

HOUSE BILL No. 1347

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-27-1-16; IC 25-1-9.5-8; IC 25-23-1-19.4; IC 25-26.

Synopsis: Telemedicine. Expands the list of medical professionals from which home health agencies may accept written orders. Changes the requirements for the issuance of a prescription via telemedicine. Provides that advanced practice registered nurses may operate in multiple locations in collaboration with a physician. Increases the number of pharmacy technicians that a single licensed pharmacist may supervise. Provides that pharmacy technicians may perform certain work remotely without the direct supervision of a licensed pharmacist.

Effective: July 1, 2021.

**Lindauer, Lehman, Davisson,
Vermilion**

January 14, 2021, read first time and referred to Committee on Public Health.



First Regular Session of the 122nd General Assembly (2021)

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 *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

HOUSE BILL No. 1347

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

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

1 SECTION 1. IC 16-27-1-16 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 16. (a) A licensed home
3 health agency may accept written orders for home health services from
4 a **licensed physician, an advanced practice registered nurse, a**
5 **physician assistant**, a dentist, a chiropractor, a podiatrist, or an
6 optometrist licensed in Indiana or any other state. If the **licensed**
7 **physician, advanced practice registered nurse, physician assistant,**
8 **dentist, chiropractor, podiatrist, or optometrist** is licensed in a state
9 other than Indiana, the home health agency shall take reasonable
10 immediate steps to determine that:

11 (1) the order complies with the laws of the state where the order
12 originated; and

13 (2) the individual who issued the order examined the patient and
14 is licensed to practice in that state.

15 (b) All orders issued by a **licensed physician, an advanced practice**
16 **registered nurse, a physician assistant**, a dentist, a chiropractor, a
17 podiatrist, or an optometrist for home health services:



1 (1) must meet the same requirements whether the order originates
2 in Indiana or another state; and

3 (2) from another state may not exceed the authority allowed under
4 orders from the same profession in Indiana under IC 25.

5 SECTION 2. IC 25-1-9.5-8, AS AMENDED BY P.L.52-2020,
6 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2021]: Sec. 8. (a) A prescriber may issue a prescription to a
8 patient who is receiving services through the use of telemedicine if the
9 patient has not been examined previously by the prescriber in person
10 if the following conditions are met:

11 (1) The prescriber has satisfied the applicable standard of care in
12 the treatment of the patient.

13 (2) The issuance of the prescription by the prescriber is within the
14 prescriber's scope of practice and certification.

15 (3) The prescription:

16 (A) meets the requirements of subsection (b); and

17 (B) is not for an opioid. However, an opioid may be prescribed
18 if the opioid is a partial agonist that is used to treat or manage
19 opioid dependence.

20 (4) The prescription is not for an abortion inducing drug (as
21 defined in IC 16-18-2-1.6).

22 (5) If the prescription is for a medical device, including an
23 ophthalmic device, the prescriber must use telemedicine
24 technology that is sufficient to allow the provider to make an
25 informed diagnosis and treatment plan that includes the medical
26 device being prescribed. However, a prescription for an
27 ophthalmic device is also subject to the conditions in section 13
28 of this chapter.

29 (b) Except as provided in subsection (a), a prescriber may issue a
30 prescription for a controlled substance (as defined in IC 35-48-1-9) to
31 a patient who is receiving services through the use of telemedicine,
32 even if the patient has not been examined previously by the prescriber
33 in person, if the following conditions are met:

34 (1) The prescriber maintains a valid controlled substance
35 registration under IC 35-48-3.

36 (2) The prescriber meets the conditions set forth in 21 U.S.C. 829
37 et seq.

38 (3) ~~The patient has been examined in person by a licensed Indiana~~
39 ~~health care provider and the licensed health care provider has~~
40 ~~established a treatment plan to assist the prescriber in the~~
41 ~~diagnosis of the patient. A practitioner acting in the usual~~
42 ~~course of the practitioner's professional practices issues the~~



1 **prescription for a legitimate medical purpose.**

2 (4) ~~The prescriber has reviewed and approved the treatment plan~~
 3 ~~described in subdivision (3) and is prescribing for the patient~~
 4 ~~pursuant to the treatment plan.~~ **The telemedicine communication**
 5 **is conducted using an audiovisual, real time, two-way**
 6 **interactive communication system.**

7 (5) The prescriber complies with the requirements of the
 8 INSPECT program (IC 25-26-24).

