



February 28, 2020

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# ENGROSSED HOUSE BILL No. 1326

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DIGEST OF HB 1326 (Updated February 26, 2020 2:04 pm - DI 104)

**Citations Affected:** IC 12-15; IC 12-21; IC 12-23; IC 12-29; IC 25-23.

**Synopsis:** Community mental health centers. Provides that: (1) licensed clinical social workers; (2) licensed mental health counselors; (3) licensed marriage and family therapists; and (4) licensed clinical addiction counselors; who have at least two years of experience in addiction treatment or hold an addiction credential are eligible supervisors for addiction based intensive outpatient treatments under Medicaid. Defines a community mental health center as a governmental unit for purposes of the required nonfederal share of medical assistance payments under Medicaid. Provides that a provider in an intensive outpatient treatment program is not required to be a licensed addictive counselor or clinical addiction counselor if specified conditions are met. Specifies that a recovery audit does not require  
(Continued next page)

**Effective:** July 1, 2020.

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## Kirchhofer, Fleming

(SENATE SPONSORS — CRIDER, BECKER)

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January 14, 2020, read first time and referred to Committee on Public Health.  
January 27, 2020, amended, reported — Do Pass.  
January 29, 2020, read second time, ordered engrossed. Engrossed.  
January 30, 2020, read third time, passed. Yeas 94, nays 0.

SENATE ACTION

February 13, 2020, read first time and referred to Committee on Health and Provider Services.  
February 27, 2020, amended, reported favorably — Do Pass.

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EH 1326—LS 7032/DI 123



## Digest Continued

documentation at the time of service for services provided in certain instances. Allows a supervising provider in a community mental health center to review documentation concerning: (1) a plan of treatment; or (2) specific treatment methods; not later than 30 days from the date of service. Sets forth requirements to demonstrate active treatment in developing a plan of treatment. Requires the division to provide best practice recommendations and to work with community mental health centers in a collaborative manner. Provides that documentation that is developed as part of an incident or death audit is confidential. Allows the division of mental health and addiction to grant a waiver of staffing requirements for community mental health center applicants. Requires a licensed clinical addiction counselor to be counted for certain staffing requirements of community mental health centers. Requires the division to develop a comprehensive appeals process under the mental health and addiction forensic treatment program not later than January 1, 2021. Provides advanced practice nurses with all of the supervisory rights and responsibilities of: (1) licensed physicians; and (2) health service provider in psychology (HSPP) psychologists; in certain instances if specified requirements are met.

**EH 1326—LS 7032/DI 123**



February 28, 2020

Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1326

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A BILL FOR AN ACT to amend the Indiana Code concerning human services.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 12-15-5-20 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2020]: **Sec. 20. (a) As used in this section, "intensive outpatient  
4 treatment program" means an organized treatment program that  
5 uses behavioral health professionals and clinicians in a group  
6 setting to provide multiple treatment service components for  
7 rehabilitation of alcohol and other substance use or dependency.  
8 The term includes:**  
9 (1) individual and family therapy;  
10 (2) group therapy;  
11 (3) skills training;  
12 (4) medication training and support;  
13 (5) peer recovery services;  
14 (6) care coordination;  
15 (7) counseling; and

EH 1326—LS 7032/DI 123



1 (8) other services, as determined by the division.

2 (b) If the office requires a supervisor for addiction based  
3 intensive outpatient treatment under this article, the following  
4 supervisors who either have at least two (2) years of experience in  
5 addiction treatment or hold an addiction credential, as determined  
6 by the division, are eligible supervisors:

7 (1) Licensed clinical social workers.

8 (2) Licensed mental health counselors.

9 (3) Licensed marriage and family therapists.

10 (4) Licensed clinical addiction counselors.

11 (c) The office may not require a direct service provider in an  
12 intensive outpatient treatment program to be a licensed addiction  
13 counselor or a licensed clinical addiction counselor. However, the  
14 direct service provider must, under the supervision of a clinician  
15 described in subsection (b), either:

16 (1) hold an addiction credential, as determined by the  
17 division; or

18 (2) have training and experience in addiction treatment, as  
19 determined by the division.

