



January 24, 2020

SENATE BILL No. 98

DIGEST OF SB 98 (Updated January 22, 2020 2:41 pm - DI 104)

Citations Affected: IC 16-18; IC 25-22.5; IC 25-23.

Synopsis: Certified registered nurse anesthetists. Requires a physician to be available for timely consultation with a certified registered nurse anesthetist who is administering anesthesia under the direction of the physician during a surgical procedure (current law requires the physician to remain present in the facility). Allows for a certified registered nurse anesthetist to administer anesthesia under the direction of a podiatrist in a hospital or ambulatory outpatient surgical center if a physician is available for a timely consultation. Provides that: (1) the National Board of Certification and Recertification for Nurse Anesthetists; or (2) another certifying entity approved by the Indiana state board of nursing; may act as a certifying or recertifying entity for certified registered nurse anesthetists.

Effective: July 1, 2020.

Becker, Charbonneau, Leising

January 6, 2020, read first time and referred to Committee on Health and Provider Services.
January 23, 2020, amended, reported favorably — Do Pass.

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January 24, 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.

SENATE BILL No. 98

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

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

- 1 SECTION 1. IC 16-18-2-14, AS AMENDED BY P.L.2-2019,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2020]: Sec. 14. (a) "Ambulatory outpatient surgical center",
4 for purposes of IC 16-21, IC 16-32-5, and IC 16-38-2, means a public
5 or private institution that meets the following conditions:
6 (1) Is established, equipped, and operated primarily for the
7 purpose of performing surgical procedures and services.
8 (2) Is operated under the supervision of at least one (1) licensed
9 physician or under the supervision of the governing board of the
10 hospital if the center is affiliated with a hospital.
11 (3) Permits a surgical procedure to be performed only by a
12 physician, dentist, or podiatrist who meets the following
13 conditions:
14 (A) Is qualified by education and training to perform the
15 surgical procedure.
16 (B) Is legally authorized to perform the procedure.
17 (C) Is privileged to perform surgical procedures in at least one

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- 1 (1) hospital within the county or an Indiana county adjacent to
 2 the county in which the ambulatory outpatient surgical center
 3 is located.
- 4 (D) Is admitted to the open staff of the ambulatory outpatient
 5 surgical center.
- 6 (4) Requires that a licensed physician with specialized training or
 7 experience in the administration of an anesthetic supervise the
 8 administration of the anesthetic to a patient and ~~remain present in~~
 9 **the facility be available for timely consultation** during the
 10 surgical procedure, except when only a local infiltration
 11 anesthetic is administered.
- 12 (5) Provides at least one (1) operating room and, if anesthetics
 13 other than local infiltration anesthetics are administered, at least
 14 one (1) postanesthesia recovery room.
- 15 (6) Is equipped to perform diagnostic x-ray and laboratory
 16 examinations required in connection with any surgery performed.
- 17 (7) Does not provide accommodations for patient stays of longer
 18 than twenty-four (24) hours.
- 19 (8) Provides full-time services of registered and licensed nurses
 20 for the professional care of the patients in the postanesthesia
 21 recovery room.
- 22 (9) Has available the necessary equipment and trained personnel
 23 to handle foreseeable emergencies such as a defibrillator for
 24 cardiac arrest, a tracheotomy set for airway obstructions, and a
 25 blood bank or other blood supply.
- 26 (10) Maintains a written agreement with at least one (1) hospital
 27 for immediate acceptance of patients who develop complications
 28 or require postoperative confinement.
- 29 (11) Provides for the periodic review of the center and the center's
 30 operations by a committee of at least three (3) licensed physicians
 31 having no financial connections with the center.
- 32 (12) Maintains adequate medical records for each patient.
- 33 (13) Meets all additional minimum requirements as established by
 34 the state department for building and equipment requirements.
- 35 (14) Meets the rules and other requirements established by the
 36 state department for the health, safety, and welfare of the patients.
- 37 (b) The term does not include a birthing center.
- 38 SECTION 2. IC 25-22.5-1-2, AS AMENDED BY P.L.180-2018,
 39 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2020]: Sec. 2. (a) This article, as it relates to the unlawful or
 41 unauthorized practice of medicine or osteopathic medicine, does not
 42 apply to any of the following:



