

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.

HOUSE ENROLLED ACT No. 1326

AN ACT to amend the Indiana Code concerning human services.

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

SECTION 1. IC 12-15-5-20 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2020]: **Sec. 20. (a) 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 services determined by the office and approved in the Medicaid state plan.**

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

- (1) Licensed clinical social workers.**
- (2) Licensed mental health counselors.**
- (3) Licensed marriage and family therapists.**
- (4) Licensed clinical addiction counselors.**

(c) 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

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direct service provider must, under the supervision of a clinician described in subsection (b), either:

- (1) hold an addiction credential, as determined by the division; or
- (2) have training and experience in addiction treatment, as determined by the division.

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

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

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

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

(d) A supervising provider described in subsection (c) may review the documentation described in subsection (c) regardless of:

- (1) whether the supervising provider is providing direct supervision; and
- (2) the location where the service was provided.

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

(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 participation in the development 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.

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

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

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

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

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

(5) Adopt rules under IC 4-22-2 for the following:

(A) Standards for the operation of private institutions that are licensed under IC 12-25 for the diagnosis, treatment, and care of individuals with psychiatric disorders, addictions, or other abnormal mental conditions.

(B) Licensing or certifying community residential programs described in IC 12-22-2-3.5 for individuals with serious mental illness (SMI), serious emotional disturbance (SED), or chronic addiction (CA) with the exception of psychiatric residential treatment facilities.

(C) Certifying community mental health centers to operate in Indiana.



(D) Establish exclusive geographic primary service areas for community mental health centers. The rules must include the following:

(i) Criteria and procedures to justify the change to the boundaries of a community mental health center's primary service area.

(ii) Criteria and procedures to justify the change of an assignment of a community mental health center to a primary service area.

(iii) A provision specifying that the criteria and procedures determined in items (i) and (ii) must include an option for the county and the community mental health center to initiate a request for a change in primary service area or provider assignment.

(iv) A provision specifying the criteria and procedures determined in items (i) and (ii) may not limit an eligible consumer's right to choose or access the services of any provider who is certified by the division of mental health and addiction to provide public supported mental health services.

(6) Institute programs, in conjunction with an accredited college or university and with the approval, if required by law, of the commission for higher education, for the instruction of students of mental health and other related occupations. The programs may be designed to meet requirements for undergraduate and postgraduate degrees and to provide continuing education and research.

(7) Develop programs to educate the public in regard to the prevention, diagnosis, treatment, and care of all abnormal mental conditions.

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

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

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



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

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

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

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

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

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

(15) Require the division to:

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

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

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.

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.

(c) Any licensed prescriber with prescriptive authority shall be counted by the division when determining whether a community mental health center applicant meets the psychiatric staffing requirements for community mental health center certification.

SECTION 6. IC 12-23-19-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY



1, 2020]: **Sec. 9. (a) On or before January 1, 2021, the division of mental health and addiction shall develop a comprehensive appeals process under the mental health and addiction forensic treatment services program when a corrective action plan is required.**

(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.

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.**

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

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

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

(c) An advanced practice registered nurse shall operate:

- (1) in collaboration with a licensed practitioner as evidenced by a practice agreement;**
- (2) by privileges granted by the governing board of a hospital licensed under IC 16-21 with the advice of the medical staff of the hospital that sets forth the manner in which an advanced practice registered nurse and a licensed practitioner will cooperate, coordinate, and consult with each other in the provision of health care to their patients; or**
- (3) by privileges granted by the governing body of a hospital operated under IC 12-24-1 that sets forth the manner in which an advanced practice registered nurse and a licensed practitioner will cooperate, coordinate, and consult with each other in the provision of health care to their patients.**

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



- (1) is licensed pursuant to IC 25-23-1-19.5; and**
- (2) has been educated and trained to work with patients with addiction and mental health needs.**

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 health 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).



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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