



2022 Indiana Legislative Health Summary

March 14, 2022

In this document, we summarize 9 health and pharmacy related bills passed into law during the [2022 Indiana Legislative Session](#). This short session began on Tuesday January 4th and adjourned on Tuesday March 8th. A total of 379 bills (excluding vehicle bills) were introduced in the Senate, of which 96 will become law, resulting in a passage percentage of 25.3%. A total of 407 bills were introduced in the House of Representatives, of which 82 will become law, resulting in a passage percentage of 20.1%.

In January, Speaker of the House Todd Huston and President Pro Tempore Bray signed a joint letter addressed to presidents and CEO's calling on [non-profit hospitals](#) and [health insurance carriers](#) serving Indiana to work collaboratively to provide a plan to legislators by April 1, 2022 to lower Indiana's hospital prices to at least the national average by January 1, 2025. The Employers' Forum of Indiana strongly supports the content and spirit of these letters sent by the Indiana legislative leaders.

2022 Accomplishments of the Employers' Forum of Indiana

1. EFI successfully supported HB 1153 Worker's Compensation to expand the workers compensation cap of 200% of Medicare that is currently available for hospital services to now include ambulatory care surgical centers (ASCs).
2. EFI was successful in advocating for the removal of the following language in a variety of bills:
 - a. Clinician administered drugs, commonly known as "white bagging" in HB 1158 Health and Human Services Matters;
 - b. Rebates required to be provided at the point of sale for self-funded employers in SB 88 Prescription Drug Rebates and Pricing; and
 - c. Numerous bills attempting broad employer prohibitions regarding vaccine requirements, COVID-19 testing, and vaccination monitoring.
3. EFI was partially successful in advocating for the following:
 - a. Employers' ability to keep their employees safe from COVID-19 in HB 1001 Administrative Authority; COVID-19 Immunizations, and
 - b. Limiting COPA language to Vigo County in SB 298 Certificate of Public Advantage.
4. EFI advocated for [HB 1270 Nonprofit Hospital and Insurer Reporting](#), which proposed to prohibit anti-competitive insurer-provider contract language, expand hospital price transparency, and add specifications for required hospital and insurer public forum meetings. This bill died likely to give the letters sent to Indiana non-profit hospitals and health insurance carriers an opportunity to be addressed first.
5. EFI advocated for the elimination of physician noncompete language all together by supporting related efforts illustrated in HB 1295 Physician Noncompete Agreements. This bill died in the second half of session after not receiving a hearing in the Senate Health & Provider Services Committee.



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Senate Enrolled Acts

1. SB 136 Dental Plans (Senator Andy Zay)

- a. Effective Date: July 1, 2022.
- b. Prohibits a dental plan from directly or indirectly requiring a dental provider to provide a service to a covered individual at a fee amount that is set by the plan or subject to the approval of the plan, unless the service is a covered service under the plan.
- c. A dental plan includes an insurance policy, a health maintenance organization contract, or a preferred provider plan.
- d. A covered service includes the following: a dental service for which a reimbursement is available under a dental plan or would be available under a dental plan but for the application of contractual limitations such as:
 - i. deductibles; copayments; coinsurance; waiting periods; annual or lifetime maximums; frequency limitations; alternative benefit payments; or any other limitation (all under the dental plan).
- e. Prohibits a third-party administrator or another person from arranging for a dental provider to provide dental services for a dental plan that sets the amount of the fee for any services unless they are covered under the plan.
- f. Grants authority to the Insurance Commissioner to issue a cease-and-desist order against a person that violates any of these prohibitions.
- g. If a person violates these prohibitions, the Insurance Commissioner is allowed to impose a civil penalty on the person of up to \$10,000, suspend or revoke the person's certificate of authority, or impose a civil penalty and suspend or revoke the person's certificate of authority.

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2. SB 239 Practitioner Advertising (Senator Kevin Boehnlein)

- a. Effective Date: July 1, 2022.
- b. Provides certain practitioners are subject to disciplinary sanctions if he or she communicates or disseminates an advertisement to the public that includes deceptive or misleading information and does not prominently state the profession or license held by the practitioner.



- c. Applies to advertisements that are communicated or disseminated beginning January 1, 2023 – however, if it was prepared or created before the effective date, it may not be disseminated after December 31, 2022, unless it complies with the new requirements.
- d. The term “advertisement” does not include the following: office building placards or exterior building signage in place before January 1, 2023.
- e. Deceptive or misleading information means any information that misrepresents or falsely describes practitioner’s: profession; skills; training; expertise; education degree; board certification; or license.
- f. Regarding the law prohibiting the unlawful practice of medicine or osteopathic medicine that “the practice of medicine or osteopathic medicine” includes attaching to an individual’s name additional terms or other specified words identifying a member of a medical specialty.
- g. Does not apply to a practitioner if he or she has a special area of practice, and the practitioner uses the following format: “(The name or title of the practitioner’s profession) specializing in (name of specialty)”.
- h. Specifies the exclusions to the practice of medicine and osteopathic medicine do not allow a person to use words or abbreviations that indicate or induce an individual to believe the person is engaged in the practice of medicine or osteopathic medicine.

