

PROPOSED AMENDMENT

HB 1623 # 6

DIGEST

Licensure rules. Provides that if an agency fails to promulgate a required rule relating to licensure, a licensee is not required to pay license fees relating to the rule and is entitled to the refund of any already paid licensure fees. Establishes a procedure to determine whether a required rule has been promulgated. Removes a requirement that a physician submit a collaborative agreement with a physician assistant to the medical licensing board.

- 1 Page 58, between lines 7 and 8, begin a new paragraph and insert:
2 "SECTION 45. IC 25-1-5.3 IS ADDED TO THE INDIANA CODE
3 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2023]:
5 **Chapter 5.3. Failure to Enact Licensure Rules**
6 **Sec. 1. The following definitions apply throughout this chapter:**
7 (1) "Agency" has the meaning set forth in IC 25-1-5-2.
8 (2) "Board" has the meaning set forth in IC 25-1-5-2.
9 (3) "Compliant", with respect to a licensure rule, means a
10 licensure rule that the agency or a board has adopted.
11 (4) "Enactment date" means the date on which a statute
12 requires rulemaking for a licensure rule to commence.
13 (5) "Executive director" refers to the individual described in
14 IC 25-1-5-5.
15 (6) "Licensee" has the meaning set forth in IC 25-1-5-11.
16 (7) "Licensure rule" means a rule that:
17 (A) relates to the issuance of a license, certificate,
18 registration, or permit, or a requirement or prerequisite
19 for obtaining a license, or keeping a license in good
20 standing; and
21 (B) is required by statute to be adopted by the agency or a
22 board.
23 (8) "Noncompliant", with respect to a licensure rule, means
24 a licensure rule that the agency or a board has not adopted
25 within eighteen (18) months of the enactment date.

1 **Sec. 2. (a) If a licensee believes that the agency or a board has**
 2 **failed to adopt a licensure rule within eighteen (18) months of the**
 3 **enactment date, the licensee may request in writing that the**
 4 **executive director determine that the licensure rule is**
 5 **noncompliant. The executive director shall issue the determination**
 6 **of noncompliance or compliance in writing.**

7 **(b) If the executive director determines that the licensure rule**
 8 **is noncompliant, the licensee is entitled to the relief described in**
 9 **section 3 of this chapter.**

10 **(c) If:**

11 **(1) the executive director determines that the licensure rule is**
 12 **compliant; or**

13 **(2) at least thirty (30) days have passed since the licensee**
 14 **requested the executive director to confirm that the licensure**
 15 **rule is noncompliant and the executive director has not issued**
 16 **a determination;**

17 **the licensee may request that the governor or the attorney general**
 18 **determine that the licensure rule is a noncompliant. A licensee may**
 19 **not request that both the governor and the attorney general make**
 20 **a determination under this subsection.**

21 **(d) If the governor or the attorney general determines that the**
 22 **licensure rule is noncompliant, the licensee is entitled to the relief**
 23 **described in section 3 of this chapter.**

24 **Sec. 3. (a) If the executive director, governor, or attorney**
 25 **general determines that a licensure rule is noncompliant, the**
 26 **licensee:**

27 **(1) is not required to pay the license fee to which the licensure**
 28 **rule relates from the enactment date to the date the licensure**
 29 **rule becomes compliant (if applicable); and**

30 **(2) is entitled to a refund of any license fee to which the**
 31 **licensure rule relates from the enactment date to the date the**
 32 **licensure rule becomes compliant (if applicable).**

33 **(b) The failure to pay a license fee as authorized under this**
 34 **section does not affect the validity of the license.**

35 **Sec. 4. (a) If the executive director has determined under section**
 36 **2 of this chapter that a licensure rule is noncompliant, and the**
 37 **agency later adopts a licensure rule, the executive director may,**
 38 **upon the request of any person, including the executive director,**
 39 **make a new determination concerning the licensure rule. The**
 40 **executive director shall issue the determination in writing.**

