



Reprinted
April 9, 2019

ENGROSSED SENATE BILL No. 162

DIGEST OF SB 162 (Updated April 8, 2019 5:20 pm - DI 133)

Citations Affected: IC 5-10; IC 12-7; IC 12-15; IC 27-8; IC 27-13; noncode.

Synopsis: Chronic pain management. Requires state employee health plans, Medicaid, policies of accident and sickness insurance, and health maintenance organization contracts to provide coverage for chronic pain management. Requires the office of Medicaid policy and planning to apply for any Medicaid state plan amendment necessary to provide the coverage.

Effective: July 1, 2019.

**Messmer, Merritt, Bassler,
Randolph Lonnie M, Zay, Grooms**
(HOUSE SPONSORS — ZENT, KIRCHHOFFER, SHACKLEFORD,
LINDAUER)

January 3, 2019, read first time and referred to Committee on Insurance and Financial Institutions.

February 21, 2019, amended, reported favorably — Do Pass.

February 25, 2019, read second time, amended, ordered engrossed.

February 26, 2019, engrossed. Read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

March 4, 2019, read first time and referred to Committee on Insurance.

April 4, 2019, amended, reported — Do Pass.

April 8, 2019, read second time, amended, ordered engrossed.

ES 162—LS 6243/DI 97



Reprinted
April 9, 2019

First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

ENGROSSED SENATE BILL No. 162

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 5-10-8-22 IS ADDED TO THE INDIANA CODE
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2019]: **Sec. 22. (a) As used in this section, "chronic pain" means**
4 **pain that:**
5 (1) **persists beyond the usual course of an acute disease or**
6 **healing of an injury; or**
7 (2) **may be associated with an acute or chronic pathologic**
8 **process that causes continuous or intermittent pain for a**
9 **period of months or years.**
10 (b) **As used in this section, "chronic pain management" means**
11 **evidence based health care products and services intended to**
12 **relieve chronic pain that has lasted for at least three (3) months.**
13 **The term includes:**
14 (1) **prescription drugs;**
15 (2) **physical therapy;**
16 (3) **occupational therapy;**
17 (4) **chiropractic care; and**

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1 **(5) osteopathic manipulative treatment.**

2 **(c) As used in this section, "covered individual" means an**
 3 **individual entitled to coverage under a state employee health plan.**

4 **(d) As used in this section, "state employee health plan" means**
 5 **the following:**

6 **(1) A self-insurance program established under section 7(b) of**
 7 **this chapter.**

8 **(2) A contract for prepaid health care services entered into**
 9 **under section 7(c) of this chapter.**

10 **The term does not include a dental plan.**

11 **(e) A state employee health plan must provide coverage for**
 12 **medically necessary chronic pain management prescribed by a**
 13 **covered individual's treating practitioner.**

14 **(f) The coverage required by this section may not be subject to**
 15 **annual or lifetime limitation, deductible, copayment, or**
 16 **coinsurance provisions that are more restrictive than the annual or**
 17 **lifetime limitation, deductible, copayment, or coinsurance**
 18 **provisions that apply generally under the state employee health**
 19 **plan.**

20 SECTION 2. IC 12-7-2-33.3 IS ADDED TO THE INDIANA CODE
 21 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 22 1, 2019]: **Sec. 33.3. "Chronic pain" means pain that:**

23 **(1) persists beyond the usual course of an acute disease or**
 24 **healing of an injury; or**

25 **(2) may be associated with an acute or chronic pathologic**
 26 **process that causes continuous or intermittent pain for a**
 27 **period of months or years.**

28 SECTION 3. IC 12-7-2-33.4 IS ADDED TO THE INDIANA CODE
 29 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 30 1, 2019]: **Sec. 33.4. "Chronic pain management", for purposes of**
 31 **IC 12-15-5, means evidence based health care products and**
 32 **services intended to relieve chronic pain that has lasted for at least**
 33 **three (3) months. The term includes:**

34 **(1) prescription drugs;**

35 **(2) physical therapy;**

36 **(3) occupational therapy;**

37 **(4) chiropractic care; and**

38 **(5) osteopathic manipulative treatment.**

39 SECTION 4. IC 12-15-5-1, AS AMENDED BY P.L.210-2015,
 40 SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2019]: **Sec. 1. Except as provided in IC 12-15-2-12,**
 42 **IC 12-15-6, and IC 12-15-21, the following services and supplies are**



