20 following:

21 (1) Maintain a copy of the access practice agreement while the
22 agreement is active and for two (2) years after cessation of the
23 access practice agreement.

24 (2) Provide a copy of the access practice agreement to the
25 board upon request.

26 Sec. 7. (a) If needed, a dental hygienist shall obtain signed
27 release of information forms allowing the dental hygienist to access
28 the patient's medical and dental records.

29 (b) A dental hygienist may use or supervise a dental assistant
30 while providing services under an access practice agreement.
31 However, the dental assistant may not provide direct clinical
32 services to a patient.

33 Sec. 8. An access practice dentist shall reside in the county or
34 adjacent county and be available to provide emergency
35 communication and consultation with the dental hygienist who is
36 providing services under an access practice agreement. The access
37 practice dentist shall appoint another licensed dentist in case the
38 access practice dentist cannot be contacted for emergency
39 communication and consultation.

40 Sec. 9. (a) An access practice dentist shall maintain the records
41 of the patients who are treated under an access practice agreement.
42 If another licensed dentist provides follow-up treatment, the access



1 practice dentist shall transfer the records to the licensed dentist.
2 The patient's records must be maintained for the period required
3 under IC 16-39-7.

4 (b) An access practice dentist and dental hygienist shall use
5 electronic charting to create and maintain the records of the
6 patients who are treated under an access practice agreement.

7 Sec. 10. A dental hygienist who provides services under an
8 access practice agreement shall maintain malpractice liability
9 insurance.

10 Sec. 11. (a) A dental hygienist must obtain a signed consent form
11 before providing dental hygiene services under an access practice
12 agreement. The consent form must be signed by:

13 (1) the patient; or

14 (2) a parent or legal guardian of the patient if the patient is a
15 minor or is an incapacitated person.

16 (b) A copy of the signed consent form must be provided to the
17 patient or the parent or legal guardian of the patient.

18 Sec. 12. (a) After providing dental hygiene services to a patient,
19 the dental hygienist shall provide the patient or the parent or legal
20 guardian of the patient with the following written information:

21 (1) Complete contact information, including the name,
22 telephone number, and license number, of the dental hygienist
23 who provided the services.

24 (2) Emergency contact information of the dental hygienist and
25 the access practice dentist and any necessary protocols in the
26 event of emergency.

27 (3) A list of the treatment provided, including, when
28 applicable, billing codes, fees, and tooth numbers.

29 (4) A description of any further treatment that is needed or
30 recommended.

31 (5) A statement that includes the following:

32 (A) The patient may choose to have dental services at a
33 location where dental care is not normally provided.

34 (B) Dental hygiene services do not include a comprehensive
35 dental examination.

36 (b) The access practice dental hygienist must recommend that
37 the patient see a dentist and provide a list of at least three (3)
38 dentists for comprehensive dental care. The list must include the
39 access practice dentist.

40 Sec. 13. A dental hygienist may practice in any setting or facility
41 that is documented in the dental hygienist's access practice
42 agreement.



1 **Sec. 14. (a) Except as provided in subsection (b), the access**
2 **practice dentist or dental hygienist may terminate an access**
3 **practice agreement upon:**

4 **(1) providing thirty (30) days written notice to the other**
5 **party; and**

6 **(2) if applicable, transferring to the access practice dentist all**
7 **patient records subject to the access practice agreement.**

8 **(b) If an immediate termination of the dental hygienist's**
9 **employment takes place, all patient records subject to the access**
10 **practice agreement must be transferred to the access practice**
11 **dentist not more than one (1) business day after the immediate**
12 **termination.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1116, 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 3, line 14, delete "an employer" and insert "**a licensed**".

Page 3, line 32, delete "an employer" and insert "**a licensed**".

Page 4, line 17, delete "years." and insert "**years and signed and dated when the agreement is reviewed.**".

Page 5, line 33, delete "are not a comprehensive dental" and insert "**do not include a comprehensive dental examination.**".

Page 5, delete line 34.

and when so amended that said bill do pass.

(Reference is to HB 1116 as introduced.)

KIRCHHOFER

Committee Vote: yeas 11, nays 0.

 COMMITTEE REPORT

Madam President: The Senate Committee on Commerce and Technology, to which was referred House Bill No. 1116, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to HB 1116 as printed January 19, 2018.)

MESSMER, Chairperson

Committee Vote: Yeas 10, Nays 0