1 **(b) If the executive director determines that the licensure rule**
 2 **is compliant, a licensee who disagrees with the determination may**
 3 **request, not later than thirty (30) days after issuance of the new**
 4 **determination, that the governor or attorney general review the**
 5 **determination. The licensee may not request that both the**
 6 **governor and the attorney general review the determination. If the**
 7 **governor or attorney general determines that the licensure rule is**
 8 **noncompliant, the determination of the governor or attorney**
 9 **general controls.**

10 **Sec. 5. If the governor or attorney general determined that a**
 11 **licensure rule was noncompliant under section 2 of this chapter,**
 12 **and the agency later adopts a licensure rule, upon the request of**
 13 **any person, the governor or attorney general may make a new**
 14 **determination concerning the licensure rule. The governor or**
 15 **attorney general shall issue the determination in writing.**

16 **Sec. 6. If the executive director, under section 4 of this chapter,**
 17 **or the governor or attorney general, under section 5 of this**
 18 **chapter, determines that a formerly noncompliant licensure rule**
 19 **is now compliant, a licensee is required to pay the license fee to**
 20 **which the licensure rule relates, beginning:**

21 **(1) from the date the new determination was issued; or**

22 **(2) if the new determination was issued by the executive**
 23 **director under section 4(a) of this chapter and the licensee**
 24 **sought review by the governor or attorney general under**
 25 **section 4(b) of this chapter, from the date the governor**
 26 **attorney general issued a determination;**

27 **whichever is later.**

28 SECTION 46. IC 25-27.5-5-2, AS AMENDED BY P.L.247-2019,
 29 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2023]: Sec. 2. (a) A physician assistant:

31 (1) must engage in a dependent practice with a collaborating
 32 physician; and

33 (2) may not be independent from the collaborating physician,
 34 including any of the activities of other health care providers set
 35 forth under IC 25-22.5-1-2(a)(1) through IC 25-22.5-1-2(a)(19).

36 A physician assistant may perform, under a collaborative agreement,
 37 the duties and responsibilities that are delegated by the collaborating
 38 physician and that are within the collaborating physician's scope of
 39 practice, including prescribing and dispensing drugs and medical
 40 devices. A patient may elect to be seen, examined, and treated by the

1 collaborating physician.

2 (b) If a physician assistant determines that a patient needs to be
3 examined by a physician, the physician assistant shall immediately
4 notify the collaborating physician or physician designee.

5 (c) If a physician assistant notifies the collaborating physician that
6 the physician should examine a patient, the collaborating physician
7 shall:

8 (1) schedule an examination of the patient unless the patient
9 declines; or

10 (2) arrange for another physician to examine the patient.

11 (d) A collaborating physician or physician assistant who does not
12 comply with subsections (b) and (c) is subject to discipline under
13 IC 25-1-9.

14 (e) A physician assistant's collaborative agreement with a
15 collaborating physician must:

16 (1) be in writing;

17 (2) include all the tasks delegated to the physician assistant by the
18 collaborating physician;

19 (3) set forth the collaborative agreement for the physician
20 assistant, including the emergency procedures that the physician
21 assistant must follow; and

22 (4) specify the protocol the physician assistant shall follow in
23 prescribing a drug.

24 ~~(f) The physician shall submit the collaborative agreement to the
25 board. The physician assistant may prescribe a drug under the
26 collaborative agreement unless the board denies the collaborative
27 agreement. Any amendment to the collaborative agreement must be
28 resubmitted to the board; and the physician assistant may operate under
29 any new prescriptive authority under the amended collaborative
30 agreement unless the agreement has been denied by the board.~~

31 ~~(g)~~ (f) A physician or a physician assistant who violates the
32 collaborative agreement described in this section may be disciplined
33 under IC 25-1-9."

34 Renumber all SECTIONS consecutively.

(Reference is to HB 1623 as introduced.)