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3. SB 284 Telehealth Matters (Senator Ed Charbonneau)

- a. Effective Date: July 1, 2022.
- b. Consolidates Medicaid telehealth language.
- c. Provides that the term “health care services” does not include certain case management services, care management services, service coordination services, or care coordination services for purposes of telehealth.
- d. Adds the following professions to the definition of “practitioner” for purposes of practicing telehealth:
 - i. occupational therapist assistants; school psychologists; specified developmental therapists; peers; clinical fellows; students and graduates of certain



professional programs; physical therapist assistants; and certain community mental health center providers.

- e. Allows behavior health analysts to temporarily perform telehealth during the time when the professional licensing agency is preparing to implement licensure or the profession.

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4. SB 298 Certificates of Public Advantage (Senator Ed Charbonneau)

- a. Effective Date: Effective Upon Passage.
- b. Applies only to Vigo County; clean-up legislation from previous COPA legislation.
- c. Defines “merger” as any change of ownership, including an acquisition or transfer of assets; or the purchase of stock effectuated by a merger agreement.
- d. Defines “merger agreement” for the purposes of the certificate of public advantage for certain hospital mergers as an agreement between two or more hospitals for the consolidation by merger or other acquisition or transfer of assets by which ownership or control over substantially all the stock, assets, or activities of one or more previously licensed and operating hospitals is placed under the control of another licensed hospital or other entity that controls hospitals.
- e. Requires Indiana State Department of Health (ISDH) to actively supervise a merger.
- f. Allows ISDH to enter into an agreement with a nonprofit organization or a postsecondary educational institution to study the impacts of the COPA on the community’s health metrics and outcomes.
- g. Requires holders of a certificate of public advantage to pay for reasonable charges incurred by the state.

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House Enrolled Acts

5. HB 1001 Administrative Authority; COVID-19 Immunizations (Representative Matt Lehman)

- a. Effective Date: Effective Upon Passage.
- b. Allows FSSA to issue a waiver of human services statutory provisions and administrative rules if the secretary determines the waiver is necessary to claim certain enhanced federal matching funds for the Medicaid program.
- c. Allows the FSSA secretary to issue an emergency declaration for purposes of participating in certain SNAP emergency allotments.
- d. Requires the FSSA secretary to prepare and submit any waivers or emergency declarations to the budget committee.
- e. Allows the ISDH Commissioner or a designee to issue standing orders, prescriptions, or protocols to administer or dispense certain immunizations for individuals who are at least five years old.
- f. Specifies that an Indiana governmental entity may not issue or require an immunization passport.
 - i. An "Indiana governmental entity" means: the state; a state educational institution; a political subdivision; or a public school corporation.
 - ii. The term does not include a state institution or a hospital.
- g. Provides a person is not disqualified from unemployment benefits if he or she has complied with the requirements for seeking an exemption from an employer's COVID-19 immunization requirements and was discharged from employment for failing or refusing to receive an immunization against COVID-19.
- h. Prohibits an employer from imposing a vaccine mandate for immunization against COVID-19 unless the employer provides individual exemptions that allow an employee to opt out of the requirement on the basis of medical reasons, religious reasons, or immunity from COVID-19 acquired from a prior infection with COVID-19.
 - i. Unless waived by the employer, to claim an exemption based on medical reasons, an employee must submit a statement from a licensed physician, licensed physician's assistant or advanced practice registered nurse who has examined the employee. The statement must provide that, in the professional opinion of the physician (MD, PA or APRN), the



immunization against COVID-19 is medically contraindicated for the employee.