- 1 (1) A student in training in a medical school approved by the
2 board, or while performing duties as an intern or a resident in a
3 hospital under the supervision of the hospital's staff or in a
4 program approved by the medical school.
- 5 (2) A person who renders service in case of emergency where no
6 fee or other consideration is contemplated, charged, or received.
- 7 (3) A paramedic (as defined in IC 16-18-2-266), an advanced
8 emergency medical technician (as defined in IC 16-18-2-6.5), an
9 emergency medical technician (as defined in IC 16-18-2-112), or
10 a person with equivalent certification from another state who
11 renders advanced life support (as defined in IC 16-18-2-7), or
12 basic life support (as defined in IC 16-18-2-33.5):
- 13 (A) during a disaster emergency declared by the governor
14 under IC 10-14-3-12 in response to an act that the governor in
15 good faith believes to be an act of terrorism (as defined in
16 IC 35-31.5-2-329); and
- 17 (B) in accordance with the rules adopted by the Indiana
18 emergency medical services commission or the disaster
19 emergency declaration of the governor.
- 20 (4) Commissioned medical officers or medical service officers of
21 the armed forces of the United States, the United States Public
22 Health Service, and medical officers of the United States
23 Department of Veterans Affairs in the discharge of their official
24 duties in Indiana.
- 25 (5) An individual who is not a licensee who resides in another
26 state or country and is authorized to practice medicine or
27 osteopathic medicine there, who is called in for consultation by an
28 individual licensed to practice medicine or osteopathic medicine
29 in Indiana.
- 30 (6) A person administering a domestic or family remedy to a
31 member of the person's family.
- 32 (7) A member of a church practicing the religious tenets of the
33 church if the member does not make a medical diagnosis,
34 prescribe or administer drugs or medicines, perform surgical or
35 physical operations, or assume the title of or profess to be a
36 physician.
- 37 (8) A school corporation and a school employee who acts under
38 IC 34-30-14 (or IC 34-4-16.5-3.5 before its repeal).
- 39 (9) A chiropractor practicing the chiropractor's profession under
40 IC 25-10 or to an employee of a chiropractor acting under the
41 direction and supervision of the chiropractor under IC 25-10-1-13.
- 42 (10) A dental hygienist practicing the dental hygienist's profession



- 1 under IC 25-13.
- 2 (11) A dentist practicing the dentist's profession under IC 25-14.
- 3 (12) A hearing aid dealer practicing the hearing aid dealer's
- 4 profession under IC 25-20.
- 5 (13) A nurse practicing the nurse's profession under IC 25-23.
- 6 However, a certified registered nurse anesthetist (as defined in
- 7 IC 25-23-1-1.4) may administer anesthesia if the certified
- 8 registered nurse anesthetist acts under the direction of ~~and in the~~
- 9 ~~immediate presence of a physician~~ **and if the directing physician**
- 10 **is available for timely consultation. A certified registered**
- 11 **nurse anesthetist may administer anesthesia under the**
- 12 **direction of a podiatrist in a hospital or an ambulatory**
- 13 **outpatient surgical center (as defined in IC 16-18-2-14) if a**
- 14 **physician is available for timely consultation.**
- 15 (14) An optometrist practicing the optometrist's profession under
- 16 IC 25-24.
- 17 (15) A pharmacist practicing the pharmacist's profession under
- 18 IC 25-26.
- 19 (16) A physical therapist practicing the physical therapist's
- 20 profession under IC 25-27.
- 21 (17) A podiatrist practicing the podiatrist's profession under
- 22 IC 25-29.
- 23 (18) A psychologist practicing the psychologist's profession under
- 24 IC 25-33.
- 25 (19) A speech-language pathologist or audiologist practicing the
- 26 pathologist's or audiologist's profession under IC 25-35.6.
- 27 (20) An employee of a physician or group of physicians who
- 28 performs an act, a duty, or a function that is customarily within
- 29 the specific area of practice of the employing physician or group
- 30 of physicians, if the act, duty, or function is performed under the
- 31 direction and supervision of the employing physician or a
- 32 physician of the employing group within whose area of practice
- 33 the act, duty, or function falls. An employee may not make a
- 34 diagnosis or prescribe a treatment and must report the results of
- 35 an examination of a patient conducted by the employee to the
- 36 employing physician or the physician of the employing group
- 37 under whose supervision the employee is working. An employee
- 38 may not administer medication without the specific order of the
- 39 employing physician or a physician of the employing group.
- 40 Unless an employee is licensed or registered to independently
- 41 practice in a profession described in subdivisions (9) through
- 42 (18), nothing in this subsection grants the employee independent



