

IC 25-22.5

ARTICLE 22.5. PHYSICIANS

IC 25-22.5-1

Chapter 1. Definitions and Exclusions

IC 25-22.5-1-1

Repealed

(Repealed by Acts 1978, P.L.8, SEC.14.)

IC 25-22.5-1-1.1

Definitions

Sec. 1.1. As used in this article:

(a) "Practice of medicine or osteopathic medicine" means any one (1) or a combination of the following:

- (1) Holding oneself out to the public as being engaged in:
 - (A) the diagnosis, treatment, correction, or prevention of any disease, ailment, defect, injury, infirmity, deformity, pain, or other condition of human beings;
 - (B) the suggestion, recommendation, or prescription or administration of any form of treatment, without limitation;
 - (C) the performing of any kind of surgical operation upon a human being, including tattooing (except for providing a tattoo as defined in IC 35-45-21-4(a)), in which human tissue is cut, burned, or vaporized by the use of any mechanical means, laser, or ionizing radiation, or the penetration of the skin or body orifice by any means, for the intended palliation, relief, or cure; or
 - (D) the prevention of any physical, mental, or functional ailment or defect of any person.
- (2) The maintenance of an office or a place of business for the reception, examination, or treatment of persons suffering from disease, ailment, defect, injury, infirmity, deformity, pain, or other conditions of body or mind.
- (3) Attaching the designation "doctor of medicine", "M.D.", "doctor of osteopathy", "D.O.", "osteopathic medical physician", "physician", "surgeon", or "physician and surgeon", either alone or in connection with other words, or any other words or abbreviations to a name, indicating or inducing others to believe that the person is engaged in the practice of medicine or osteopathic medicine (as defined in this section).
- (4) Providing diagnostic or treatment services to a person in Indiana when the diagnostic or treatment services:
 - (A) are transmitted through electronic communications; and
 - (B) are on a regular, routine, and nonepisodic basis or under an oral or written agreement to regularly provide medical services.

In addition to the exceptions described in section 2 of this

chapter, a nonresident physician who is located outside Indiana does not practice medicine or osteopathy in Indiana by providing a second opinion to a licensee or diagnostic or treatment services to a patient in Indiana following medical care originally provided to the patient while outside Indiana.

(b) "Board" refers to the medical licensing board of Indiana.

(c) "Diagnose or diagnosis" means to examine a patient, parts of a patient's body, substances taken or removed from a patient's body, or materials produced by a patient's body to determine the source or nature of a disease or other physical or mental condition, or to hold oneself out or represent that a person is a physician and is so examining a patient. It is not necessary that the examination be made in the presence of the patient; it may be made on information supplied either directly or indirectly by the patient.

(d) "Drug or medicine" means any medicine, compound, or chemical or biological preparation intended for internal or external use of humans, and all substances intended to be used for the diagnosis, cure, mitigation, or prevention of diseases or abnormalities of humans, which are recognized in the latest editions published of the United States Pharmacopoeia or National Formulary, or otherwise established as a drug or medicine.

(e) "Licensee" means any individual holding a valid unlimited license issued by the board under this article.

(f) "Prescribe or prescription" means to direct, order, or designate the use of or manner of using a drug, medicine, or treatment, by spoken or written words or other means.

(g) "Physician" means any person who holds the degree of doctor of medicine or doctor of osteopathy or its equivalent and who holds a valid unlimited license to practice medicine or osteopathic medicine in Indiana.

(h) "Medical school" means a nationally accredited college of medicine or of osteopathic medicine approved by the board.

(i) "Physician assistant" means an individual who:

(1) is supervised by a physician;

(2) graduated from an approved physician assistant program described in IC 25-27.5-2-2;

(3) passed the examination administered by the National Commission on Certification of Physician Assistants (NCCPA) and maintains certification; and

(4) has been licensed by the physician assistant committee under IC 25-27.5.

(j) "Agency" refers to the Indiana professional licensing agency under IC 25-1-5.

As added by Acts 1978, P.L.8, SEC.13. Amended by Acts 1981, P.L.222, SEC.151; P.L.247-1985, SEC.1; P.L.169-1985, SEC.62; P.L.217-1993, SEC.2; P.L.180-1996, SEC.1; P.L.181-1997, SEC.1; P.L.1-2006, SEC.444; P.L.90-2007, SEC.3; P.L.134-2013, SEC.9; P.L.158-2013, SEC.283.

IC 25-22.5-1-1.2

Additional definitions

Sec. 1.2. As used in this article:

"Nursing school" includes a hospital nursing school, a nursing program, and a nursing department of a postsecondary educational institution. This shall include two (2), three (3), and four (4) year programs of nursing education.

"Shortage area" is an area in which there is a less than adequate supply of physicians or nurses relative to the need for nursing or physician services.

As added by Acts 1981, P.L.227, SEC.1. Amended by P.L.247-1985, SEC.2; P.L.2-2007, SEC.327.