- ii. To claim an exemption based on religious reasons, an employee must submit to the employer, a written statement indicating he or she declines the immunization against COVID-19 because of a sincerely held religious belief.
- iii. Unless waived by the employer, to claim an exemption based on immunity from COVID-19 (acquired from a prior infection), an employee must submit the result of a lab test that is approved by the FDA including: a PCR test, an antigen test, or an antibody or serology test. A new lab test result may be requested by the employer no more than once every three months.
- iv. If an employer receives a completed exemption statement from an employee based on medical reasons or immunity from COVID-19 acquired from a prior infection, the employer must allow the employee to opt out of the vaccine mandate without further inquiry.
- v. If an employer receives a completed exemption statement from an employee based on religious reasons, the employer must make a religious accommodation in compliance with Title VII of the federal Civil Rights Act of 1964 and the Americans with Disabilities Act.
- i. An employer may require an employee to submit to testing for COVID-19 no more than twice a week if the employee receives an exemption based on the reasons above.
 - i. The test must have been approved by the FDA, be the least invasive testing option available, and may not create an undue burden on the employee.
- j. Includes exceptions for:
 - i. Certain employees working in other states; employers involved in certain federal contracts; health care facilities subject to federal immunization requirements; and an employer or employee that operates a professional sports organization or entertainment organization or venue engaged in certain types of entertainment.



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6. HB 1003 Nursing Programs and Licensing Matters (Representative Ethan Manning)

- a. Effective Date: Effective Upon Passage.
- b. Establishes requirements for the temporary licensure of retired or inactive EMS personnel, retired or inactive health care professionals, out-of-state health care professionals, or recently graduated students who have applied for certain licenses.
- c. Allows a health care provider or an officer, agent, or employee of a health care provider who has a temporary license to qualify for coverage under the Medical Malpractice Act.
- d. Requires the State Board of Nursing to issue by endorsement a license to practice as a registered nurse or practical nurse to an applicant who is a graduate of a foreign nursing school and provides certain documentation.
- e. Allows an eligible associate degree or bachelor's degree registered nursing program to increase enrollment at any rate deemed appropriate by the program.
 - i. An eligible program is one that is accredited by the board of nursing and has an annual rate of successful completion of the National Council Licensure Examination (NCLEX) score of at least eighty percent (80%).
 - ii. Must also have been operating for at least five years.
- f. Allows a nursing program that is not an eligible program but meets other requirements to increase enrollment by not more than 100%.
- g. Allows a nursing program to substitute a certain number of simulation hours for clinical hours in certain circumstances.
- h. Establishes requirements for clinical preceptors.
- i. Provides a majority of the faculty is not required to be full-time employees at a state educational institution operation a nursing program that predominantly issues associate degrees.

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7. HB 1153 Worker's Compensation (Representative Matt Lehman)

- a. Effective Date: July 1, 2022.



- b.** Provides that if, after the occurrence of an accident, compensation is paid for temporary total disability or temporary partial disability, then the two-year limitation period to file an application for adjustment of claim begins to run on the last date for which the compensation was paid.
- c.** Increases benefits for injuries and disablements by 3% each year for four years, beginning on July 1, 2023.
 - i.** Increases the work compensation benefit paid to an individual.
- d.** Adds ambulatory outpatient surgical center to the definition of “medical service facility” under the worker’s compensation law.
 - i.** Maintains cap at 200% of Medicare if after negotiations an agreement has not been reached.
 - ii.** Payment of the charges in a reasonable amount is established by one of the following:
 - 1.** The amount negotiated at any time between the medical service facility and any of the following, (if the amount has been negotiated): the employer, the employer’s insurance carrier, a billing review service on behalf of one of these, or a direct provider network; or
 - 2.** 200% of the amount that would be paid to the medical service facility on the same date for the same service or product under the medical service facility’s Medicare reimbursement rate, if an amount has not been negotiated as described above, and an agreement has not been reached.
- e.** Makes changes to the definition of “pecuniary liability”.
- f.** Establishes clean claim payment requirements related to worker’s compensation claims.
 - i.** A “clean claim” means a claim submitted by a medical service provider for payment that has no defect, impropriety, or particular circumstance requiring special treatment preventing payment.
 - ii.** “Payor” means an employer or an employer’s insurance carrier that is liable for a claim for a service or product.

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8. HB 1169 Health Matters (Representative Ed Clere)

- a. Effective Date: July 1, 2022, for some sections and Effective Upon Passage for others.
- b. Prohibits certain health insurance plans from requiring authorization for covered early intervention services under an individualized family service plan signed by an APRN or PA.
- c. Amends the makeup and duties of the Division of Disability and Rehabilitative Services Advisory Council. (Effective upon passage.)
- d. Repeals and relocates rules regarding:
 - i. The regulating the operation of tattoo parlors and body piercing facilities; allowing the executive board of ISDH to adopt rules on behalf of ISDH; allowing the board to adopt emergency rules; sanitation of public building and institutions; and authority to adopt rules concerning the federal Clinical Laboratory Improvement Amendments.
- e. Repeals laws related to the following:
 - i. Safety guidelines for children during bad weather conditions; automated external defibrillator rules in health clubs; requiring the state health commissioner to comment on certain rules; fees for serological tests; the administrative unit for special institutions; protection and regulation of department property; and the registry of blind persons.
- f. Removes intemperance as a reason to remove a local health officer.
- g. Specifies ISDH may request the office of administrative law proceedings to designate a person to administer a proceeding.
- h. Requires ISDH to provide facilities and disseminate information to the public concerning oral public health.
- i. Allows ISDH to have a designee maintain a 24-hour poisons answering service.
- j. Adds information on prenatal care to ISDH's telephone information service concerning children with long term health care needs.
- k. Changes the reference from "illegal drug use" to "substance abuse disorder" for purposes of partnership and joint ventures with ISDH.
- l. Requires ISDH to employ a licensed physician as the chief medical officer.



