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| WITHDRAWN | Noes _____ |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

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1395 be amended to read as follows:

- 1 Delete everything after the enacting clause and insert the
- 2 following:
- 3 SECTION 1. IC 5-10-8-8, AS AMENDED BY P.L.67-1995,
- 4 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5 JULY 1, 1998]: Sec. 8. (a) This section applies only to the state and its
- 6 employees who are not covered by a plan established under section 6
- 7 of this chapter.
- 8 (b) After June 30, 1986, the state shall provide a group health
- 9 insurance plan to each retired employee:
- 10 (1) whose retirement date is:
- 11 (A) after June 29, 1986, for a retired employee who was a
- 12 member of the field examiners' retirement fund;
- 13 (B) after May 31, 1986, for a retired employee who was a
- 14 member of the Indiana state teachers' retirement fund; or
- 15 (C) after June 30, 1986, for a retired employee not covered
- 16 by clause (A) or (B);
- 17 (2) who will have reached fifty-five (55) years of age on or
- 18 before the employee's retirement date but who will not be
- 19 eligible on that date for Medicare coverage as prescribed by 42
- 20 U.S.C. 1395 et seq.;
- 21 (3) who will have completed twenty (20) years of creditable
- 22 employment with a public employer on or before the employee's
- 23 retirement date, ten (10) years of which shall have been
- 24 completed immediately preceding the retirement; and

- 1 (4) who will have completed at least fifteen (15) years of
 2 participation in the retirement plan of which the employee is a
 3 member on or before the employee's retirement date.
- 4 **(c) After June 30, 1998, the state shall provide a group health**
 5 **insurance plan to each retired employee:**
- 6 **(1) whose retirement date is:**
- 7 **(A) after June 29, 1998, for a retired employee who was**
 8 **a member of the field examiners' retirement fund;**
- 9 **(B) after May 31, 1998, for a retired employee who was**
 10 **a member of the Indiana state teachers' retirement**
 11 **fund; or**
- 12 **(C) after June 30, 1998, for a retired employee not**
 13 **covered by clause (A) or (B);**
- 14 **(2) who will have reached fifty-five (55) years of age on or**
 15 **before the employee's retirement date but who will not be**
 16 **eligible on that date for Medicare coverage as prescribed by**
 17 **42 U.S.C. 1395 et seq.;**
- 18 **(3) who will have completed twenty (20) years of creditable**
 19 **employment with a public employer on or before the**
 20 **employee's retirement date, ten (10) years of which shall**
 21 **have been completed immediately preceding the retirement;**
 22 **and**
- 23 **(4) who will have completed at least ten (10) years of**
 24 **participation in the retirement plan of which the employee is**
 25 **a member on or before the employee's retirement date.**
- 26 ~~(c)~~ **(d) The state shall provide a group health insurance program**
 27 **to each retired employee:**
- 28 **(1) who is a retired judge;**
- 29 **(2) whose retirement date is after June 30, 1990;**
- 30 **(3) who is at least sixty-two (62) years of age;**
- 31 **(4) who is not eligible for Medicare coverage as prescribed by 42**
 32 **U.S.C. 1395 et seq.; and**
- 33 **(5) who has at least eight (8) years of service credit as a**
 34 **participant in the Indiana judges' retirement fund, with at least**
 35 **eight (8) years of that service credit completed immediately**
 36 **preceding the judge's retirement.**
- 37 **(e) The state shall provide a group health insurance program**
 38 **to each retired employee:**
- 39 **(1) who is a retired judge;**
- 40 **(2) whose retirement date is after June 30, 1998;**
- 41 **(3) who is at least sixty-two (62) years of age;**
- 42 **(4) who is not eligible for Medicare coverage as prescribed**
 43 **by 42 U.S.C. 1395 et seq.; and**
- 44 **(5) who has at least eight (8) years of service credit as a**
 45 **participant in the Indiana judges' retirement fund, with at**
 46 **least eight (8) years of that service credit completed**

