

First Regular Session of the 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE ENROLLED ACT No. 1303

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

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

SECTION 1. IC 25-1-5.5-2, AS ADDED BY P.L.177-2009, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. As used in the chapter:

- (1) "Applicant" refers to a person who applies for a registration in the electronic registry of professions.
- (2) "Executive director" refers to the executive director of the licensing agency appointed under IC 25-1-5-5.
- (3) "Licensing agency" means the Indiana professional licensing agency created by IC 25-1-5-3.
- (4) "Registrant" means an individual who is registered in the electronic registry of professions as:
 - (A) **an individual state registered under IC 25-1-18; or**
 - (B) **an interior designer under IC 25-20.7.**
- (5) "Registry" refers to the electronic registry of professions established by section 1 of this chapter.

SECTION 2. IC 25-1-5.5-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 5.5. Notwithstanding the expiration of IC 25-1-18 under IC 25-1-18-22, if the information described in section 3(b)(4) of this chapter concerning an**



individual is placed on the registry under IC 25-1-18 before April 1, 2018, the information may remain on the registry after March 30, 2018, subject to the rules adopted by the licensing agency under section 5 of this chapter.

SECTION 3. IC 25-1-18 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

Chapter 18. Pilot Program for State Registration of Privately Certified Individuals

Sec. 1. (a) Under this chapter:

- (1) a supporting organization may not be approved;
- (2) an individual may not be state registered; and
- (3) information about an individual may not be placed on the registry;

in connection with any health care service occupation or any occupation for which a person is licensed, certified, or registered by the Indiana plumbing commission.

(b) If state or federal law provides that a certain act or procedure can be performed only by the holder of a particular occupational license, nothing in this chapter allows a person who does not hold that occupational license to perform the act or procedure.

(c) This chapter:

- (1) does not affect the:
 - (A) licensing of;
 - (B) issuance of a certificate to; or
 - (C) registration of;

a person by the Indiana plumbing commission or any other body that licenses, certifies, or registers persons under IC 25;

- (2) may not be interpreted as allowing an individual to circumvent the procedure set forth in IC 25 for the:

- (A) licensing of;
- (B) issuance of a certificate to; or
- (C) registration of;

a person by the Indiana plumbing commission or any other body that licenses, certifies, or registers persons under IC 25; and

- (3) may not be interpreted as allowing an individual who is not licensed, certified, or registered by the Indiana plumbing commission or another body under IC 25 to perform any act within the scope of practice of a person who is licensed, certified, or registered by the Indiana plumbing commission



or another body under IC 25.

Sec. 2. The requirements of:

- (1) IC 25-1-2;
- (2) IC 25-1-5.5; and
- (3) IC 25-1-8;

apply to this chapter.

Sec. 3. As used in this chapter, "agency" refers to the Indiana professional licensing agency established by IC 25-1-5-3.

Sec. 4. As used in this chapter, "committee" means the jobs creation committee established by IC 25-1-16-6.

Sec. 5. As used in this chapter, "executive director" refers to the executive director of the agency.

Sec. 6. (a) As used in this chapter, "health care service occupation" means an occupation in which the practitioner provides, or assists in providing, care for the human body that is intended to prevent, treat, or manage:

- (1) an illness, injury, physical deterioration, or physical defect; or
- (2) the physical consequences of an illness, injury, physical deterioration, or physical defect;

of the human body.

(b) The term includes:

- (1) health care service occupations for which a license or certificate is issued under IC 25; and
- (2) health care service occupations for which no license or certificate is issued under IC 25.

Sec. 7. For purposes of this chapter, an individual being "placed on the registry" means that the types of information about the individual that are set forth in IC 25-1-5.5-3(b)(4) are posted on the registry and made available to the public under IC 25-1-5.5.

Sec. 8. As used in this chapter, "registry" refers to the electronic registry of professions established by IC 25-1-5.5-1.

Sec. 9. For purposes of this chapter, an individual being "removed from the registry" means that the information about the individual that was posted on the registry when the individual was placed on the registry is removed from the registry.