- i. Allows the chief medical officer to perform the functions of the commissioner when the commissioner is not available.
- m. Makes changes related to the state health laboratory:
 - i. That it must be used to support public health; changes the title of the person who manages the laboratory; removes certain requirements concerning the appointment of the laboratory director and chemist; and removes a requirement for the director to report to the commissioner.
- n. Requires holders of a COPA to pay for reasonable charges incurred by ISDH.
(Effective Upon Passage.)
- o. Provides that home health agencies may enter into cooperative agreements to carry out the following activities for the Hoosier Care Connect program:
 - i. To form and operate, either directly or indirectly, one or more networks of home health agencies to arrange for the provision of health care services through such networks.
 - ii. To contract, either directly or through such networks, with the office of the secretary of family and social services, or the office's contractors, to provide:
 - 1. Services to Medicaid beneficiaries; and
 - 2. Health care services in an efficient and cost-effective manner on a prepaid, capitation, or other reimbursement basis.
 - iii. To undertake other managed health care activities.
- p. Allows a home health agency to authorize an association, corporation, or other person to undertake or effectuate any of these activities.
- q. Requires the FSSA to oversee and supervise these activities.
- r. Changes the requirement that ISDH "shall" to "may" use information compiled by a public or private entity to the greatest extent possible to develop a chronic disease registry.
- s. Allows ISDH to issue a certificate of free sale to a business that meets certain requirements.
- t. Amends the definition of "person" for purposes of the state health improvement plan and grant program. (Effective upon passage.)



- u.** Amends the definition of "deaf or hard of hearing" for purposes of the laws governing language development for children who are deaf or hard of hearing.
- v.** Changes the membership on the Indiana board of pharmacy.
- w.** HB 1158 Language (Effective upon passage):
 - i.** Removes the requirement that a qualifying pharmacist is responsible for the legal operations of a pharmacy.
 - 1.** Legal operations include requirements related to opening, establishing, operating and maintaining a pharmacy.
 - ii.** Amends references to certain pharmacy school accreditation organizations.
 - iii.** Specifies responsibilities of pharmacists concerning duties previously responsible by a qualifying pharmacist.
 - 1.** Including requirements for when a pharmacy is permanently closed, video surveillance, record review, storage of drugs, etc.
 - iv.** Allows a qualified pharmacy technician to administer immunizations delegated by the pharmacist.
 - v.** Amends requirements for remote pharmacies.
 - 1.** If the remote dispensing facility is not jointly owned by the pharmacy, it must operate under a contract with a supervising pharmacy.
 - 2.** It must also be supervised by a licensed pharmacist who is designated by the supervising pharmacy to be responsible for oversight of the remote dispensing facility.
 - 3.** The supervising pharmacy must establish minimum standards and practices that ensure the safety, accuracy, security, sanitation, record keeping, and patient confidentiality at the remote dispensing facility.
 - 4.** The pharmacy operating a remote dispensing facility is responsible for: sufficient staffing to avoid the risk of harm to public health and safety; having good standing with the board of pharmacy; and ensuring it is not operating more than one remote dispensing facility at a time, unless otherwise approved.



- 5. Includes requirements for physical presence by a pharmacist, visitations required for inspections, inventory requirements related to schedule II-controlled substances, and quality improvement programs.
- x. Adds an exception to the definition of "wholesale distribution" for prescription drugs.
- y. Authorizes an APRN to sign an order or referral for physical therapy.
- z. Requires a health insurance plan to provide coverage for diabetes self-management training ordered by an APRN or PA.
- aa. Provides that a county coroner may not certify the cause of death for certain infants as a sudden unexplained infant death until a comprehensive death investigation is performed.

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9. HB 1255 Health Matters (Representative Brad Barrett)

- a. Effective Date: July 1, 2022, for some sections and Effective Upon Passage for others.
- b. Amends definitions of "practitioner" for purposes of the health professions and professional standards of practice laws to include individuals who held a license, certificate, registration, or permit when the alleged violation of the standard of practice occurred. (Effective Upon Passage.)
- c. Includes technical corrections for certain health related laws.

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