- 1 **immediately preceding the judge's retirement.**
2 ~~(d)~~ (f) The state shall provide a group health insurance program to
3 each retired employee:
4 (1) who is a retired participant under the prosecuting attorneys
5 retirement fund;
6 (2) whose retirement date is after January 1, 1990;
7 (3) who is at least sixty-two (62) years of age;
8 (4) who is not eligible for Medicare coverage as prescribed by 42
9 U.S.C. 1395 et seq.; and
10 (5) who has at least ten (10) years of service credit as a
11 participant in the prosecuting attorneys retirement fund, with at
12 least ten (10) years of that service credit completed immediately
13 preceding the participant's retirement.
14 ~~(e)~~ (g) The state shall make available a group health insurance
15 program to each former member of the general assembly or surviving
16 spouse of each former member if the former member:
17 (1) is no longer a member of the general assembly;
18 (2) is not eligible for Medicare coverage as prescribed by 42
19 U.S.C. 1395 et seq. or, in the case of a surviving spouse, the
20 surviving spouse is not eligible for Medicare coverage as
21 prescribed by 42 U.S.C. 1395 et seq.; and
22 (3) has at least ten (10) years of service credit as a member in the
23 general assembly, with at least eight (8) years of that service
24 credit completed immediately preceding the member's retirement
25 or death.
26 A former member or surviving spouse of a former member who obtains
27 insurance under this section is responsible for paying both the
28 employer and the employee share of the cost of the coverage.
29 ~~(f)~~ (h) The group health insurance program required under
30 subsections (b) through ~~(e)~~ (g) must be equal to that offered active
31 employees. The retired employee may participate in the group health
32 insurance program if the retired employee pays an amount equal to the
33 ~~employer's and the employee's~~ premium for the group health insurance
34 for an active employee and if the retired employee within ninety (90)
35 days after the employee's retirement date files a written request for
36 insurance coverage with the employer. ~~However,~~ The employer **shall**
37 **pay the employer's premium for the group health insurance and**
38 may elect to pay ~~any~~ **all or** part of the retired employee's premium.
39 ~~(g)~~ (i) A retired employee's eligibility to continue insurance under
40 this section ends when the employee becomes eligible for Medicare
41 coverage as prescribed by 42 U.S.C. 1395 et seq., or when the
42 employer terminates the health insurance program. A retired employee
43 who is eligible for insurance coverage under this section may elect to
44 have the employee's spouse **and dependent children** covered under the
45 health insurance program at the time the employee retires. If a retired
46 employee's spouse pays the amount the retired employee would have

1 been required to pay for coverage selected by the spouse, the spouse's
 2 subsequent eligibility to continue insurance under this section is not
 3 affected by the death of the retired employee. The surviving spouse's
 4 eligibility ends on the earliest of the following:

- 5 (1) When the spouse becomes eligible for Medicare coverage as
- 6 prescribed by 42 U.S.C. 1395 et seq.
- 7 (2) When the employer terminates the health insurance program.
- 8 (3) Two (2) years after the date of the employee's death.
- 9 (4) The date of the spouse's remarriage.

10 **A dependent child's eligibility for insurance coverage under this**
 11 **section ends on the date the child becomes eighteen (18) years of**
 12 **age, the date the child becomes twenty-three (23) years of age (if**
 13 **the child is enrolled in and regularly attending a secondary school**
 14 **or is a full-time student at an accredited college or university), or**
 15 **after the entire period of the child's physical or mental disability,**
 16 **whichever is latest.**

17 ~~(h)~~ (j) This subsection does not apply to an employee who is
 18 entitled to group insurance coverage under IC 20-6.1-6-1(c). An
 19 employee who is on leave without pay is entitled to participate for
 20 ninety (90) days in any health insurance program maintained by the
 21 employer for active employees if the employee pays an amount equal
 22 to the total of the employer's and the employee's premiums for the
 23 insurance.

24 ~~(i)~~ (k) An employer may provide group health insurance for retired
 25 employees or their spouses **and dependents** not covered by this section
 26 and may provide group health insurance that contains provisions more
 27 favorable to retired employees and their spouses **and dependents** than
 28 required by this section. A public employer may provide group health
 29 insurance to an employee who is on leave without pay for a longer
 30 period than required by subsection ~~(h)~~ (j).

