January 30, 1998

HOUSE BILL No. 1060

DIGEST OF HB 1060 (Updated January 28, 1998 8:55 pm - DI 97)

Citations Affected: IC 5-10; IC 25-22.5.

Synopsis: Entitles an individual who has an illness or disease that is potentially life threatening or chronically disabling to medical treatment that includes any experimental or nonconventional medical treatment desired by the individual or authorized by the individual's legal representative if a licensed physician has personally examined the individual and agrees to treat the individual. Requires that, before providing such treatment, the physician must determine that the treatment, when administered as directed, does not pose an unreasonable and significant risk of danger to the individual receiving the treatment. Also requires the physician to provide specific information to the individual and to receive the written informed

(Continued next page)

Effective: July 1, 1998.

Burton, Crosby, Budak, Wilson

January 6, 1998, read first time and referred to Committee on Insurance, Corporations and Small Business.
January 29, 1998, amended, reported — Do Pass.

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Digest Continued

consent of the individual or the individual's legal representative before providing the treatment. Provides that health insurers are not required to provide coverage for the treatment. Provides that treatment given in compliance with these requirements is not malpractice, the unlawful practice of medicine, or actionable under Title 35. Provides that the state pay the employer's premium for group health insurance for certain retired state employees and their dependents.

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January 30, 1998

Second Regular Session 110th General Assembly (1998)

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 1997 General Assembly.

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HOUSE BILL No. 1060

A BILL FOR 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 5-10-8-8, AS AMENDED BY P.L.67-1995, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 8. (a) This section applies only to the state and its employees who are not covered by a plan established under section 6 of this chapter.

(b) After June 30, 1986, the state shall provide a group health insurance plan to each retired employee:

(1) whose retirement date is:

(A) after June 29, 1986, for a retired employee who was a member of the field examiners' retirement fund;

(B) after May 31, 1986, for a retired employee who was a member of the Indiana state teachers' retirement fund; or

(C) after June 30, 1986, for a retired employee not covered by clause (A) or (B);

(2) who will have reached fifty-five (55) years of age on or before

the employee's retirement date but who will not be eligible on that date for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.;

(3) who will have completed twenty (20) years of creditable employment with a public employer on or before the employee's retirement date, ten (10) years of which shall have been completed immediately preceding the retirement; and

(4) who will have completed at least fifteen (15) years of participation in the retirement plan of which the employee is a member on or before the employee's retirement date.

(c) After June 30, 1998, the state shall provide a group health insurance plan to each retired employee:

(1) whose retirement date is:

(A) after June 29, 1998, for a retired employee who was a member of the field examiners' retirement fund;

(B) after May 31, 1998, for a retired employee who was a member of the Indiana state teachers' retirement fund; or

(C) after June 30, 1998, for a retired employee not covered by clause (A) or (B);

(2) who will have reached fifty-five (55) years of age on or before the employee's retirement date but who will not be eligible on that date for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.;

(3) who will have completed twenty (20) years of creditable employment with a public employer on or before the employee's retirement date, ten (10) years of which shall have been completed immediately preceding the retirement; and

(4) who will have completed at least ten (10) years of participation in the retirement plan of which the employee is a member on or before the employee's retirement date.

~~(c)~~ **(d)** The state shall provide a group health insurance program to each retired employee:

(1) who is a retired judge;

(2) whose retirement date is after June 30, 1990;

(3) who is at least sixty-two (62) years of age;

(4) who is not eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.; and

(5) who has at least eight (8) years of service credit as a participant in the Indiana judges' retirement fund, with at least eight (8) years of that service credit completed immediately preceding the judge's retirement.

(e) The state shall provide a group health insurance program to

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each retired employee:

(1) who is a retired judge;

(2) whose retirement date is after June 30, 1998;

(3) who is at least sixty-two (62) years of age;

(4) who is not eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.; and

(5) who has at least eight (8) years of service credit as a participant in the Indiana judges' retirement fund, with at least eight (8) years of that service credit completed immediately preceding the judge's retirement.

~~(d)~~ **(f)** The state shall provide a group health insurance program to each retired employee:

(1) who is a retired participant under the prosecuting attorneys retirement fund;

(2) whose retirement date is after January 1, 1990;

(3) who is at least sixty-two (62) years of age;

(4) who is not eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.; and

(5) who has at least ten (10) years of service credit as a participant in the prosecuting attorneys retirement fund, with at least ten (10) years of that service credit completed immediately preceding the participant's retirement.