9 **(6) All other applicable federal and state laws are followed.**

10 (c) A prescription for a controlled substance under this section must
 11 be prescribed and dispensed in accordance with IC 25-1-9.3 and
 12 IC 25-26-24.

13 SECTION 3. IC 25-23-1-19.4, AS AMENDED BY P.L.127-2020,
 14 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2021]: Sec. 19.4. (a) This section does not apply to certified
 16 registered nurse anesthetists.

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

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

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

- 23 (1) in collaboration with a licensed practitioner **at any number**
 24 **of locations permitted by the licensed practitioner** as
 25 evidenced by a practice agreement;
- 26 (2) by privileges granted by the governing board of a hospital
 27 licensed under IC 16-21 with the advice of the medical staff of the
 28 hospital that sets forth the manner in which an advanced practice
 29 registered nurse and a licensed practitioner will cooperate,
 30 coordinate, and consult with each other in the provision of health
 31 care to their patients; or
- 32 (3) by privileges granted by the governing body of a hospital
 33 operated under IC 12-24-1 that sets forth the manner in which an
 34 advanced practice registered nurse and a licensed practitioner will
 35 cooperate, coordinate, and consult with each other in the
 36 provision of health care to their patients.

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

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

42 An advanced practice registered nurse who meets the requirements of



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

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

8 SECTION 4. IC 25-26-13-18.5, AS AMENDED BY P.L.202-2017,
 9 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2021]: Sec. 18.5. (a) As used in this section, "immediate and
 11 personal supervision" means within reasonable visual and vocal
 12 distance of the pharmacist.

13 (b) Except as provided in subsection (d), licensed pharmacy
 14 technicians or pharmacy technicians in training who are:

- 15 (1) licensed or certified under IC 25-26-19; and
 16 (2) practicing at a pharmacy;

17 must practice under a licensed pharmacist's immediate and personal
 18 supervision at all times.

19 (c) A pharmacist may not supervise more than ~~six (6)~~ **eight (8)**
 20 pharmacy interns, pharmacy technicians, or pharmacy technicians in
 21 training at any time. Not more than ~~three (3)~~ **four (4)** of the ~~six (6)~~
 22 **eight (8)** individuals being supervised by a pharmacist may be
 23 pharmacy technicians in training.

24 (d) A licensed pharmacy technician employed at a remote
 25 dispensing facility (as defined in IC 25-26-13.5-3) may be under the
 26 supervision of a pharmacist through the use of a computer link, a video
 27 link, and an audio link.

28 SECTION 5. IC 25-26-13-25, AS AMENDED BY P.L.247-2019,
 29 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2021]: Sec. 25. (a) All original prescriptions, whether in
 31 written or electronic format, shall be numbered and maintained in
 32 numerical and chronological order, or in a manner approved by the
 33 board and accessible for at least two (2) years in the pharmacy. A
 34 prescription transmitted from a practitioner by means of
 35 communication other than writing must immediately be reduced to
 36 writing or recorded in an electronic format by the pharmacist. The files
 37 shall be open for inspection to any member of the board or the board's
 38 duly authorized agent or representative.

39 (b) A prescription may be electronically transmitted from the
 40 practitioner by computer or another electronic device to a pharmacy
 41 that is licensed under this article or any other state or territory. An
 42 electronic data intermediary that is approved by the board:



1 (1) may transmit the prescription information between the
2 prescribing practitioner and the pharmacy;

3 (2) may archive copies of the electronic information related to the
4 transmissions as necessary for auditing and security purposes; and

5 (3) must maintain patient privacy and confidentiality of all
6 archived information as required by applicable state and federal
7 laws.

8 (c) Except as provided in subsection (d), a prescription for any drug,
9 the label of which bears either the legend, "Caution: Federal law
10 prohibits dispensing without prescription" or "Rx Only", may not be
11 refilled without written, electronically transmitted, or oral authorization
12 of a licensed practitioner.