31 SECTION 2. IC 25-22.5-1-2, AS AMENDED BY P.L.227-1995,
 32 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 1998]: Sec. 2. (a) This article, as it relates to the unlawful or
 34 unauthorized practice of medicine or osteopathic medicine, does not
 35 apply to any of the following:

- 36 (1) A student in training in a medical school approved by the
 37 board, or while performing duties as an intern or a resident in a
 38 hospital under the supervision of the hospital's staff or in a
 39 program approved by the medical school.
- 40 (2) A person who renders service in case of emergency where no
 41 fee or other consideration is contemplated, charged, or received.
- 42 (3) Commissioned medical officers or medical service officers
 43 of the armed forces of the United States, the United States Public
 44 Health Service, and medical officers of the United States
 45 Department of Veterans Affairs in the discharge of their official
 46 duties in Indiana.

- 1 (4) An individual who is not a licensee who resides in another
2 state or country and is authorized to practice medicine or
3 osteopathic medicine there, who is called in for consultation by
4 an individual licensed to practice medicine or osteopathic
5 medicine in Indiana.
- 6 (5) A person administering a domestic or family remedy to a
7 member of the person's family.
- 8 (6) A member of a church practicing the religious tenets of the
9 church if the member does not make a medical diagnosis,
10 prescribe or administer drugs or medicines, perform surgical or
11 physical operations, or assume the title of or profess to be a
12 physician.
- 13 (7) A school corporation and a school employee who acts under
14 IC 34-4-16.5-3.5.
- 15 (8) A chiropractor practicing the chiropractor's profession under
16 IC 25-10 or to an employee of a chiropractor acting under the
17 direction and supervision of the chiropractor under
18 IC 25-10-1-13.
- 19 (9) A dental hygienist practicing the dental hygienist's profession
20 under IC 25-13.
- 21 (10) A dentist practicing the dentist's profession under IC 25-14.
- 22 (11) A hearing aid dealer practicing the hearing aid dealer's
23 profession under IC 25-20.
- 24 (12) A nurse practicing the nurse's profession under IC 25-23.
25 However, a registered nurse may administer anesthesia if the
26 registered nurse acts under the direction of and in the immediate
27 presence of a physician and holds a certificate of completion of
28 a course in anesthesia approved by the American Association of
29 Nurse Anesthetists or a course approved by the board.
- 30 (13) An optometrist practicing the optometrist's profession under
31 IC 25-24.
- 32 (14) A pharmacist practicing the pharmacist's profession under
33 IC 25-26.
- 34 (15) A physical therapist practicing the physical therapist's
35 profession under IC 25-27.
- 36 (16) A podiatrist practicing the podiatrist's profession under
37 IC 25-29.
- 38 (17) A psychologist practicing the psychologist's profession
39 under IC 25-33.
- 40 (18) A speech-language pathologist or audiologist practicing the
41 pathologist's or audiologist's profession under IC 25-35.6.
- 42 (19) An employee of a physician or group of physicians who
43 performs an act, a duty, or a function that is customarily within
44 the specific area of practice of the employing physician or group
45 of physicians, if the act, duty, or function is performed under the
46 direction and supervision of the employing physician or a

1 physician of the employing group within whose area of practice
 2 the act, duty, or function falls. An employee may not make a
 3 diagnosis or prescribe a treatment and must report the results of
 4 an examination of a patient conducted by the employee to the
 5 employing physician or the physician of the employing group
 6 under whose supervision the employee is working. An employee
 7 may not administer medication without the specific order of the
 8 employing physician or a physician of the employing group.
 9 Unless an employee is licensed or registered to independently
 10 practice in a profession described in subdivisions (8) through
 11 (17), nothing in this subsection grants the employee independent
 12 practitioner status or the authority to perform patient services in
 13 an independent practice in a profession.

14 (20) A hospital licensed under IC 16-21 or IC 12-25.

