

## Insights

### Temporary Medical Licenses Preserved into October as Public Health Emergency Renewed at 11th Hour

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#### Federal and State Updates

On Friday, July 15th, Department of Health and Human Services (“HHS”) Secretary Xavier Becerra signed a renewal to the federally declared **Public Health Emergency** (“PHE”). Despite hinting at renewal in the weeks preceding July 15th, the Secretary’s ink did not hit the page until late Friday afternoon. Numerous state policies across the nation are tied to the PHE’s active status, including several in Indiana. Particularly reliant on renewal of the PHE are the thousands of health care workers holding a temporary license under Indiana’s emergency registries.<sup>1</sup>

The active status of temporary licenses maintained in Indiana’s emergency registries depends wholly upon renewal of the federal PHE. Originally declared by HHS in early 2020, the PHE must be renewed every 90 days to avoid expiration. Following the latest renewal on July 15th, the next deadline falls on Oct. 13th.<sup>2</sup>

In March of 2022, the Indiana legislature codified previously issued Executive Orders establishing emergency registries and an avenue for temporary licensure in Indiana. **The COVID-19 Temporary Healthcare Provider Registry** (the “Registry”) and the **Temporary Licensure of Retired and Inactive Emergency Medical Services Personnel statute** (“EMS Registry”) have effectively governed reciprocal health care licensure in Indiana since the 2020 Executive Orders. Individuals seeking to practice under either statute must apply for a temporary license in the manner prescribed by the licensing agency and be in good standing with regulators. Individuals whose license was revoked, suspended, or otherwise relinquished by a governing board are ineligible for a temporary license.<sup>3</sup>

#### COVID-19 Temporary Healthcare Provider Registry – Recap

Under the original Executive Order and now state law after the enactment of House Enrolled Act 1003 (2022)<sup>4</sup>, Indiana’s licensing boards may issue temporary licenses to (1) Indiana and out-of-state practitioners who held a valid board-issued license within the last five years; (2) practitioners currently holding an equivalent board-issued license in another state; and (3) recent graduates seeking to practice as a physician assistant, nurse, respiratory care practitioner, pharmacist, or physician. Except as to recent graduates, this statute is applicable to all license-holding health care fields.<sup>5</sup>

Temporary licenses issued under the Registry expire upon conclusion of the PHE. While HHS has informally committed to providing advanced notice, the agency is under no obligation to do so. The Indiana Professional Licensing Agency (“PLA”) correspondingly anticipates being able offer 60 days’ notice, but practitioners should

monitor the status of the PHE to determine the validity of a temporary license.<sup>6</sup>

## EMS Registry – Recap

Similar to the Registry, EMS personnel licensed or certified outside of Indiana as well as personnel who held an active Indiana EMS license or certification within the last five years are eligible for temporary licensure under the EMS Registry. In conjunction with licenses issued under the Registry, licensure or certification obtained through the EMS Registry expires at the conclusion of the PHE. Prior notice of 60 days is expected while not guaranteed, and EMS personnel holding temporary licenses or certificates in Indiana should closely monitor the status of the PHE as Oct. 13th approaches.<sup>7</sup>

## Next Steps

Individuals practicing under a temporary license in Indiana must prepare for the PHE's conclusion and corresponding expiration of their license. It is undiscernible at this time whether HHS will continue to renew the PHE, but as health care infrastructure regains footing nationwide, the demand for renewal shrinks. Therefore, practitioners should be proactive in evaluating options. The **Reciprocity for Health Care Professionals statute** ("Reciprocity Statute"), also passed by the Indiana legislature in March, provides an option for nonresidents wishing to remain licensed in Indiana.

Under the Reciprocity Statute, nonresident health care practitioners can apply for an unlimited license to occupy their field in Indiana. Applicants must be the holder of a substantially equivalent, *current* license or certificate in another state, and be in good standing with reciprocal state agencies. Importantly, practitioners currently holding a temporary license are not precluded from proceeding under the Reciprocity Statute. Therefore, nonresidents who wish to continue practicing in Indiana beyond the PHE may consider applying for a license under the Reciprocity Statute.<sup>8</sup>

Only nonresidents may take advantage of the Reciprocity Statute. Therefore, recent graduates and recently inactive temporary license holders who are Indiana residents must navigate established PLA processes to obtain a license unaffected by expiration of the emergency registry. Social workers, marriage and family therapists, mental health and addiction counselors, and respiratory care practitioners are also excluded from the Reciprocity Statute (existing statutes govern reciprocity for these professionals).

Health care practitioners holding a temporary license in Indiana operate in an environment highly susceptible to substantial and relatively sudden change. In the current context of Indiana's state law developments and a national decrease in pandemic-driven policy, temporary license holders should consider available options to maintain Indiana licensure after expiration of these measures.

Should you have questions about how these issues impact your professional license or those of your organization's employees, please contact **Shelley M. Jackson** or **Grant M. Achenbach**.

*The authors acknowledge and appreciate the contributions of law student Thomas Abrams to this alert.*

*Disclaimer. The contents of this article should not be construed as legal advice or a legal opinion on any specific facts or circumstances. The contents are intended for general informational purposes only, and you are urged to consult with counsel concerning your situation and specific legal questions you may have.*

[1] Indiana Professional Licensing Agency, COVID-19 Temporary Healthcare Provider Registry.

[2] Indiana Professional Licensing Agency, COVID-19 Temporary Healthcare Provider Registry.

[3] Ind. Code § 25-1-5.7 *et seq.*; 16-31-11.5 *et seq.*

[4] House Enrolled Act 1003 (2022)

[5] Ind. Code § 25-1-5.7 *et seq.* Click here to download the emergency practitioner registry and view more

details.

[6] Indiana Professional Licensing Agency, COVID-19 Temporary Healthcare Provider Registry.

[7] Ind. Code § 16-31-11.5 *et seq.*

[8] Ind. Code § 25-1-21 *et seq.*