

# HOUSE BILL No. 1297

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 25-1-9; IC 34-28-8.1.

**Synopsis:** Firearm ownership and medical records. Prohibits a practitioner or medical records custodian from disclosing certain information relating to a patient's ownership of a firearm. Prohibits a political subdivision or the board regulating a practitioner from requiring the practitioner to: (1) inquire whether a patient owns a firearm; (2) document in a patient's medical record whether the patient owns a firearm; or (3) notify any governmental entity of the patient's identification solely on the basis of the patient's ownership of a firearm.

**Effective:** July 1, 2016.

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## Judy, Lucas, VanNatter, Morris

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January 12, 2016, read first time and referred to Committee on Public Policy.

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Second Regular Session of the 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

# HOUSE BILL No. 1297

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 25-1-9-4, AS AMENDED BY P.L.197-2007,  
2 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2016]: Sec. 4. (a) A practitioner shall conduct the  
4 practitioner's practice in accordance with the standards established by  
5 the board regulating the profession in question and is subject to the  
6 exercise of the disciplinary sanctions under section 9 of this chapter if,  
7 after a hearing, the board finds:  
8 (1) a practitioner has:  
9 (A) engaged in or knowingly cooperated in fraud or material  
10 deception in order to obtain a license to practice, including  
11 cheating on a licensing examination;  
12 (B) engaged in fraud or material deception in the course of  
13 professional services or activities;  
14 (C) advertised services in a false or misleading manner; or  
15 (D) been convicted of a crime or assessed a civil penalty  
16 involving fraudulent billing practices, including fraud under:  
17 (i) Medicaid (42 U.S.C. 1396 et seq.);



- 1 (ii) Medicare (42 U.S.C. 1395 et seq.);  
 2 (iii) the children's health insurance program under  
 3 IC 12-17.6; or  
 4 (iv) insurance claims;
- 5 (2) a practitioner has been convicted of a crime that:  
 6 (A) has a direct bearing on the practitioner's ability to continue  
 7 to practice competently; or  
 8 (B) is harmful to the public;
- 9 (3) a practitioner has knowingly violated any state statute or rule,  
 10 or federal statute or regulation, regulating the profession in  
 11 question, **including a violation of section 22 of this chapter**;
- 12 (4) a practitioner has continued to practice although the  
 13 practitioner has become unfit to practice due to:  
 14 (A) professional incompetence that:  
 15 (i) may include the undertaking of professional activities  
 16 that the practitioner is not qualified by training or experience  
 17 to undertake; and  
 18 (ii) does not include activities performed under  
 19 IC 16-21-2-9;
- 20 (B) failure to keep abreast of current professional theory or  
 21 practice;
- 22 (C) physical or mental disability; or  
 23 (D) addiction to, abuse of, or severe dependency upon alcohol  
 24 or other drugs that endanger the public by impairing a  
 25 practitioner's ability to practice safely;
- 26 (5) a practitioner has engaged in a course of lewd or immoral  
 27 conduct in connection with the delivery of services to the public;
- 28 (6) a practitioner has allowed the practitioner's name or a license  
 29 issued under this chapter to be used in connection with an  
 30 individual who renders services beyond the scope of that  
 31 individual's training, experience, or competence;
- 32 (7) a practitioner has had disciplinary action taken against the  
 33 practitioner or the practitioner's license to practice in any state or  
 34 jurisdiction on grounds similar to those under this chapter;
- 35 (8) a practitioner has diverted:  
 36 (A) a legend drug (as defined in IC 16-18-2-199); or  
 37 (B) any other drug or device issued under a drug order (as  
 38 defined in IC 16-42-19-3) for another person;
- 39 (9) a practitioner, except as otherwise provided by law, has  
 40 knowingly prescribed, sold, or administered any drug classified  
 41 as a narcotic, addicting, or dangerous drug to a habitue or addict;
- 42 (10) a practitioner has failed to comply with an order imposing a



1 sanction under section 9 of this chapter;

2 (11) a practitioner has engaged in sexual contact with a patient  
3 under the practitioner's care or has used the practitioner-patient  
4 relationship to solicit sexual contact with a patient under the  
5 practitioner's care;

6 (12) a practitioner who is a participating provider of a health  
7 maintenance organization has knowingly collected or attempted  
8 to collect from a subscriber or enrollee of the health maintenance  
9 organization any sums that are owed by the health maintenance  
10 organization; or

11 (13) a practitioner has assisted another person in committing an  
12 act that would be grounds for disciplinary sanctions under this  
13 chapter.