20 SECTION 2. IC 12-15-5-21 IS ADDED TO THE INDIANA CODE  
21 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
22 1, 2020]: **Sec. 21. For purposes of required nonfederal share  
23 medical assistance payments under Title XIX of the Social Security  
24 Act, a community mental health center is defined as a  
25 governmental unit.**

26 SECTION 3. IC 12-15-13.5-6 IS ADDED TO THE INDIANA  
27 CODE AS A NEW SECTION TO READ AS FOLLOWS  
28 [EFFECTIVE JULY 1, 2020]: **Sec. 6. (a) Subject to subsection (b), a  
29 recovery audit shall not require documentation, at the time of  
30 service, for services provided by a community mental health center  
31 (as defined in IC 12-7-2-38) when the documentation is part of an  
32 ongoing plan of treatment or a documentation of specific treatment  
33 methods.**

34 (b) The direct service provider shall complete documentation  
35 described in subsection (a) within a reasonable time frame, but not  
36 later than thirty (30) days from the date of service, prior to  
37 Medicaid billing.

38 (c) Any supervising provider in a community mental health  
39 center is eligible to review documentation in order to certify a plan  
40 of treatment or review specific treatment methods at intervals not  
41 greater than ninety (90) days.

42 (d) A supervising provider described in subsection (c) may



1 review the documentation described in subsection (c) regardless of:

2 (1) whether the supervising provider is providing direct  
3 supervision; and

4 (2) the location where the service was provided.

5 A review described under this subsection must be documented by  
6 the signature of the supervising provider.

7 (e) In developing a plan of treatment, the following must be  
8 completed to demonstrate active treatment with a client:

9 (1) A signed client consent form.

10 (2) The completion of a list of requirements concerning audit  
11 compliance, as determined by the division in collaboration  
12 with community mental health centers, that verifies active  
13 treatment of the client's plan of treatment.

14 (3) Either:

15 (A) the signature of the client on the client's plan of  
16 treatment; or

17 (B) if the direct care provider, after a good faith effort, is  
18 unable to obtain the client's signature on the client's plan  
19 of treatment:

20 (i) the provision of documentation by the provider of the  
21 reasons the provider was unable to obtain the signature;

22 (ii) the continuation of attempting to obtain the client's  
23 signature on the client's plan of treatment; and

24 (iii) a determination by the division, based on the  
25 documentation in item (i), that the direct care provider  
26 has made a good faith effort to obtain the signature.

27 SECTION 4. IC 12-21-2-3, AS AMENDED BY P.L.243-2017,  
28 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
29 JULY 1, 2020]: Sec. 3. The secretary or the secretary's designee shall  
30 do the following:

31 (1) Organize the division, create the appropriate personnel  
32 positions, and employ personnel necessary to discharge the  
33 statutory duties and powers of the division or a bureau of the  
34 division.

35 (2) Subject to the approval of the state personnel department,  
36 establish personnel qualifications for all deputy directors,  
37 assistant directors, bureau heads, and superintendents.

38 (3) Subject to the approval of the budget director and the  
39 governor, establish the compensation of all deputy directors,  
40 assistant directors, bureau heads, and superintendents.

41 (4) Study the entire problem of mental health, mental illness, and  
42 addictions existing in Indiana.



- 1 (5) Adopt rules under IC 4-22-2 for the following:  
2 (A) Standards for the operation of private institutions that are  
3 licensed under IC 12-25 for the diagnosis, treatment, and care  
4 of individuals with psychiatric disorders, addictions, or other  
5 abnormal mental conditions.  
6 (B) Licensing or certifying community residential programs  
7 described in IC 12-22-2-3.5 for individuals with serious  
8 mental illness (SMI), serious emotional disturbance (SED), or  
9 chronic addiction (CA) with the exception of psychiatric  
10 residential treatment facilities.  
11 (C) Certifying community mental health centers to operate in  
12 Indiana.  
13 (D) Establish exclusive geographic primary service areas for  
14 community mental health centers. The rules must include the  
15 following:  
16 (i) Criteria and procedures to justify the change to the  
17 boundaries of a community mental health center's primary  
18 service area.  
19 (ii) Criteria and procedures to justify the change of an  
20 assignment of a community mental health center to a  
21 primary service area.  
22 (iii) A provision specifying that the criteria and procedures  
23 determined in items (i) and (ii) must include an option for  
24 the county and the community mental health center to  
25 initiate a request for a change in primary service area or  
26 provider assignment.  
27 (iv) A provision specifying the criteria and procedures  
28 determined in items (i) and (ii) may not limit an eligible  
29 consumer's right to choose or access the services of any  
30 provider who is certified by the division of mental health  
31 and addiction to provide public supported mental health  
32 services.  
33 (6) Institute programs, in conjunction with an accredited college  
34 or university and with the approval, if required by law, of the  
35 commission for higher education, for the instruction of students  
36 of mental health and other related occupations. The programs may  
37 be designed to meet requirements for undergraduate and  
38 postgraduate degrees and to provide continuing education and  
39 research.  
40 (7) Develop programs to educate the public in regard to the  
41 prevention, diagnosis, treatment, and care of all abnormal mental  
42 conditions.



