

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

# HOUSE MOTION \_\_\_\_\_

**MR. SPEAKER:**

I move that House Bill 1286 be amended to read as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 health.
- 4 Page 1, between the enacting clause and line 1, begin a new
- 5 paragraph and insert:
- 6 "SECTION 1. IC 16-18-2-163, AS AMENDED BY P.L. 188-1995,
- 7 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 8 JANUARY 1, 1999]: Sec. 163. (a) "Health care provider", for purposes
- 9 of IC 16-21 and IC 16-41, means any of the following:
- 10 (1) An individual, a partnership, a corporation, a professional
- 11 corporation, a facility, or an institution licensed or legally
- 12 authorized by this state to provide health care or professional
- 13 services as a licensed physician, a psychiatric hospital, a
- 14 hospital, a health facility, an emergency ambulance service
- 15 (IC 16-31-3), a dentist, a registered or licensed practical nurse,
- 16 a midwife, an optometrist, a pharmacist, a podiatrist, a
- 17 chiropractor, a physical therapist, a respiratory care practitioner,
- 18 an occupational therapist, a psychologist, a paramedic, an
- 19 emergency medical technician, or an advanced emergency
- 20 technician, or a person who is an officer, employee, or agent of
- 21 the individual, partnership, corporation, professional
- 22 corporation, facility, or institution acting in the course and scope
- 23 of the person's employment.
- 24 (2) A college, university, or junior college that provides health

- 1 care to a student, a faculty member, or an employee, and the  
 2 governing board or a person who is an officer, employee, or  
 3 agent of the college, university, or junior college acting in the  
 4 course and scope of the person's employment.
- 5 (3) A blood bank, community mental health center, community  
 6 mental retardation center, community health center, or migrant  
 7 health center.
- 8 (4) A home health agency (as defined in IC 16-27-1-2).
- 9 (5) A health maintenance organization (as defined in  
 10 IC 27-13-1-19).
- 11 (6) A health care organization whose members, shareholders, or  
 12 partners are health care providers under subdivision (1).
- 13 (7) A corporation, partnership, or professional corporation not  
 14 otherwise qualified under this subsection that:
- 15 (A) provides health care as one (1) of the corporation's,  
 16 partnership's, or professional corporation's functions;  
 17 (B) is organized or registered under state law; and  
 18 (C) is determined to be eligible for coverage as a health care  
 19 provider under IC 27-12 for the corporation's, partnership's,  
 20 or professional corporation's health care function.
- 21 Coverage for a health care provider qualified under this  
 22 subdivision is limited to the health care provider's health care  
 23 functions and does not extend to other causes of action.
- 24 **(b) "Health care provider", for purposes of IC 16-22-3-9.5 and**  
 25 **IC 16-22-8-39.5, means an individual who holds a valid license**  
 26 **under Indiana law to practice:**
- 27 **(1) chiropractic;**  
 28 **(2) optometry; or**  
 29 **(3) podiatry.**
- 30 ~~(b)~~ (c) "Health care provider", for purposes of IC 16-35:  
 31 (1) has the meaning set forth in subsection (a); ~~However, for~~  
 32 ~~purposes of IC 16-35, the term also and~~  
 33 (2) includes a health facility (as defined in section 167 of this  
 34 chapter).
- 35 SECTION 2. IC 16-22-3-9.5 IS ADDED TO THE INDIANA  
 36 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 37 [EFFECTIVE JANUARY 1, 1999]: **Sec. 9.5. (a) The governing board**  
 38 **may specify privileges for the provision of patient care services by**  
 39 **a health care provider.**
- 40 **(b) A health care provider is eligible for privileges to provide**  
 41 **patient care services, but the board shall establish and enforce**  
 42 **reasonable standards and rules concerning a health care provider's**  
 43 **qualifications for the following:**
- 44 **(1) Practice in a hospital.**  
 45 **(2) The granting of privileges to a provider.**  
 46 **(3) The retention of privileges.**

1           (c) The fact that an applicant for privileges to provide patient  
2 care services is a health care provider may not serve as a basis for  
3 denying the applicant privileges to provide patient care services  
4 that are allowed under the professional license held by the  
5 applicant.

6           (d) The board may determine the kinds of health care  
7 procedures and treatments that are appropriate for a hospital  
8 inpatient or outpatient.

9           (e) The standards and rules described in subsection (b) may,  
10 in the interest of good patient care, allow the board to do the  
11 following:

12           (1) Consider a health care provider's postgraduate  
13 education, training, experience, and other facts concerning  
14 the provider that may affect the provider's professional  
15 competence.

16           (2) Consider the scope of practice allowed under the  
17 professional license held by a health care provider.