Sec. 10. As used in this chapter, "scope of practice" refers to the lawful procedures, actions, processes, or services that an individual who has obtained:

- (1) a license or certificate under IC 25; or
- (2) another certification or credential;

is specially qualified by training or skill to perform.



Sec. 11. (a) As used in this chapter, "supporting organization" means:

- (1) a national organization; or**
- (2) the Indiana chapter of a national organization;**

that exists solely to serve or benefit individuals who work in one (1) or more particular occupations.

(b) The term includes an entity that provides professional certification, provides continuing education, or facilitates the continued existence of the occupation or occupations.

Sec. 12. (a) An application for a supporting organization to be approved under this chapter must be submitted before July 1, 2017. An application must be submitted by the supporting organization on its own behalf and must include the following:

- (1) The name of the supporting organization.**
- (2) The disclosure of each occupation that the supporting organization certifies.**
- (3) Information about how approving the supporting organization will provide consumers additional protection.**
- (4) The following information about the scope of practice of each occupation to which the supporting organization relates:**
 - (A) The extent to which the scope of practice is similar to the scope of practice of a profession or occupation for which a license or certificate is issued under IC 25.**
 - (B) The extent to which the services provided by individuals practicing the occupation include fiduciary responsibilities.**
 - (C) The extent to which:**
 - (i) the services provided by individuals practicing the occupation; or**
 - (ii) the powers with which the individuals practicing the occupation are legally vested;****can be misused for unscrupulous reasons.**
- (5) The supporting organization's ability to certify and decertify individuals who have earned a specific certification or credential from the supporting organization.**
- (6) The supporting organization's ability to investigate consumer complaints against the individuals who have earned a specific certification or credential from the supporting organization.**
- (7) The supporting organization's administrative functionality, including monitoring the individuals who have earned a specific certification or credential from the**



supporting organization.

(8) Continuing education services provided by the supporting organization.

(9) The supporting organization's length of existence.

(10) The collective reputation of individuals who have earned a specific certification or credential offered by the supporting organization.

(11) Any other information requested by the agency.

(b) After the agency has received a completed application, the committee shall evaluate the information included in the application under subsection (a) and hold a public meeting on the application at which public testimony on the application may be presented.

(c) After the committee has conducted a public meeting under subsection (b), the committee shall make recommendations to the executive director as to whether the supporting organization should be approved for purposes of this chapter.

Sec. 13. (a) After receiving the recommendations of the committee concerning an application under section 12 of this chapter, the executive director shall determine whether to approve the supporting organization for purposes of this chapter.

(b) The executive director may not approve more than five (5) supporting organizations under this chapter.

(c) The executive director may not approve a supporting organization for purposes of this chapter if any action performed within the scope of practice of individuals who have earned a certification or credential from the supporting organization is the same as or substantially similar to an action within the scope of practice of a profession or occupation that can be undertaken only by an individual who holds a license or certificate issued under IC 25.

(d) If the executive director decides against approving a supporting organization, the supporting organization may appeal the executive director's determination to the committee. The committee, by an affirmative vote of two-thirds (2/3) of the members, may reverse a determination made by the executive director under subsection (a). An action of the committee reversing a determination of the executive director under this subsection is a final agency action for purposes of IC 4-21.5.

Sec. 14. (a) To be placed on the registry, an individual must satisfy the requirements set forth in subsection (b) before July 1, 2017.



(b) An individual who wishes to be placed on the registry must:

(1) submit to the agency:

- (A) any documentation required by the agency; and**
- (B) the information about the individual that will be posted on the registry; and**

(2) meet the following requirements:

- (A) Have earned a specific certification or credential offered by an approved supporting organization.**
- (B) Not have a conviction for a crime that has a direct bearing on the individual's ability to practice competently and lawfully.**
- (C) Submit to a national name based criminal history record check, as defined in IC 10-13-3-12.5.**
- (D) Not have outstanding tax liabilities.**
- (E) Not be delinquent (as defined by IC 25-1-1.2-4) on the payment of court ordered child support.**
- (F) Swear or affirm under penalty of perjury that the individual meets the eligibility standards set forth in clauses (A) through (E).**
- (G) Pay the fee required by the agency, as set by the committee.**

(c) An individual who complies with subsection (a) shall be placed on the registry and is state registered.