1 (8) Make the facilities of the state institutions available for the  
 2 instruction of medical students, student nurses, interns, and  
 3 resident and fellow physicians under the supervision of the faculty  
 4 of any accredited school of medicine or osteopathy located in  
 5 Indiana or an accredited residency or fellowship training program  
 6 in connection with research and instruction in psychiatric  
 7 disorders.

8 (9) Institute a stipend program designed to improve the quality  
 9 and quantity of staff that state institutions employ.

10 (10) Establish, supervise, and conduct community programs,  
 11 either directly or by contract, for the diagnosis, treatment, and  
 12 prevention of psychiatric disorders.

13 (11) Adopt rules under IC 4-22-2 concerning the records and data  
 14 to be kept concerning individuals admitted to state institutions,  
 15 community mental health centers, or other providers.

16 (12) Compile information and statistics concerning the ethnicity  
 17 and gender of a program or service recipient.

18 (13) Establish standards for services described in IC 12-7-2-40.6  
 19 for community mental health centers and other providers.

20 (14) Provide that the standards for services provided by recovery  
 21 residences for residential care and supported housing for chronic  
 22 addiction, when used as a recovery residence, to:

23 (A) be certified through an entity approved by the division to  
 24 ensure adherence to standards determined by the National  
 25 Alliance for Recovery Residences (NARR) or a similar entity;  
 26 and

27 (B) meet other standards established by the division under  
 28 rules adopted under IC 4-22-2.

29 **(15) Require the division to:**

30 **(A) provide best practice recommendations to community**  
 31 **mental health centers; and**

32 **(B) work with community mental health centers in a**  
 33 **collaborative manner in order to ensure improved health**  
 34 **outcomes as a part of reviews or audits.**

35 **Documentation developed as a part of an incident or death**  
 36 **reporting audit or review is confidential and may only be**  
 37 **shared between the division and the community mental health**  
 38 **center.**

39 SECTION 5. IC 12-21-5-7 IS ADDED TO THE INDIANA CODE  
 40 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 41 1, 2020]: **Sec. 7. (a) The division may grant a waiver of any staffing**  
 42 **requirements to a community mental health center applicant that**



1 is unable to meet any staffing ratio requirements the division has  
2 for community mental health centers.

3 (b) A licensed clinical addiction counselor shall be counted by  
4 the division in determining whether a community mental health  
5 center applicant meets the direct care full-time equivalent staffing  
6 requirements for community mental health center certification.

7 SECTION 6. IC 12-23-19-9 IS ADDED TO THE INDIANA CODE  
8 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
9 1, 2020]: Sec. 9. (a) On or before January 1, 2021, the division of  
10 mental health and addiction shall develop a comprehensive appeals  
11 process under the mental health and addiction forensic treatment  
12 services program when a corrective action plan is required.

13 (b) The appeals process described in subsection (a) must reserve  
14 the right to restrict ongoing treatment and referrals of new clients  
15 in cases of alleged abuse or neglect, filing false claims, providing  
16 false information, or waste. In all other cases, conscious effort  
17 should be made to ensure the maintained continuity of care of  
18 clients by allowing providers to continue to offer services while the  
19 corrective action plan is being completed.

20 SECTION 7. IC 12-29-2-1.5 IS ADDED TO THE INDIANA CODE  
21 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
22 1, 2020]: Sec. 1.5. For purposes of the required nonfederal share of  
23 medical assistance payments under Title XIX of the federal Social  
24 Security Act (42 U.S.C. 1396 et seq.), a community mental health  
25 center is a governmental unit.