18           (3) Limit privileges for admitting patients to the hospital to  
19 physicians licensed under IC 25-22.5.

20           (4) Limit responsibility for the management of a patient's  
21 care to physicians licensed under IC 25-22.5.

22           (5) Limit or preclude a health care provider's performance  
23 of x-rays or other imaging procedures in an inpatient or  
24 outpatient hospital setting. However, this subdivision does  
25 not affect the ability of a health care provider to order x-rays  
26 under that provider's scope of practice.

27           (f) The standards and rules described in subsection (b) may  
28 include a requirement for the following:

29           (1) Submittal of proof that a health care provider is qualified  
30 under IC 27-12-3-2.

31           (2) Performance of patient care and related duties in a  
32 manner that is not disruptive to the delivery of quality care  
33 in the hospital setting.

34           (3) Maintenance of standards of quality care that recognize  
35 the efficient and effective utilization of hospital resources as  
36 developed by the hospital's medical staff.

37           (g) The standards and rules described in subsection (b) must  
38 allow a health care provider who applies for privileges an  
39 opportunity to appear before a peer review committee that is  
40 established by the board to make recommendations regarding  
41 applications for privileges by health care providers, before the peer  
42 review committee makes its recommendations regarding the  
43 applicant's request for privileges.

44           (h) The board shall provide for a hearing before a peer review  
45 committee for a health care provider whose privileges have been  
46 recommended for termination.

1 SECTION 3. IC 16-22-8-39.5 IS ADDED TO THE INDIANA  
2 CODE AS A NEW SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JANUARY 1, 1999]: **Sec. 39.5. (a) The governing**  
4 **board may specify privileges for the provision of patient care**  
5 **services by a health care provider.**

6 (b) A health care provider is eligible for privileges to provide  
7 patient care services, but the board shall establish and enforce  
8 reasonable standards and rules concerning a health care provider's  
9 qualifications for the following:

10 (1) Practice in a hospital.

11 (2) The granting of privileges to a provider.

12 (3) The retention of privileges.

13 (c) The fact that an applicant for privileges to provide patient  
14 care services is a health care provider may not serve as a basis for  
15 denying the applicant privileges to provide patient care services  
16 that are allowed under the professional license held by the  
17 applicant.

18 (d) The board may determine the kinds of health care  
19 procedures and treatments that are appropriate for a hospital  
20 inpatient or outpatient.

21 (e) The standards and rules described in subsection (b) may,  
22 in the interest of good patient care, allow the board to do the  
23 following:

24 (1) Consider a health care provider's postgraduate  
25 education, training, experience, and other facts concerning  
26 the provider that may affect the provider's professional  
27 competence.

28 (2) Consider the scope of practice allowed under the  
29 professional license held by a health care provider.

30 (3) Limit privileges for admitting patients to the hospital to  
31 physicians licensed under IC 25-22.5.

32 (4) Limit responsibility for the management of a patient's  
33 care to physicians licensed under IC 25-22.5.

34 (5) Limit or preclude a health care provider's performance  
35 of x-rays or other imaging procedures in an inpatient or  
36 outpatient hospital setting. However, this subdivision does  
37 not affect the ability of a health care provider to order x-rays  
38 under that provider's scope of practice.

39 (f) The standards and rules described in subsection (b) may  
40 include a requirement for the following:

41 (1) Submittal of proof that a health care provider is qualified  
42 under IC 27-12-3-2.

43 (2) Performance of patient care and related duties in a  
44 manner that is not disruptive to the delivery of quality care  
45 in the hospital setting.

46 (3) Maintenance of standards of quality care that recognize

1           **the efficient and effective utilization of hospital resources as**  
 2           **developed by the hospital's medical staff.**

3           **(g) The standards and rules described in subsection (b) must**  
 4           **allow a health care provider who applies for privileges an**  
 5           **opportunity to appear before a peer review committee that is**  
 6           **established by the board to make recommendations regarding**  
 7           **applications for privileges by health care providers, before the peer**  
 8           **review committee makes its recommendations regarding the**  
 9           **applicant's request for privileges.**

10           **(h) The board shall provide for a hearing before a peer review**  
 11           **committee for a health care provider whose privileges have been**  
 12           **recommended for termination."**

13           Page 7, between lines 22 and 23, begin a new paragraph and  
 14           insert:

15           "SECTION 4. IC 34-4-12.6-1, AS AMENDED BY P.L.147-1997,  
 16           SECTION 74, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 17           JANUARY 1, 1999]: Sec. 1. (a) As used in this chapter, "professional  
 18           health care provider" means:

