

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 6884**

**BILL NUMBER:** HB 1172

**NOTE PREPARED:** Jan 25, 2008

**BILL AMENDED:** Jan 24, 2008

**SUBJECT:** Various Professions and Occupations.

**FIRST AUTHOR:** Rep. Welch

**FIRST SPONSOR:**

**BILL STATUS:** CR Adopted - 1<sup>st</sup> House

**FUNDS AFFECTED:**  GENERAL  
 DEDICATED  
 FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) The bill does the following.

*Home Health Agency Employee Criminal History Checks-* The bill requires a home health agency and a personal services agency to obtain an employee's *limited* criminal history not more than three business days after the date that an employee begins to provide services. The bill requires a home health agency and a personal services agency to obtain an employee's *national* criminal history background check if the agency discovers that the employee lived in another state at any time during the two years immediately before the date the individual was hired by the agency.

*Resuscitation in Nursing Homes-* The bill establishes criteria when a nursing home is not required to provide cardiopulmonary resuscitation or other intervention on a patient who has died.

*Acupuncture-* The bill removes the physician referral requirements to receive acupuncture.

*Dental Assistants & Hygienists-* The bill amends the places a dental hygienist may practice under direct supervision, prescriptive supervision, and without supervision of a dentist. The bill establishes requirements for a dental hygienist to administer local dental anesthesia. The bill requires a dental assistant to work under the direct supervision of a dentist. The bill specifies certain procedures that may and may not be delegated to a dental assistant.

*Mental Health Counselors-* The bill exempts licensed mental health counselors from the licensed hypnotist requirements.

*Interstate Nurses Compact-* The bill establishes the interstate nurse licensure compact beginning July 1, 2009. The bill allows the State Board of Nursing to issue a registered nurse's license to an applicant who completes the Canadian Registered Nurse Examination. It requires part of the examination and registration fees collected by the board to be used for the rehabilitation of impaired registered nurses and impaired licensed practical nurses. The bill establishes the amount of fees to be deposited in the impaired nurses account.

*Optometrist Referrals-* The bill allows an optometrist to refer patients to an occupational therapist.

*Marriage and Family Therapist Associates-* The bill establishes licensing and continuing education requirements for marriage and family therapist associates. The bill requires marriage and family therapists to meet certain clinical requirements and hold an associate license or be licensed in another state to receive a license.

*Repealers & Changes-* The bill makes conforming changes. The bill repeals a provision that abolishes and transfers the rights, powers, and duties of the state Board of Examination and Registration of Nurses. The bill repeals reference to liability for acupuncturist referrals.

**Effective Date:** Upon passage; July 1, 2008.

**Explanation of State Expenditures:** *Home Health Agency Employee Criminal History Checks-* Currently, the Indiana State Police Department (SPD) would experience an indeterminable change in workload as a result of this provision. The amount of change would depend on the type of criminal history check made.

*Interstate Nurse Licensure Compact-* The Director or designee of the Professional Licensing Agency (PLA) would be the state's nurse licensure compact administrator. The administrator would be required to provide data sets of investigations, identifying information, licensure data, and some alternative program participation information to other member states. The state may experience additional expenditures related to the investigation and adjudication of complaints against out-of-state nurses practicing in Indiana as well as Indiana nurses practicing in other states.

**Explanation of State Revenues:** *Home Health Agency Employee Criminal History Checks-* Under current law, home health and personal services agencies are required to obtain a *national* criminal history check on new employees. The bill requires new employees who have not resided out of the state in the previous two years to have only a *limited* criminal history check. Under the provisions of the bill, there would be a decrease in revenue to the state General Fund. The impact to the General Fund would depend on the difference between the amount of fees deposited into the General Fund for national and limited criminal history checks (\$15 for national, \$7 for limited, for an \$8 difference).

If more fees for limited criminal history checks are paid via AccessIndiana, then revenue to the IOT Portal Fund would increase.

Therefore, the total revenue impact to the state would depend on the means of requesting limited criminal history checks made by home health providers and, as a result, the fees paid. (Currently, total fees for a limited criminal history background check are between \$0 for certain home health agencies and \$16.32 for agencies or employees requesting the information online without an AccessIndiana subscription).

The following table illustrates all limited criminal history fees by access type.