13 (d) A prescription for any drug, the label of which bears either the
14 legend, "Caution: Federal law prohibits dispensing without
15 prescription" or "Rx Only", may be refilled by a pharmacist without the
16 written, electronically transmitted, or oral authorization of a licensed
17 practitioner if all of the following conditions are met:

18 (1) The pharmacist has made every reasonable effort to contact
19 the original prescribing practitioner or the practitioner's designee
20 for consultation and authorization of the prescription refill.

21 (2) The pharmacist believes that, under the circumstances, failure
22 to provide a refill would be seriously detrimental to the patient's
23 health.

24 (3) The original prescription authorized a refill but a refill would
25 otherwise be invalid for either of the following reasons:

26 (A) All of the authorized refills have been dispensed.

27 (B) The prescription has expired under subsection (h).

28 (4) The prescription for which the patient requests the refill was:

29 (A) originally filled at the pharmacy where the request for a
30 refill is received and the prescription has not been transferred
31 for refills to another pharmacy at any time; or

32 (B) filled at or transferred to another location of the same
33 pharmacy or its affiliate owned by the same parent corporation
34 if the pharmacy filling the prescription has full access to
35 prescription and patient profile information that is
36 simultaneously and continuously updated on the parent
37 corporation's information system.

38 (5) The drug is prescribed for continuous and uninterrupted use
39 and the pharmacist determines that the drug is being taken
40 properly in accordance with IC 25-26-16.

41 (6) The pharmacist shall document the following information
42 regarding the refill:



- 1 (A) The information required for any refill dispensed under
2 subsection (e).
- 3 (B) The dates and times that the pharmacist attempted to
4 contact the prescribing practitioner or the practitioner's
5 designee for consultation and authorization of the prescription
6 refill.
- 7 (C) The fact that the pharmacist dispensed the refill without
8 the authorization of a licensed practitioner.
- 9 (7) The pharmacist notifies the original prescribing practitioner
10 of the refill and the reason for the refill by the practitioner's next
11 business day after the refill has been made by the pharmacist.
- 12 (8) Any pharmacist initiated refill under this subsection may not
13 be for more than ~~the quantity on the most recent fill or a thirty~~
14 ~~(30) day supply, whichever is less: a one (1) time ninety (90) day~~
15 **emergency refill.**
- 16 (9) Not more than one (1) pharmacist initiated refill is dispensed
17 under this subsection for a single prescription in a six (6) month
18 period.
- 19 (10) The drug prescribed is not a controlled substance.
- 20 A pharmacist may not refill a prescription under this subsection if the
21 practitioner has designated on the prescription form the words "No
22 Emergency Refill".
- 23 (e) When refilling a prescription, the refill record shall include:
- 24 (1) the date of the refill;
- 25 (2) the quantity dispensed if other than the original quantity; and
- 26 (3) the dispenser's identity on:
- 27 (A) the original prescription form; or
- 28 (B) another board approved, uniformly maintained, readily
29 retrievable record.
- 30 (f) The original prescription form or the other board approved
31 record described in subsection (e) must indicate by the number of the
32 original prescription the following information:
- 33 (1) The name and dosage form of the drug.
- 34 (2) The date of each refill.
- 35 (3) The quantity dispensed.
- 36 (4) The identity of the pharmacist who dispensed the refill.
- 37 (5) The total number of refills for that prescription.
- 38 (g) This subsection does not apply:
- 39 (1) unless a patient requests a prescription drug supply of more
40 than thirty (30) days;
- 41 (2) to the dispensing of a controlled substance (as defined in
42 IC 35-48-1-9); or