- 19           (1) a physician licensed under IC 25-22.5;  
 20           (2) a dentist licensed under IC 25-14;  
 21           (3) a hospital licensed under IC 16-21;  
 22           (4) a podiatrist licensed under IC 25-29;  
 23           (5) a chiropractor licensed under IC 25-10;  
 24           (6) an optometrist licensed under IC 25-24;  
 25           (7) a psychologist licensed under IC 25-33;  
 26           (8) a pharmacist licensed under IC 25-26;  
 27           (9) a health facility licensed under IC 16-28-2;  
 28           (10) a registered or licensed practical nurse licensed under  
 29           IC 25-23;  
 30           (11) a physical therapist licensed under IC 25-27;  
 31           (12) a home health agency licensed under IC 16-27-1;  
 32           (13) a community mental health center (as defined in  
 33           IC 12-7-2-38);  
 34           (14) a health care organization whose members, shareholders, or  
 35           partners are:  
 36                (A) professional health care providers described in  
 37                subdivisions (1) through (13);  
 38                (B) professional corporations comprised of health care  
 39                professionals (as defined in IC 23-1.5-1-8); or  
 40                (C) professional health care providers described in  
 41                subdivisions (1) through (13) and professional corporations  
 42                comprised of persons described in subdivisions (1) through  
 43                (13);  
 44           (15) a private psychiatric hospital licensed under IC 12-25;  
 45           (16) a preferred provider organization (including a preferred  
 46           provider arrangement or reimbursement agreement under

- 1 IC 27-8-11);
- 2 (17) a health maintenance organization (as defined in
- 3 IC 27-13-1-19) or a limited service health maintenance
- 4 organization (as defined in IC 27-13-34-4);
- 5 (18) a respiratory care practitioner certified under IC 25-34.5;
- 6 (19) an occupational therapist certified under IC 25-23.5;
- 7 (20) a state institution (as defined in IC 12-7-2-184);
- 8 (21) a clinical social worker who is licensed under
- 9 IC 25-23.6-5-2;
- 10 (22) a managed care provider (as defined in IC 12-7-2-127(b));
- 11 or
- 12 (23) a nonprofit health care organization affiliated with a
- 13 hospital that is owned or operated by a religious order, whose
- 14 members are members of that religious order.
- 15 (b) As used in this chapter, "evaluation of patient care" relates to:
- 16 (1) the accuracy of diagnosis;
- 17 (2) the propriety, appropriateness, quality, or necessity of care
- 18 rendered by a professional health care provider; and
- 19 (3) the reasonableness of the utilization of services, procedures,
- 20 and facilities in the treatment of individual patients.
- 21 As used in this chapter, the term does not relate to charges for services
- 22 or to methods used in arriving at diagnoses.
- 23 (c) As used in this chapter, "peer review committee" means a
- 24 committee that:
- 25 (1) has the responsibility of evaluation of:
- 26 (A) qualifications of professional health care providers;
- 27 (B) patient care rendered by professional health care
- 28 providers; or
- 29 (C) the merits of a complaint against a professional health
- 30 care provider that includes a determination or
- 31 recommendation concerning the complaint, and the
- 32 complaint is based on the competence or professional
- 33 conduct of an individual health care provider which
- 34 competence or conduct affects or could affect adversely the
- 35 health or welfare of a patient or patients; and
- 36 (2) meets the following criteria:
- 37 (A) The committee is organized:
- 38 (i) by a state, regional, or local organization of
- 39 professional health care providers or by a nonprofit
- 40 foundation created by the professional organization for
- 41 purposes of improvement of patient care;
- 42 (ii) by the professional staff of a hospital, another
- 43 health care facility, a nonprofit health care organization
- 44 (under subsection (a)(23)), or a professional health
- 45 care organization;
- 46 (iii) by state or federal law or regulation;

- 1 (iv) by a governing board of a hospital, a nonprofit  
 2 health care organization (under subsection (a)(23)), or  
 3 professional health care organization;  
 4 (v) as a governing board or committee of the board of  
 5 a hospital, a nonprofit health care organization (under  
 6 subsection (a)(23)), or professional health care  
 7 organization;  
 8 (vi) by an organization, a plan, or a program described  
 9 in subsection (a)(16) through (a)(17);  
 10 (vii) as a hospital or a nonprofit health care  
 11 organization (under subsection (a)(23)) medical staff  
 12 or a section of that staff; or  
 13 (viii) as a governing board or committee of the board  
 14 of a professional health care provider (as defined in  
 15 subsection (a)(16) through (a)(17)).

16 (B) At least fifty percent (50%) of the committee members  
 17 are:

- 18 (i) individual professional health care providers, the  
 19 governing board of a hospital, the governing board of  
 20 a nonprofit health care organization (under subsection  
 21 (a)(23)), or professional health care organization, or  
 22 the governing board or a committee of the board of a  
 23 professional health care provider (as defined in  
 24 subsection (a)(16) through (a)(17)); or  
 25 (ii) individual professional health care providers and  
 26 the committee is organized as an interdisciplinary  
 27 committee to conduct evaluation of patient care  
 28 services.