- 1 provided under Medicaid:
- 2 (1) Inpatient hospital services.
- 3 (2) Nursing facility services.
- 4 (3) Physician's services, including services provided under
- 5 IC 25-10-1 and IC 25-22.5-1.
- 6 (4) Outpatient hospital or clinic services.
- 7 (5) Home health care services.
- 8 (6) Private duty nursing services.
- 9 (7) Physical therapy and related services.
- 10 (8) Dental services.
- 11 (9) Prescribed laboratory and x-ray services.
- 12 (10) Prescribed drugs and pharmacist services.
- 13 (11) Eyeglasses and prosthetic devices.
- 14 (12) Optometric services.
- 15 (13) Diagnostic, screening, preventive, and rehabilitative services.
- 16 (14) Podiatric medicine services.
- 17 (15) Hospice services.
- 18 (16) Services or supplies recognized under Indiana law and
- 19 specified under rules adopted by the office.
- 20 (17) Family planning services except the performance of
- 21 abortions.
- 22 (18) Nonmedical nursing care given in accordance with the tenets
- 23 and practices of a recognized church or religious denomination to
- 24 an individual qualified for Medicaid who depends upon healing
- 25 by prayer and spiritual means alone in accordance with the tenets
- 26 and practices of the individual's church or religious denomination.
- 27 (19) Services provided to individuals described in IC 12-15-2-8.
- 28 (20) Services provided under IC 12-15-34 and IC 12-15-32.
- 29 (21) Case management services provided to individuals described
- 30 in IC 12-15-2-11 and IC 12-15-2-13.
- 31 (22) Any other type of remedial care recognized under Indiana
- 32 law and specified by the United States Secretary of Health and
- 33 Human Services.
- 34 (23) Examinations required under IC 16-41-17-2(a)(10).
- 35 (24) Inpatient substance abuse detoxification services.
- 36 **(25) Chronic pain management.**
- 37 SECTION 5. IC 27-8-35.5 IS ADDED TO THE INDIANA CODE
- 38 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 39 JULY 1, 2019]:
- 40 **Chapter 35.5. Coverage for Chronic Pain Management**
- 41 **Sec. 1. As used in this chapter, "chronic pain" means pain that:**
- 42 **(1) persists beyond the usual course of an acute disease or**



1 healing of an injury; or

2 (2) may be associated with an acute or chronic pathologic
3 process that causes continuous or intermittent pain for a
4 period of months or years.

5 Sec. 2. As used in this chapter, "chronic pain management"
6 means evidence based health care products and services intended
7 to relieve chronic pain that has lasted for at least three (3) months.

8 The term includes:

9 (1) prescription drugs;

10 (2) physical therapy;

11 (3) occupational therapy;

12 (4) chiropractic care;

13 (5) osteopathic manipulative treatment; and

14 (6) athletic trainer services.

15 Sec. 3. As used in this chapter, "insured" means an individual
16 entitled to coverage under a policy of accident and sickness
17 insurance.

18 Sec. 4. As used in this chapter, "policy of accident and sickness
19 insurance" has the meaning set forth in IC 27-8-5-1. The term does
20 not include the following:

21 (1) Dental insurance.

22 (2) A supplemental plan that always pays in addition to other
23 coverage.

24 Sec. 5. A policy of accident and sickness insurance must provide
25 coverage for medically necessary chronic pain management
26 prescribed by an insured's treating practitioner.

27 Sec. 6. The coverage required by this section may not be subject
28 to annual or lifetime limitation, deductible, copayment, or
29 coinsurance provisions that are more restrictive than the annual or
30 lifetime limitation, deductible, copayment, or coinsurance
31 provisions that apply generally under the policy of accident and
32 sickness insurance.

33 SECTION 6. IC 27-13-7-24.5 IS ADDED TO THE INDIANA
34 CODE AS A NEW SECTION TO READ AS FOLLOWS
35 [EFFECTIVE JULY 1, 2019]: Sec. 24.5. (a) This section applies to
36 each of the following:

37 (1) An individual contract.

38 (2) A group contract.

39 (b) As used in this section, "chronic pain" means pain that:

40 (1) persists beyond the usual course of an acute disease or
41 healing of an injury; or