IC 25-22.5-1-2

Exclusions

Sec. 2. (a) This article, as it relates to the unlawful or unauthorized practice of medicine or osteopathic medicine, does not apply to any of the following:

(1) A student in training in a medical school approved by the board, or while performing duties as an intern or a resident in a hospital under the supervision of the hospital's staff or in a program approved by the medical school.

(2) A person who renders service in case of emergency where no fee or other consideration is contemplated, charged, or received.

(3) A paramedic (as defined in IC 16-18-2-266), an advanced emergency medical technician (as defined in IC 16-18-2-6.5), an emergency medical technician (as defined in IC 16-18-2-112), or a person with equivalent certification from another state who renders advanced life support (as defined in IC 16-18-2-7), or basic life support (as defined in IC 16-18-2-33.5):

(A) during a disaster emergency declared by the governor under IC 10-14-3-12 in response to an act that the governor in good faith believes to be an act of terrorism (as defined in IC 35-31.5-2-329); and

(B) in accordance with the rules adopted by the Indiana emergency medical services commission or the disaster emergency declaration of the governor.

(4) Commissioned medical officers or medical service officers of the armed forces of the United States, the United States Public Health Service, and medical officers of the United States Department of Veterans Affairs in the discharge of their official duties in Indiana.

(5) An individual who is not a licensee who resides in another state or country and is authorized to practice medicine or osteopathic medicine there, who is called in for consultation by an individual licensed to practice medicine or osteopathic medicine in Indiana.

(6) A person administering a domestic or family remedy to a

member of the person's family.

(7) A member of a church practicing the religious tenets of the church if the member does not make a medical diagnosis, prescribe or administer drugs or medicines, perform surgical or physical operations, or assume the title of or profess to be a physician.

(8) A school corporation and a school employee who acts under IC 34-30-14 (or IC 34-4-16.5-3.5 before its repeal).

(9) A chiropractor practicing the chiropractor's profession under IC 25-10 or to an employee of a chiropractor acting under the direction and supervision of the chiropractor under IC 25-10-1-13.

(10) A dental hygienist practicing the dental hygienist's profession under IC 25-13.

(11) A dentist practicing the dentist's profession under IC 25-14.

(12) A hearing aid dealer practicing the hearing aid dealer's profession under IC 25-20.

(13) A nurse practicing the nurse's profession under IC 25-23. However, a certified registered nurse anesthetist (as defined in IC 25-23-1-1.4) may administer anesthesia if the certified registered nurse anesthetist acts under the direction of and in the immediate presence of a physician.

(14) An optometrist practicing the optometrist's profession under IC 25-24.

(15) A pharmacist practicing the pharmacist's profession under IC 25-26.

(16) A physical therapist practicing the physical therapist's profession under IC 25-27.

(17) A podiatrist practicing the podiatrist's profession under IC 25-29.

(18) A psychologist practicing the psychologist's profession under IC 25-33.

(19) A speech-language pathologist or audiologist practicing the pathologist's or audiologist's profession under IC 25-35.6.

(20) An employee of a physician or group of physicians who performs an act, a duty, or a function that is customarily within the specific area of practice of the employing physician or group of physicians, if the act, duty, or function is performed under the direction and supervision of the employing physician or a physician of the employing group within whose area of practice the act, duty, or function falls. An employee may not make a diagnosis or prescribe a treatment and must report the results of an examination of a patient conducted by the employee to the employing physician or the physician of the employing group under whose supervision the employee is working. An employee may not administer medication without the specific order of the employing physician or a physician of the employing group. Unless an employee is licensed or registered to independently practice in a profession described in

subdivisions (9) through (18), nothing in this subsection grants the employee independent practitioner status or the authority to perform patient services in an independent practice in a profession.

(21) A hospital licensed under IC 16-21 or IC 12-25.

(22) A health care organization whose members, shareholders, or partners are individuals, partnerships, corporations, facilities, or institutions licensed or legally authorized by this state to provide health care or professional services as:

(A) a physician;

(B) a psychiatric hospital;

(C) a hospital;

(D) a health maintenance organization or limited service health maintenance organization;

(E) a health facility;

(F) a dentist;

(G) a registered or licensed practical nurse;

(H) a certified nurse midwife or a certified direct entry midwife;

(I) an optometrist;

(J) a podiatrist;

(K) a chiropractor;

(L) a physical therapist; or

(M) a psychologist.

(23) A physician assistant practicing the physician assistant profession under IC 25-27.5.

(24) A physician providing medical treatment under section 2.1 of this chapter.

(25) An attendant who provides attendant care services (as defined in IC 16-18-2-28.5).

(26) A personal services attendant providing authorized attendant care services under IC 12-10-17.1.

(27) A respiratory care practitioner practicing the practitioner's profession under IC 25-34.5.

(b) A person described in subsection (a)(9) through (a)(18) is not excluded from the application of this article if:

(1) the person performs an act that an Indiana statute does not authorize the person to perform; and

(2) the act qualifies in whole or in part as the practice of medicine or osteopathic medicine.