(d) An individual who does not meet a requirement set forth in subsection (b)(2)(B), (b)(2)(D), or (b)(2)(E) may submit a request to the executive director to waive the requirement. After considering the waiver request, the executive director may waive the requirement for an individual if the executive director determines that the individual, in practicing the individual's occupation, would not present an unreasonable risk of harm to the health, safety, or welfare of the public.

Sec. 15. (a) Subject to section 22 of this chapter, an individual's registration under this chapter is valid for not more than two (2) years and may be renewed for successive periods that end on June 30 of odd-numbered years.

(b) Subject to section 22 of this chapter, an individual who is state registered may renew the individual's registration by doing the following:

- (1) Swearing or affirming under penalty of perjury that the individual meets the eligibility standards set forth in section 14(b)(2) of this chapter.**
- (2) Paying the fee required by the agency, as set by the**



committee.

(c) Subject to section 22 of this chapter, the information about a state registered individual that is posted on the registry shall remain on the registry as long as the individual remains state registered, unless the individual is removed from the registry:

- (1) by voluntary action of the individual; or
- (2) by the agency under section 17(3) of this chapter.

However, notwithstanding the expiration of this chapter under section 22 of this chapter, information about a state registered individual that is posted on the registry before April 1, 2018, may remain on the registry after March 30, 2018, under IC 25-1-5.5-5.5.

Sec. 16. (a) The agency may audit documents and other information submitted under this chapter. If the agency believes that a document or other information submitted under this chapter contains any intentional misrepresentation, the agency may submit the information to the appropriate law enforcement agency or prosecuting attorney for appropriate action.

(b) An approved supporting organization may:

- (1) audit the information on the registry concerning individuals who are identified as having earned a certification or credential from the supporting organization; and
- (2) notify the agency of any information that is incorrect.

Sec. 17. The agency shall adopt a process under which the agency may do the following:

- (1) Receive notice of and review any change in:
 - (A) an approved supporting organization's requirements for the certification or credentialing of individuals; or
 - (B) the scope of practice of the occupation to which the approved supporting organization relates.
- (2) Cancel a supporting organization's approval for any reason for which a supporting organization seeking approval may be denied approval under this chapter.
- (3) Remove an individual from the registry if:
 - (A) the individual does not meet the eligibility requirements set forth in section 14(b) of this chapter;
 - (B) the supporting organization that awarded the certification or credential to the individual has lost its approval; or
 - (C) the office of the attorney general submits a written request to the agency to remove the individual from the registry because the individual poses a risk to the health, safety, or welfare of the public.



Sec. 18. (a) An individual who is placed on the registry may use the title or designation "state registered" in conjunction with the occupation name as given by the supporting organization as part of the individual's professional title on any letters, signs, cards, or advertisements in connection with the individual's occupation.

(b) An individual who is not state registered or who has been removed from the registry:

(1) is not prohibited from performing for compensation an occupation of state registered individuals; but

(2) shall not use:

(A) the term "state registered"; or

(B) any words, letters, or abbreviations that tend to indicate that the individual is state registered;

as part of the individual's professional title on any letters, signs, cards, or advertisements in connection with the individual's occupation.

(c) A person who violates this section commits a Class B infraction.

Sec. 19. The agency shall adopt rules under IC 4-22-2 to administer this chapter.

Sec. 20. An individual or supporting organization that is aggrieved by an action taken under this chapter has a right of review of the action under the procedure provided in IC 4-21.5.

Sec. 21. Not later than November 1, 2017, the executive director shall provide a report to the legislative council in an electronic format under IC 5-14-6 concerning the pilot program conducted under this chapter. The report must include the following:

(1) The names of the supporting organizations that were approved under the pilot program.

(2) The names of the supporting organizations that were not approved under the pilot program.

(3) The number of individuals who were state registered under the pilot program.

(4) Information about how state registration under the pilot program provided additional consumer protection to the residents of Indiana.

(5) The recommendations of the executive director about whether the pilot program established by this chapter should be continued and expanded.

Sec. 22. This chapter expires April 1, 2018.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