42 (2) may be associated with an acute or chronic pathologic



- 1 process that causes continuous or intermittent pain for a
 2 period of months or years.
- 3 (c) As used in this section, "chronic pain management" means
 4 evidence based health care products and services intended to
 5 relieve chronic pain that has lasted for at least three (3) months.
 6 The term includes:
- 7 (1) prescription drugs;
 - 8 (2) physical therapy;
 - 9 (3) occupational therapy;
 - 10 (4) chiropractic care;
 - 11 (5) osteopathic manipulative treatment; and
 - 12 (6) athletic trainer services.
- 13 (d) An individual contract and a group contract must provide
 14 coverage for medically necessary chronic pain management
 15 prescribed by an enrollee's treating practitioner.
- 16 (e) The coverage required by this section may not be subject to
 17 annual or lifetime limitation, deductible, copayment, or
 18 coinsurance provisions that are more restrictive than the annual or
 19 lifetime limitation, deductible, copayment, or coinsurance
 20 provisions that apply generally under the individual contract or
 21 group contract.
- 22 SECTION 7. [EFFECTIVE JULY 1, 2019] (a) IC 5-10-8-22, as
 23 added by this act, applies to a state employee health plan that is
 24 established, entered into, amended, or renewed after June 30, 2019.
- 25 (b) IC 27-8-35.5, as added by this act, applies to a policy of
 26 accident and sickness insurance that is issued, delivered, amended,
 27 or renewed after June 30, 2019.
- 28 (c) IC 27-13-7-24.5, as added by this act, applies to an individual
 29 contract and a group contract that are entered into, delivered,
 30 amended, or renewed after June 30, 2019.
- 31 (d) The office of Medicaid policy and planning:
- 32 (1) shall apply to the United States Department of Health and
 33 Human Services for any necessary amendment to the state
 34 Medicaid plan to provide coverage for chronic pain
 35 management as required by IC 12-15-5-1, as amended by this
 36 act;
 - 37 (2) may not implement the amendment until the office files an
 38 affidavit with the governor attesting that the amendment or
 39 waiver applied for under this SECTION is in effect;
 - 40 (3) shall, not more than five (5) days after the office is notified
 41 that the amendment is approved, file an affidavit described in
 42 subdivision (2) with the governor; and



1 **(4) shall implement the amendment not more than sixty (60)**
2 **days after the governor receives the affidavit.**
3 **(e) This SECTION expires July 1, 2022.**



COMMITTEE REPORT

Madam President: The Senate Committee on Insurance and Financial Institutions, to which was referred Senate Bill No. 162, 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, delete "pain" means" and insert "**pain management**" means evidence based health care products and services intended to relieve pain that has lasted for at least three (3) months. The term includes:

- (1) prescription drugs;
- (2) physical therapy;
- (3) occupational therapy; and
- (4) chiropractic care."

Page 1, delete lines 4 through 17.

Page 2, delete line 1.

Page 2, line 2, delete "(c)" and insert "**(b)**".

Page 2, line 4, delete "(d)" and insert "**(c)**".

Page 2, line 10, delete "(e)" and insert "**(d)**".

Page 2, line 12, delete ":" and insert ".".

Page 2, delete lines 13 through 15.

Page 2, line 16, delete "(f)" and insert "**(e)**".

Page 2, delete lines 22 through 30.

Page 2, line 35, delete "chronic pain." and insert "**pain that has lasted for at least three (3) months.**".

Page 2, delete lines 36 through 40, begin a new line block indented and insert:

- "(1) prescription drugs;
- (2) physical therapy;
- (3) occupational therapy; and
- (4) chiropractic care."

Page 3, line 38, delete "prescribed by a recipient's" and insert ".".

Page 3, delete lines 39 through 42.

Delete page 4.

Page 5, delete lines 1 through 38.

Page 6, delete lines 1 through 15, begin a new paragraph and insert:

"Sec. 1. As used in this chapter, "**chronic pain management**" means evidence based health care products and services intended to relieve pain that has lasted for at least three (3) months. The term includes:

- (1) prescription drugs;



- (2) physical therapy;**
- (3) occupational therapy; and**
- (4) chiropractic care."**

Page 6, line 16, delete "Sec. 3." and insert "**Sec. 2.**".

Page 6, line 19, delete "Sec. 4." and insert "**Sec. 3.**".

Page 6, line 21, delete "Sec. 5." and insert "**Sec. 4.**".

Page 6, line 23, delete ":" and insert ".".

Page 6, delete lines 24 through 26.

Page 6, line 27, delete "Sec. 6." and insert "**Sec. 5.**".

Page 6, delete lines 39 through 42.

Page 7, delete lines 1 through 11, begin a new paragraph and insert:

"(b) As used in this section, "chronic pain management" means evidence based health care products and services intended to relieve pain that has lasted for at least three (3) months. The term includes:

- (1) prescription drugs;**
- (2) physical therapy;**
- (3) occupational therapy; and**
- (4) chiropractic care."**

Page 7, line 12, delete "(d)" and insert "**(c)**".

Page 7, line 14, delete ":" and insert ".".

Page 7, delete lines 15 through 17.

Page 7, line 18, delete "(e)" and insert "**(d)**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 162 as introduced.)

BASSLER, Chairperson

Committee Vote: Yeas 8, Nays 1.

SENATE MOTION

Madam President: I move that Senate Bill 162 be amended to read as follows:

Page 1, line 9, delete "and".

Page 1, line 10, delete "." and insert "; **and**

(5) osteopathic manipulative therapy."

Page 2, line 2, after "for" insert "**medically necessary**".