14 (b) A practitioner who provides health care services to the  
15 practitioner's spouse is not subject to disciplinary action under  
16 subsection (a)(11).

17 (c) A certified copy of the record of disciplinary action is conclusive  
18 evidence of the other jurisdiction's disciplinary action under subsection  
19 (a)(7).

20 SECTION 2. IC 25-1-9-22 IS ADDED TO THE INDIANA CODE  
21 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
22 1, 2016]: **Sec. 22. (a) The following definitions apply throughout  
23 this section:**

24 (1) "Firearm" has the meaning set forth in IC 35-47-1-5.

25 (2) "Practitioner or medical records custodian" means:

26 (A) a practitioner who provides medical services to a  
27 human being;

28 (B) a person supervised by a practitioner; or

29 (C) an individual employed by a person or organization  
30 providing health care who has custody or control of  
31 medical records.

32 (b) Except as provided in subsection (c), a practitioner or  
33 medical records custodian may not do the following:

34 (1) Disclose information gathered in the course of a  
35 practitioner-patient relationship that relates to a patient's  
36 ownership of or access to a firearm.

37 (2) Use an electronic medical record program that requires,  
38 in order to complete and save a medical record, entry of data  
39 regarding whether a patient:

40 (A) owns a firearm;

41 (B) has access to a firearm; or

42 (C) lives in a home containing a firearm.



1 (c) A practitioner or medical records custodian may disclose  
 2 information described in subsection (b)(1) under the following  
 3 circumstances:

- 4 (1) To comply with a court order.  
 5 (2) In response to a threat to the health and safety of the  
 6 patient or another person.  
 7 (3) In connection with a referral to a mental health  
 8 professional.  
 9 (4) With the express consent of the patient, if:  
 10 (A) the patient's consent is given in writing on a separate  
 11 document that relates only to firearms ownership; and  
 12 (B) the patient is asked for consent only if, in the opinion of  
 13 the practitioner, information relating to the patient's  
 14 ownership of a firearm or access to a firearm is medically  
 15 indicated.

16 A practitioner or medical records custodian may not routinely  
 17 request a patient's consent to disclosure of information  
 18 relating to ownership of a firearm or access to a firearm. A  
 19 practitioner or medical records custodian may request a  
 20 patient's consent only in accordance with clause (B).

21 (d) This section does not prohibit a practitioner from inquiring  
 22 about and documenting whether a patient owns or has access to a  
 23 firearm if the inquiry or documentation is, in the judgment of the  
 24 practitioner, medically indicated and if the inquiry or  
 25 documentation does not violate any other state or federal law.

26 SECTION 3. IC 25-1-9-23 IS ADDED TO THE INDIANA CODE  
 27 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 28 1, 2016]: **Sec. 23.** The board that regulates a practitioner's  
 29 profession may not require a practitioner to do any of the  
 30 following:

- 31 (1) Inquire as to whether a patient owns or has access to a  
 32 firearm.  
 33 (2) Document or maintain in a patient's medical records  
 34 whether the patient owns or has access to a firearm.  
 35 (3) Notify any governmental entity of the identity of a patient  
 36 based solely on the patient's status as an owner of a firearm  
 37 or the patient's access to a firearm.

38 SECTION 4. IC 34-28-8.1 IS ADDED TO THE INDIANA CODE  
 39 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 40 JULY 1, 2016]:

41 **Chapter 8.1. Firearms and Medical Records**

42 **Sec. 1.** The following definitions apply throughout this chapter:



- 1           (1) "Firearm" has the meaning set forth in IC 35-47-1-5.
- 2           (2) "Political subdivision" has the meaning set forth in
- 3           IC 36-1-2-13.
- 4           (3) "Practitioner or medical records custodian" has the
- 5           meaning set forth in IC 25-1-9-22.
- 6           **Sec. 2. A political subdivision may not adopt or enforce an**
- 7           **ordinance, a resolution, a policy, or a rule that requires a**
- 8           **practitioner or medical records custodian to do any of the**
- 9           **following:**
- 10           (1) Inquire as to whether a patient owns or has access to a
- 11           firearm.
- 12           (2) Document or maintain in a patient's medical records
- 13           whether the patient owns or has access to a firearm.
- 14           (3) Notify any governmental entity of the identity of a patient
- 15           based solely on the patient's status as an owner of a firearm
- 16           or the patient's access to a firearm.
- 17           **Sec. 3. An ordinance, a resolution, a policy, or a rule that**
- 18           **violates section 2 of this chapter is void.**