- 1 practitioner status or the authority to perform patient services in
 2 an independent practice in a profession.
 3 (21) A hospital licensed under IC 16-21 or IC 12-25.
 4 (22) A health care organization whose members, shareholders, or
 5 partners are individuals, partnerships, corporations, facilities, or
 6 institutions licensed or legally authorized by this state to provide
 7 health care or professional services as:
 8 (A) a physician;
 9 (B) a psychiatric hospital;
 10 (C) a hospital;
 11 (D) a health maintenance organization or limited service
 12 health maintenance organization;
 13 (E) a health facility;
 14 (F) a dentist;
 15 (G) a registered or licensed practical nurse;
 16 (H) a certified nurse midwife or a certified direct entry
 17 midwife;
 18 (I) an optometrist;
 19 (J) a podiatrist;
 20 (K) a chiropractor;
 21 (L) a physical therapist; or
 22 (M) a psychologist.
 23 (23) A physician assistant practicing the physician assistant
 24 profession under IC 25-27.5.
 25 (24) A physician providing medical treatment under section 2.1
 26 of this chapter.
 27 (25) An attendant who provides attendant care services (as
 28 defined in IC 16-18-2-28.5).
 29 (26) A personal services attendant providing authorized attendant
 30 care services under IC 12-10-17.1.
 31 (27) A respiratory care practitioner practicing the practitioner's
 32 profession under IC 25-34.5.
 33 (b) A person described in subsection (a)(9) through (a)(18) is not
 34 excluded from the application of this article if:
 35 (1) the person performs an act that an Indiana statute does not
 36 authorize the person to perform; and
 37 (2) the act qualifies in whole or in part as the practice of medicine
 38 or osteopathic medicine.
 39 (c) An employment or other contractual relationship between an
 40 entity described in subsection (a)(21) through (a)(22) and a licensed
 41 physician does not constitute the unlawful practice of medicine or
 42 osteopathic medicine under this article if the entity does not direct or



1 control independent medical acts, decisions, or judgment of the
 2 licensed physician. However, if the direction or control is done by the
 3 entity under IC 34-30-15 (or IC 34-4-12.6 before its repeal), the entity
 4 is excluded from the application of this article as it relates to the
 5 unlawful practice of medicine or osteopathic medicine.

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

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

16 SECTION 3. IC 25-23-1-1.4, AS AMENDED BY P.L.177-2009,
 17 SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2020]: Sec. 1.4. As used in this chapter, "certified registered
 19 nurse anesthetist" means a registered nurse who:

20 (1) is a graduate of a nurse anesthesia educational program
 21 accredited by the Council on Accreditation of Nurse Anesthesia
 22 Educational Programs or its predecessor;

23 (2) is properly certified by successfully completing the
 24 certification examination administered by the ~~Council on~~
 25 ~~Certification of Nurse Anesthetists or its predecessor;~~ **National**
 26 **Board of Certification and Recertification for Nurse**
 27 **Anesthetists or another certifying entity approved by the**
 28 **board;** and

29 (3) is properly certified and in compliance with criteria for
 30 biennial recertification, as defined by the ~~Council on~~
 31 ~~Recertification of Nurse Anesthetists;~~ **National Board of**
 32 **Certification and Recertification for Nurse Anesthetists or**
 33 **another certifying entity approved by the board.**

34 SECTION 4. IC 25-23-1-30, AS AMENDED BY P.L.177-2009,
 35 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 2020]: Sec. 30. (a) A certified registered nurse anesthetist may
 37 administer anesthesia if the certified registered nurse anesthetist acts
 38 under the direction of ~~and in the immediate presence of~~ a physician
 39 **and if the directing physician is available for timely consultation.**
 40 **A certified registered nurse anesthetist may administer anesthesia**
 41 **under the direction of a podiatrist in a hospital or an ambulatory**
 42 **outpatient surgical center (as defined in IC 16-18-2-14) if a**



- 1 **physician is available for timely consultation.**
- 2 (b) Nothing in this chapter shall be construed as requiring a certified
- 3 registered nurse anesthetist to obtain prescriptive authority to
- 4 administer anesthesia under subsection (a).



COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 98, 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 2, line 6, reset in roman "licensed physician with specialized training or".

Page 2, reset in roman line 7.

Page 2, line 8, reset in roman "administration of the anesthetic to a patient and".

Page 2, line 9, after "facility" insert "**be available for timely consultation**".

Page 2, line 9, reset in roman "during the surgical procedure, except when only a".

Page 2, line 10, reset in roman "local infiltration anesthetic is administered."

Page 2, line 10, delete "certified registered".

Page 2, delete lines 11 through 13.

Page 4, line 11, delete "or podiatrist." and insert "**and if the directing physician is available for timely consultation. A certified registered nurse anesthetist may administer anesthesia under the direction of a podiatrist in a hospital or an ambulatory outpatient surgical center (as defined in IC 16-18-2-14) if a physician is available for timely consultation.**".

Page 6, line 35, delete "or" and insert "**and if the directing physician is available for timely consultation. A certified registered nurse anesthetist may administer anesthesia under the direction of a podiatrist in a hospital or an ambulatory outpatient surgical center (as defined in IC 16-18-2-14) if a physician is available for timely consultation.**".

Page 6, delete line 36.

and when so amended that said bill do pass.

(Reference is to SB 98 as introduced.)

CHARBONNEAU, Chairperson

Committee Vote: Yeas 8, Nays 2.

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