(c) An employment or other contractual relationship between an entity described in subsection (a)(21) through (a)(22) and a licensed physician does not constitute the unlawful practice of medicine under this article if the entity does not direct or control independent medical acts, decisions, or judgment of the licensed physician. However, if the direction or control is done by the entity under IC 34-30-15 (or IC 34-4-12.6 before its repeal), the entity is excluded from the application of this article as it relates to the unlawful practice of medicine or osteopathic medicine.

(d) This subsection does not apply to a prescription or drug order for a legend drug that is filled or refilled in a pharmacy owned or operated by a hospital licensed under IC 16-21. A physician licensed in Indiana who permits or authorizes a person to fill or refill a prescription or drug order for a legend drug except as authorized in IC 16-42-19-11 through IC 16-42-19-19 is subject to disciplinary action under IC 25-1-9. A person who violates this subsection commits the unlawful practice of medicine under this chapter.

(e) A person described in subsection (a)(8) shall not be authorized to dispense contraceptives or birth control devices.

(Formerly: Acts 1975, P.L.271, SEC.1.) As amended by Acts 1977, P.L.273, SEC.2; P.L.244-1985, SEC.2; P.L.149-1987, SEC.50; P.L.156-1988, SEC.1; P.L.237-1989, SEC.1; P.L.1-1990, SEC.253; P.L.2-1992, SEC.776; P.L.2-1993, SEC.141; P.L.227-1993, SEC.10; P.L.227-1995, SEC.1; P.L.1-1998, SEC.132; P.L.44-1998, SEC.1; P.L.156-2001, SEC.6; P.L.255-2001, SEC.17; P.L.2-2003, SEC.65; P.L.205-2003, SEC.37; P.L.97-2004, SEC.93; P.L.212-2005, SEC.20; P.L.141-2006, SEC.106; P.L.90-2007, SEC.4; P.L.177-2009, SEC.40; P.L.114-2012, SEC.51; P.L.77-2012, SEC.52; P.L.232-2013, SEC.15.

IC 25-22.5-1-2.1

Experimental or nonconventional treatment; protocols for treatment; causes of action

Sec. 2.1. (a) An individual who consents under IC 34-18-12 may receive any experimental or nonconventional medical treatment if:

- (1) a licensed physician has personally examined the individual and agrees to treat the individual;
- (2) the treating physician determines:
 - (A) there is no reasonable basis to conclude that the medical treatment, when administered as directed, poses an unreasonable and significant risk of danger to the individual receiving the medical treatment; or
 - (B) the:
 - (i) individual has been diagnosed with a terminal disease or condition and does not have comparable or satisfactory treatment options that are approved by the federal Food and Drug Administration and that are available to diagnose, monitor, or treat the individual's disease or condition; and
 - (ii) probable risk to the individual from the experimental or nonconventional medical treatment is not greater than the probable risk from the individual's disease or condition; and
- (3) the treating physician has provided the individual with a written statement and an oral explanation of the medical treatment that the individual has acknowledged by the individual's signature or the signature of the individual's legal representative and that discloses the following:

(A) That the medical treatment is experimental or nonconventional.

(B) That the investigational drug, biological product, or device (as defined in IC 16-42-26-2) has not been approved by the federal Food and Drug Administration for any indication.

(C) The material risks generally recognized by a reasonably prudent physician of the medical treatment's side effects.

(D) An explanation of the medical treatment, including expected frequency and duration of the treatment.

(b) If the medical treatment is to be provided on an inpatient or outpatient basis at a hospital licensed under IC 16-21, then that type of treatment must have been approved by the governing board of the hospital or by a committee of the hospital authorized by the governing board to approve the types of experimental or nonconventional medical treatments that may be provided at the hospital on an inpatient or outpatient basis.

(c) The medical licensing board shall develop protocols for medical treatments that are provided in a setting other than the inpatient or outpatient hospital setting specified in subsection (b). A physician who fails to comply with a protocol developed under this subsection shall be subject to discipline by the medical licensing board.

(d) This section does not require any person or organization to provide an individual with access to a medical treatment not otherwise commercially available to that individual.

(e) This section does not require:

(1) an insurer;

(2) a fraternal benefit society;

(3) a nonprofit corporation;

(4) a health maintenance organization (as defined in IC 27-13-1-19);

(5) a preferred provider arrangement under IC 27-8-11; or

(6) a limited service health maintenance organization (as defined in IC 27-13-34-4);

to provide coverage or make payment beyond the terms and conditions of the contract for medical treatment authorized under this section.

(f) This section does not create a cause of action against a health care provider involved in connection with the use of an investigational drug, biological product, or device by a patient for any harm to the patient from the investigational drug, biological product, or device.

As added by P.L.44-1998, SEC.2. Amended by P.L.49-1999, SEC.1; P.L.2-2015, SEC.4.