- 1 (3) if a prescriber indicates on the prescription that the quantity of
 2 the prescription may not be changed.
- 3 A pharmacist may dispense, upon request of the patient, personal or
 4 legal representative of the patient, or guardian of the patient, not more
 5 than a ninety (90) day supply of medication if the patient has completed
 6 an initial thirty (30) day supply of the drug therapy and the
 7 prescription, including any refills, allows a pharmacist to dispense at
 8 least a ninety (90) day supply of the medication. However, a pharmacist
 9 shall comply with state and federal laws and regulations concerning the
 10 dispensing limitations concerning a prescription drug. The pharmacist
 11 shall inform the customer concerning whether the additional supply of
 12 the prescription will be covered under the patient's insurance, if
 13 applicable.
- 14 (h) A prescription is valid for not more than one (1) year after the
 15 original date of issue.
- 16 (i) A pharmacist may not knowingly dispense a prescription after
 17 the demise of the practitioner, unless in the pharmacist's professional
 18 judgment it is in the best interest of the patient's health.
- 19 (j) A pharmacist may not knowingly dispense a prescription after
 20 the demise of the patient.
- 21 (k) A pharmacist or a pharmacy shall not resell, reuse, or
 22 redistribute a medication that is returned to the pharmacy after being
 23 dispensed unless the medication:
- 24 (1) was dispensed to an individual:
- 25 (A) residing in an institutional facility (as defined in 856
 26 IAC 1-28.1-1(6));
- 27 (B) in a hospice program under IC 16-25; or
- 28 (C) in a county jail or department of correction facility;
- 29 (2) was properly stored and securely maintained according to
 30 sound pharmacy practices;
- 31 (3) is returned unopened and:
- 32 (A) was dispensed in the manufacturer's original:
- 33 (i) bulk, multiple dose container with an unbroken tamper
 34 resistant seal; or
- 35 (ii) unit dose package; or
- 36 (B) was packaged by the dispensing pharmacy in a:
- 37 (i) multiple dose blister container; or
- 38 (ii) unit dose package;
- 39 (4) was dispensed by the same pharmacy as the pharmacy
 40 accepting the return;
- 41 (5) is not expired; and
- 42 (6) is not a controlled substance (as defined in IC 35-48-1-9),



- 1 unless the pharmacy holds a Category II permit (as described in
 2 section 17 of this chapter).
- 3 (l) A pharmacist or a pharmacy shall not resell, reuse, or redistribute
 4 medical devices or medical supplies used for prescription drug therapy
 5 that have been returned to the pharmacy after being dispensed unless
 6 the medical devices or medical supplies:
- 7 (1) were dispensed to an individual in a county jail or department
 8 of correction facility;
 - 9 (2) are not expired; and
 - 10 (3) are returned unopened and in the original sealed packaging.
- 11 (m) A pharmacist may use the pharmacist's professional judgment
 12 as to whether to accept medication for return under this section.
- 13 (n) This subsection does not apply to a controlled substance,
 14 compounded drug, or biological product, or if the prescriber has
 15 indicated adaptation of a prescription is not permitted. A pharmacist,
 16 acting in good faith, exercising reasonable care, and obtaining patient
 17 consent, may do the following:
- 18 (1) Change the quantity of a medication prescribed if:
 19 (A) the prescribed quantity or package size is not
 20 commercially available;
 - 21 (B) the change in quantity is related to a change in dosage
 22 form; or
 - 23 (C) the change in quantity reflects the intended day supply.
 - 24 (2) Change the dosage form of the prescription if it is in the best
 25 interest of patient care, if the prescriber's directions are also
 26 modified to equate to an equivalent amount of drug dispensed as
 27 prescribed.
 - 28 (3) Complete missing information on a prescription if there is
 29 sufficient evidence to support the change.
 - 30 (4) Extend a maintenance drug for the limited quantity necessary
 31 to coordinate a patient's refills in a medication synchronization
 32 program.
- 33 A pharmacist who adapts a prescription in accordance with this
 34 subsection must document the adaptation in the patient's record.
- 35 (o) A pharmacist who violates subsection (d) commits a Class A
 36 infraction.
- 37 SECTION 6. IC 25-26-19-7.5 IS ADDED TO THE INDIANA
 38 CODE AS A NEW SECTION TO READ AS FOLLOWS
 39 [EFFECTIVE JULY 1, 2021]: **Sec. 7.5. A pharmacy technician may
 40 work remotely and not be under the direct supervision of a
 41 pharmacist as described in section 2 of this chapter only for the
 42 limited purposes of:**



- 1 (1) data entry;
- 2 (2) insurance processing; and
- 3 (3) other ministerial nondispensing tasks.