15 (21) A health care organization whose members, shareholders,
 16 or partners are individuals, partnerships, corporations, facilities,
 17 or institutions licensed or legally authorized by this state to
 18 provide health care or professional services as:

- 19 (A) a physician;
- 20 (B) a psychiatric hospital;
- 21 (C) a hospital;
- 22 (D) a health maintenance organization or limited service
- 23 health maintenance organization;
- 24 (E) a health facility;
- 25 (F) a dentist;
- 26 (G) a registered or licensed practical nurse;
- 27 (H) a midwife;
- 28 (I) an optometrist;
- 29 (J) a podiatrist;
- 30 (K) a chiropractor;
- 31 (L) a physical therapist; or
- 32 (M) a psychologist.

33 (22) A physician assistant practicing the physician assistant's
 34 profession under IC 25-27.5.

35 **(23) A physician providing medical treatment under**
 36 **IC 25-22.5-1-2.1.**

37 (b) A person described in subsection (a)(8) through (a)(17) is not
 38 excluded from the application of this article if:

- 39 (1) the person performs an act that an Indiana statute does not
- 40 authorize the person to perform; and
- 41 (2) the act qualifies in whole or in part as the practice of
- 42 medicine or osteopathic medicine.

43 (c) An employment or other contractual relationship between an
 44 entity described in subsection (a)(20) through (a)(21) and a licensed
 45 physician does not constitute the unlawful practice of medicine under
 46 this article if the entity does not direct or control independent medical

1 acts, decisions, or judgment of the licensed physician. However, if the
 2 direction or control is done by the entity under IC 34-4-12.6, the entity
 3 is excluded from the application of this article as it relates to the
 4 unlawful practice of medicine or osteopathic medicine.

5 (d) This subsection does not apply to a prescription or drug order
 6 for a legend drug that is filled or refilled in a pharmacy owned or
 7 operated by a hospital licensed under IC 16-21. A physician licensed
 8 in Indiana who permits or authorizes a person to fill or refill a
 9 prescription or drug order for a legend drug except as authorized in
 10 IC 16-42-19-11 through IC 16-42-19-19 is subject to disciplinary
 11 action under IC 25-1-9. A person who violates this subsection commits
 12 the unlawful practice of medicine under this chapter.

13 (e) A person described in subsection (a)(7) shall not be authorized
 14 to dispense contraceptives or birth control devices.

15 SECTION 3. IC 25-22.5-1-2.1 IS ADDED TO THE INDIANA
 16 CODE AS A NEW SECTION TO READ AS FOLLOWS
 17 [EFFECTIVE JULY 1, 1998]: **Sec. 2.1. (a) An individual may receive
 18 any experimental or nonconventional medical treatment that:**

19 **(1) the individual desires; or**

20 **(2) the legal representative of the individual authorizes;**

21 **if a licensed physician has personally examined the individual and
 22 agrees to treat the individual.**

23 **(b) A licensed physician may provide medical treatment
 24 described in subsection (a) if:**

25 **(1) there is no reasonable basis to conclude that the medical
 26 treatment, when administered as directed, poses an
 27 unreasonable and significant risk of danger to the individual
 28 receiving the medical treatment; and**

29 **(2) the physician has provided the individual with a written
 30 statement and an oral explanation of the medical treatment
 31 that the individual has acknowledged by the individual's
 32 signature or the signature of the individual's legal
 33 representative and that discloses the following:**

34 **(A) That the medical treatment is experimental or
 35 nonconventional.**

36 **(B) That the drug or medical device has not been
 37 approved by the United States Food and Drug
 38 Administration for any indication.**

39 **(C) The material risks generally recognized by a
 40 reasonably prudent physician of the medical treatment's
 41 side effects.**

42 **(c) Medical treatment of an individual that is:**

43 **(1) described in this section; and**

44 **(2) provided by a licensed physician;**

45 **is not malpractice and is not actionable under any provision of
 46 IC 35.**

1 **(d) This section does not require a health insurer (as defined**
2 **in IC 27-8-24.7-2) to provide coverage for medical treatment**
3 **authorized under this section.**

(Reference is to HB 1395 as printed January 29, 1998.)

Representative Fry