<b>Limited Criminal History Background Check Fees</b>				
<b>Means of Requesting Background Check</b>	<b>Information Obtained Through</b>	<b>Amount of Fee</b>	<b>Amount of Fee Deposited into State General Fund</b>	<b>Amount of Fee Deposited into IOT Portal Fund</b>
<b>AccessIndiana (Subscriber)</b>	AccessIndiana Website	\$15	\$7	\$8
<b>AccessIndiana (Non-Subscriber)</b>	AccessIndiana Website	\$16.32	\$7	\$9.32
<b>Mail/in-person</b>	Mail; in-person	\$7	\$7	\$0
<b>Full Exemption</b>	AccessIndiana Website; Mail; in-person	\$0	\$0	\$0
<u>Note:</u> A National criminal history background check costs a total of \$39, \$24 of which is given to the federal government. The remaining \$15 is deposited into the state General Fund.				

The number of persons employed by home health and personal services agencies and the number of home health agencies which would be exempt from fees are not known.

*Interstate Nurse Licensure Compact-* Under the compact, nurses (RNs and LPNs) that reside in another state and work in Indiana would no longer hold an Indiana license as long as they maintain a license in their state of residence. As a result, the Indiana State Board of Nursing would no longer collect biennial renewal fees from nurses residing in compact states and practicing in Indiana. The Indiana Professional Licensing Agency estimates that it will experience a decrease in revenue of approximately \$238,000 every two years. However, there will be an indeterminable amount of revenue that could be gained through the licensure of nurses licensed to work in other compact states that live in Indiana. For example, FY 2006 figures indicate that there were 3,437 nurses who were licensed in Kentucky but live in Indiana. This could generate revenue of \$171,850 (at the current \$50 fee) every two years, although some of those nurses may already have an Indiana license.

*Impaired Nurses Account-* The Impaired Nurses Account (INA) would receive the lesser of 25% of license fees *or* the cost per license to run the impaired nurses program. (Under current law, the INA receives the lesser of 16% of license fees *or* the cost per license to run the impaired nurses program.) The 9% increase in the share of license fees for the INA, as proposed by the bill, would be used to meet estimated contract costs to run the program into FY 2009. (The PLA projects that the impaired nurses program will begin to run deficits in FY 2009, at the current level of funding.) As a result of this provision, the state General Fund would receive less revenue under existing fees.

The cost for the current year of the current impaired nurses program contract is \$420,000. That would make the contract cost over the last two fiscal years equal to \$840,000. Revenues that the INA received during FY 2006 and FY 2007 totaled \$829,200. As of October 2007, there were 27,504 licensed practical nurses and 85,046 registered nurses. If the sum of active LPNs and RNs were used as a proxy, the per license cost of running the program would be \$840,000 divided by 112,500, or approximately \$7.50.

*Penalty Provision:* Persons violating the nurse's compact would commit a Class B misdemeanor. If

additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class B misdemeanor is \$1,000. However, any additional revenue would likely be small.

*Acupuncture-* A violation of an acupuncture statute constitutes a Class B misdemeanor. Treatment given by an acupuncturist without a physician's referral would no longer be a violation. Therefore, fees and fines collected for Class B misdemeanors could decrease slightly.

*Dental Assistants & Hygienists-* A violation involving the proposed changes in the bill would constitute a Class B misdemeanor under existing statutes. However, any additional revenue would likely be small.

*Mental Health Counselors-* If no longer under hypnotist law requirements, mental health counselors would not be subject to the misdemeanor penalties under hypnotist law, including two separate Class A and a Class B misdemeanor.

*Marriage and Family Therapist Associates-* The impact of this provision on state revenues would depend on the fee set by the Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board on marriage and family therapist associates. Additionally, the amount of revenue collected would also depend on candidates meeting the other proposed requirements to receive an associate license.

**Explanation of Local Expenditures:** *Penalty Provision:* A Class B misdemeanor is punishable by up to 180 days in jail. The maximum term of imprisonment for a Class A misdemeanor is up to one year. The average daily cost to incarcerate a prisoner in a county jail is roughly \$44.

**Explanation of Local Revenues:** *Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, any change in revenue would likely be small.

**State Agencies Affected:** PLA; State Board of Nursing; Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board; SPD.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** Indiana State Police website; Barbara McNutt, PLA, 234-1987; Brian Carnes, Indiana State Department of Health; *Indiana Handbook of Taxes, Revenues, and Appropriations*.

**Fiscal Analyst:** Chris Baker, 317-232-9851.