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Page 2, line 19, delete "and".
 Page 2, line 20, delete "." and insert "; and
(5) osteopathic manipulative therapy."
 Page 3, line 29, delete "and".
 Page 3, line 30, delete "." and insert "; and
(5) osteopathic manipulative therapy."
 Page 3, line 37, after "for" insert "**medically necessary**".
 Page 4, line 14, delete "and".
 Page 4, line 15, delete "." and insert "; and
(5) osteopathic manipulative therapy."
 Page 4, line 17, after "for" insert "**medically necessary**".
 (Reference is to SB 162 as printed February 22, 2019.)

MESSMER

COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, to which was referred Senate Bill 162, 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, line 11, delete "therapy." and insert "**treatment.**".

Page 2, between lines 2 and 3, begin a new line blocked left and insert:

"The term does not include a dental plan."

Page 2, line 22, delete "therapy." and insert "**treatment.**".

Page 3, line 21, delete "IC 27-8-35" and insert "IC 27-8-35.5".

Page 3, line 24, delete "35." and insert "**35.5.**".

Page 3, line 32, delete "and".

Page 3, line 33, delete "therapy." and insert "**treatment; and**

(6) athletic trainer services.".

Page 3, line 38, after "." insert "**The term does not include the following:**

(1) Dental insurance.

(2) A supplemental plan that always pays in addition to other coverage.".

Page 4, line 6, delete "IC 27-13-7-24" and insert "IC 27-13-7-24.5".

Page 4, line 8, delete "24." and insert "**24.5.**".

Page 4, line 18, delete "and".

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Page 4, line 19, delete "therapy." and insert "**treatment; and
(6) athletic trainer services.**".

Page 4, line 32, delete "IC 27-8-35," and insert "**IC 27-8-35.5,**".

Page 4, line 35, delete "IC 27-13-7-24," and insert "**IC
27-13-7-24.5,**".

and when so amended that said bill do pass.

(Reference is to SB 162 as reprinted February 26, 2019.)

CARBAUGH

Committee Vote: yeas 11, nays 0.

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 162 be amended to read as follows:

Page 1, line 1, delete "IC 5-10-8-21" and insert "IC 5-10-8-22".

Page 1, line 3, delete "21. (a)" and insert "**22. (a) As used in this section, "chronic pain" means pain that:**

(1) persists beyond the usual course of an acute disease or healing of an injury; or

(2) may be associated with an acute or chronic pathologic process that causes continuous or intermittent pain for a period of months or years.

(b)".

Page 1, line 5, after "relieve" insert "**chronic**".

Page 1, line 12, delete "(b)" and insert "**(c)**".

Page 1, line 14, delete "(c)" and insert "**(d)**".

Page 2, line 4, delete "(d)" and insert "**(e)**".

Page 2, line 7, delete "(e)" and insert "**(f)**".

Page 2, line 11, delete "to physical illness".

Page 2, between lines 12 and 13, begin a new paragraph and insert:
"SECTION 2. IC 12-7-2-33.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 33.3. "Chronic pain" means pain that:**

(1) persists beyond the usual course of an acute disease or healing of an injury; or

(2) may be associated with an acute or chronic pathologic



process that causes continuous or intermittent pain for a period of months or years."

Page 2, line 17, after "relieve" insert "**chronic**".

Page 3, line 26, after "1." insert "**As used in this chapter, "chronic pain" means pain that:**

(1) persists beyond the usual course of an acute disease or healing of an injury; or

(2) may be associated with an acute or chronic pathologic process that causes continuous or intermittent pain for a period of months or years.

Sec. 2."

Page 3, line 28, after "relieve" insert "**chronic**".

Page 3, line 36, delete "2." and insert "**3.**".

Page 3, line 39, delete "3." and insert "**4.**".

PAGE 4, line 3, delete "4." and insert "**5.**".

Page 4, line 6, delete "5." and insert "**6.**".

Page 4, line 10, delete "to physical illness".

Page 4, line 18, after "(b)" insert "**As used in this section, "chronic pain" means pain that:**

(1) persists beyond the usual course of an acute disease or healing of an injury; or

(2) may be associated with an acute or chronic pathologic process that causes continuous or intermittent pain for a period of months or years.

(c)".

Page 4, line 20, after "relieve" insert "**chronic**".

Page 4, line 28, delete "(c)" and insert "**(d)**".

Page 4, line 31, delete "(d)" and insert "**(e)**".

Page 4, line 35, delete "to physical illness".

Page 4, line 37, delete "IC 5-10-8-21," and insert "**IC 5-10-8-22,**".

Renumber all SECTIONS consecutively.

(Reference is to ESB 162 as printed April 5, 2019.)

ZENT