29 However, "peer review committee" does not include a medical review  
 30 panel created under IC 27-12-10.

31 (d) As used in this chapter, "professional staff" means:

- 32 (1) all individual professional health care providers authorized  
 33 to provide health care in a hospital or other health care facility;  
 34 or  
 35 (2) the multidisciplinary staff of a community mental health  
 36 center (as defined in IC 12-7-2-38).

37 (e) As used in this chapter, "personnel of a peer review committee"  
 38 means not only members of the committee but also all of the  
 39 committee's employees, representatives, agents, attorneys,  
 40 investigators, assistants, clerks, staff, and any other person or  
 41 organization who serves a peer review committee in any capacity.

42 (f) As used in this chapter, "in good faith" refers to an act taken  
 43 without malice after a reasonable effort to obtain the facts of the matter  
 44 and in the reasonable belief that the action taken is warranted by the  
 45 facts known. In all actions to which this chapter applies, good faith  
 46 shall be presumed, and malice shall be required to be proven by the

1 person aggrieved.

2 (g) As used in this chapter, "professional health care organization"  
3 refers to an organization described in subsection (a)(14).

4 **(h) As used in this chapter, "professional review activity"**  
5 **means an activity of a peer review committee of a hospital licensed**  
6 **under IC 16-21 with respect to a professional health care provider**  
7 **to:**

8 **(1) determine whether the professional health care provider**  
9 **may have privileges with respect to the hospital;**

10 **(2) determine the scope or conditions of the privileges; or**

11 **(3) change or modify the privileges.**

12 **The term includes the establishment and enforcement of standards**  
13 **and rules by the governing board of a hospital concerning practice**  
14 **in the hospital and the granting and retention of privileges within**  
15 **the hospital.**

16 SECTION 5. IC 34-4-12.6-3 IS AMENDED TO READ AS  
17 FOLLOWS [EFFECTIVE JANUARY 1, 1999]: Sec. 3. (a) There shall  
18 be no liability on the part of, and no action of any nature shall arise  
19 against, **an organization, a peer review committee, or** the personnel  
20 of a peer review committee for any act, statement made in the confines  
21 of the **organization or** committee, or proceeding ~~thereof~~ **of the**  
22 **organization or committee** made in good faith in regard to:

23 **(1) evaluation of patient care as that term is defined and limited**  
24 **in section 1(b) of this chapter; or**

25 **(2) professional review activity as defined and limited by**  
26 **section 1(h) of this chapter.**

27 (b) Notwithstanding any other law, a peer review committee, an  
28 organization, or any other person who, in good faith and as a witness  
29 or in some other capacity, furnishes records, information, or assistance  
30 to a peer review committee that is engaged in:

31 (1) the evaluation of the qualifications, competence, or  
32 professional conduct of a professional health care provider; or

33 (2) the evaluation of patient care;

34 is immune from any civil action arising from the furnishing of the  
35 records, information, or assistance, unless the person knowingly  
36 furnishes false records or information.

37 (c) The personnel of a peer review committee shall be immune  
38 from any civil action arising from any determination made in good faith  
39 in regard to evaluation of patient care as that term is defined and  
40 limited in section 1(b) of this chapter.

41 (d) No restraining order or injunction shall be issued against a peer  
42 review committee or any of the personnel ~~thereof~~ **of the committee** to  
43 interfere with the proper functions of the committee acting in good  
44 faith in regard to evaluation of patient care as that term is defined and  
45 limited in section 1(b) of this chapter.

46 (e) If the action of the peer review committee meets the standards

1 specified by this chapter and the federal Health Care Quality  
2 Improvement Act of 1986, P.L.99-660, the following persons are not  
3 liable for damages under any federal, state, or local law with respect to  
4 the action:

5 (1) The peer review committee.

6 (2) Any person acting as a member or staff to the peer review  
7 committee.

8 (3) Any person under a contract or other formal agreement with  
9 the peer review committee.

10 (4) Any person who participates with or assists the peer review  
11 committee with respect to the action.

12 (f) Subsection (e) does not apply to damages under any federal or  
13 state law relating to the civil rights of a person including:

14 (1) the federal Civil Rights Act of 1964, 42 U.S.C. 2000e, et  
15 seq.; and

16 (2) the federal Civil Rights Act, 42 U.S.C. 1981, et seq."

17 Renumber all SECTIONS consecutively.

(Reference is to HB 1286 as printed January 23, 1998.)

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Representative Kromkowski