26 SECTION 8. IC 25-23-1-19.4, AS AMENDED BY P.L.129-2018,  
27 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
28 JULY 1, 2020]: Sec. 19.4. (a) This section does not apply to certified  
29 registered nurse anesthetists.

30 (b) As used in this section, "practitioner" has the meaning set forth  
31 in IC 16-42-19-5. However, the term does not include the following:

- 32 (1) A veterinarian.
- 33 (2) An advanced practice registered nurse.
- 34 (3) A physician assistant.

35 (c) An advanced practice registered nurse shall operate:

- 36 (1) in collaboration with a licensed practitioner as evidenced by  
37 a practice agreement;
- 38 (2) by privileges granted by the governing board of a hospital  
39 licensed under IC 16-21 with the advice of the medical staff of the  
40 hospital that sets forth the manner in which an advanced practice  
41 registered nurse and a licensed practitioner will cooperate,  
42 coordinate, and consult with each other in the provision of health





1 care to their patients; or

2 (3) by privileges granted by the governing body of a hospital  
 3 operated under IC 12-24-1 that sets forth the manner in which an  
 4 advanced practice registered nurse and a licensed practitioner will  
 5 cooperate, coordinate, and consult with each other in the  
 6 provision of health care to their patients.

7 **(d) This subsection applies for purposes of the Medicaid**  
 8 **program to an advanced practice registered nurse who:**

9 **(1) is operating under a collaborative agreement with a**  
 10 **physician licensed under IC 25-22.5;**

11 **(2) is either certified as:**

12 **(A) a psychiatric nurse practitioner; or**

13 **(B) a clinical nurse specialist with a psychiatric specialty;**  
 14 **and**

15 **(3) has, as part of the advanced practice registered nurse's**  
 16 **scope of practice and collaborative agreement, supervisory**  
 17 **rights and responsibilities described in this subsection.**

18 **An advanced practice registered nurse who meets the requirements**  
 19 **of this subsection has all of the supervisory rights and**  
 20 **responsibilities, including prior authorization, that are available to**  
 21 **a licensed physician or a health service provider in psychology**  
 22 **(HSPP) operating in a community mental center certified under**  
 23 **IC 12-21-2-3(5)(C).**

24 **(e) Before January 1, 2021, the office of the secretary shall apply**  
 25 **to the United States Department of Health and Human Services for**  
 26 **any state plan amendment necessary to implement subsection (d).**



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1326, 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 1, delete lines 1 through 12.

Page 1, line 15, after "20." insert "**(a)**".

Page 2, line 2, after "following supervisors" insert "**who have at least two (2) years of experience**".

Page 2, between lines 6 and 7, begin a new paragraph and insert:

**"(b) The office may not require a direct service provider in an intensive outpatient treatment program to be a licensed addiction counselor or a licensed clinical addiction counselor. However, the direct service provider must have training and experience in addiction treatment."**

Page 2, delete lines 13 through 42.

Page 3, delete lines 1 through 28.

Page 3, line 38, after "completed" insert "**within a reasonable time frame, but not later than thirty (30) days from the date of service,**".

Page 4, delete lines 8 through 11.

Page 6, delete lines 14 through 25.

Page 6, line 26, delete "(17)" and insert "**(15)**".

Page 6, between lines 31 and 32, begin a new line block indented and insert:

**"Documentation developed as a part of an incident or death reporting audit or review is confidential and may only be shared between the division and the community mental health center."**

Page 6, line 37, delete "Behavioral health associate licensees." and insert "**Licensed social workers.**".

Page 6, line 40, after "prescriber" insert "**with experience and training in mental health and addiction treatment and**".

Page 7, line 1, delete "revise:" and insert "**submit rules to the publisher (as defined by IC 4-22-2-3) concerning:**".

Page 7, delete lines 17 through 25, begin a new paragraph and insert:

**"(b) The appeals process described in subsection (a) must reserve the right to restrict ongoing treatment and referrals of new clients in cases of alleged abuse or neglect, filing false claims, providing false information, or waste. In all other cases, conscious effort should be made to ensure the maintained continuity of care**



**of clients by allowing providers to continue to offer services while the corrective action plan is being completed."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1326 as introduced.)

KIRCHHOFER

Committee Vote: yeas 10, nays 0.

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#### COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred House Bill No. 1326, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 3, after "(a)" insert "**As used in this section, "intensive outpatient treatment program" means an organized treatment program that uses behavioral health professionals and clinicians in a group setting to provide multiple treatment service components for rehabilitation of alcohol and other substance use or dependency. The term includes:**

- (1) individual and family therapy;**
- (2) group therapy;**
- (3) skills training;**
- (4) medication training and support;**
- (5) peer recovery services;**
- (6) care coordination;**
- (7) counseling; and**
- (8) other services, as determined by the division.**

**(b)".**

Page 1, line 5, after "who" insert "**either**".

Page 1, line 5, after "experience" insert "**in addiction treatment or hold an addiction credential, as determined by the division,**".

Page 1, line 11, delete "(b)" and insert "(c)".

Page 1, line 14, delete "must" and insert "**must, under the supervision of a clinician described in subsection (b), either:**

- (1) hold an addiction credential, as determined by the division; or**

EH 1326—LS 7032/DI 123



(2)".

Page 1, line 15, delete "treatment." and insert "**treatment, as determined by the division.**".

Page 2, line 15, after "The" insert "**direct service provider shall complete**".

Page 2, line 15, delete "shall be".

Page 2, line 16, delete "completed".

Page 2, line 28, delete "signature." and insert "**the signature of the supervising provider.**".

Page 2, between lines 28 and 29, begin a new paragraph and insert:

**"(e) In developing a plan of treatment, the following must be completed to demonstrate active treatment with a client:**

**(1) A signed client consent form.**

**(2) The completion of a list of requirements concerning audit compliance, as determined by the division in collaboration with community mental health centers, that verifies active treatment of the client's plan of treatment.**

**(3) Either:**

**(A) the signature of the client on the client's plan of treatment; or**

**(B) if the direct care provider, after a good faith effort, is unable to obtain the client's signature on the client's plan of treatment:**

**(i) the provision of documentation by the provider of the reasons the provider was unable to obtain the signature;**

**(ii) the continuation of attempting to obtain the client's signature on the client's plan of treatment; and**

**(iii) a determination by the division, based on the documentation in item (i), that the direct care provider has made a good faith effort to obtain the signature."**

Page 4, delete lines 41 through 42, begin a new paragraph and insert:

**"SECTION 5. IC 12-21-5-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 7. (a) The division may grant a waiver of any staffing requirements to a community mental health center applicant that is unable to meet any staffing ratio requirements the division has for community mental health centers.**

**(b) A licensed clinical addiction counselor shall be counted by the division in determining whether a community mental health center applicant meets the direct care full-time equivalent staffing requirements for community mental health center certification."**



Page 5, delete lines 1 through 21.

Page 5, delete lines 35 through 42, begin a new paragraph and insert:

"SECTION 7. IC 12-29-2-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 1.5. For purposes of the required nonfederal share of medical assistance payments under Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq.), a community mental health center is a governmental unit.**"

Delete pages 6 through 7.

Page 8, delete lines 1 through 11.

Page 8, delete lines 35 through 42, begin a new paragraph and insert:

**"(d) This subsection applies for purposes of the Medicaid program to an advanced practice registered nurse who:**

**(1) is operating under a collaborative agreement with a physician licensed under IC 25-22.5;**

**(2) is either certified as:**

**(A) a psychiatric nurse practitioner; or**

**(B) a clinical nurse specialist with a psychiatric specialty;**  
**and**

**(3) has, as part of the advanced practice registered nurse's scope of practice and collaborative agreement, supervisory rights and responsibilities described in this subsection.**

**An advanced practice registered nurse who meets the requirements of this subsection has all of the supervisory rights and responsibilities, including prior authorization, that are available to a licensed physician or a health service provider in psychology (HSPP) operating in a community mental center certified under IC 12-21-2-3(5)(C).**

**(e) Before January 1, 2021, the office of the secretary shall apply to the United States Department of Health and Human Services for any state plan amendment necessary to implement subsection (d)."**

Delete page 9.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1326 as printed January 27, 2020.)

CHARBONNEAU, Chairperson

Committee Vote: Yeas 9, Nays 0.

**EH 1326—LS 7032/DI 123**