~~(e)~~ **(g)** The state shall make available a group health insurance program to each former member of the general assembly or surviving spouse of each former member if the former member:

(1) is no longer a member of the general assembly;

(2) is not eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq. or, in the case of a surviving spouse, the surviving spouse is not eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.; and

(3) has at least ten (10) years of service credit as a member in the general assembly, with at least eight (8) years of that service credit completed immediately preceding the member's retirement or death.

A former member or surviving spouse of a former member who obtains insurance under this section is responsible for paying both the employer and the employee share of the cost of the coverage.

~~(f)~~ **(h)** The group health insurance program required under subsections (b) through ~~(e)~~ **(g)** must be equal to that offered active employees. The retired employee may participate in the group health insurance program if the retired employee pays an amount equal to the ~~employer's and the~~ employee's premium for the group health insurance

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for an active employee and if the retired employee within ninety (90) days after the employee's retirement date files a written request for insurance coverage with the employer. ~~However,~~ The employer **shall pay the employer's premium for the group health insurance and** may elect to pay ~~any~~ **all or** part of the retired employee's premium.

~~(g)~~ **(i)** A retired employee's eligibility to continue insurance under this section ends when the employee becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq., or when the employer terminates the health insurance program. A retired employee who is eligible for insurance coverage under this section may elect to have the employee's spouse **and dependent children** covered under the health insurance program at the time the employee retires. If a retired employee's spouse pays the amount the retired employee would have been required to pay for coverage selected by the spouse, the spouse's subsequent eligibility to continue insurance under this section is not affected by the death of the retired employee. The surviving spouse's eligibility ends on the earliest of the following:

(1) When the spouse becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) When the employer terminates the health insurance program.

(3) Two (2) years after the date of the employee's death.

(4) The date of the spouse's remarriage.

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

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

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

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

(1) A student in training in a medical school approved by the board, or while performing duties as an intern or a resident in a hospital under the supervision of the hospital's staff or in a program approved by the medical school.

(2) A person who renders service in case of emergency where no fee or other consideration is contemplated, charged, or received.

(3) Commissioned medical officers or medical service officers of the armed forces of the United States, the United States Public Health Service, and medical officers of the United States Department of Veterans Affairs in the discharge of their official duties in Indiana.

(4) An individual who is not a licensee who resides in another state or country and is authorized to practice medicine or osteopathic medicine there, who is called in for consultation by an individual licensed to practice medicine or osteopathic medicine in Indiana.

(5) A person administering a domestic or family remedy to a member of the person's family.

(6) A member of a church practicing the religious tenets of the church if the member does not make a medical diagnosis, prescribe or administer drugs or medicines, perform surgical or physical operations, or assume the title of or profess to be a physician.

(7) A school corporation and a school employee who acts under IC 34-4-16.5-3.5.

(8) A chiropractor practicing the chiropractor's profession under IC 25-10 or to an employee of a chiropractor acting under the direction and supervision of the chiropractor under IC 25-10-1-13.

(9) A dental hygienist practicing the dental hygienist's profession under IC 25-13.

(10) A dentist practicing the dentist's profession under IC 25-14.

(11) A hearing aid dealer practicing the hearing aid dealer's profession under IC 25-20.

(12) A nurse practicing the nurse's profession under IC 25-23. However, a registered nurse may administer anesthesia if the registered nurse acts under the direction of and in the immediate presence of a physician and holds a certificate of completion of a

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course in anesthesia approved by the American Association of Nurse Anesthetists or a course approved by the board.

(13) An optometrist practicing the optometrist's profession under IC 25-24.

(14) A pharmacist practicing the pharmacist's profession under IC 25-26.

(15) A physical therapist practicing the physical therapist's profession under IC 25-27.

(16) A podiatrist practicing the podiatrist's profession under IC 25-29.

(17) A psychologist practicing the psychologist's profession under IC 25-33.

(18) A speech-language pathologist or audiologist practicing the pathologist's or audiologist's profession under IC 25-35.6.

(19) An employee of a physician or group of physicians who performs an act, a duty, or a function that is customarily within the specific area of practice of the employing physician or group of physicians, if the act, duty, or function is performed under the direction and supervision of the employing physician or a physician of the employing group within whose area of practice the act, duty, or function falls. An employee may not make a diagnosis or prescribe a treatment and must report the results of an examination of a patient conducted by the employee to the employing physician or the physician of the employing group under whose supervision the employee is working. An employee may not administer medication without the specific order of the employing physician or a physician of the employing group. Unless an employee is licensed or registered to independently practice in a profession described in subdivisions (8) through (17), nothing in this subsection grants the employee independent practitioner status or the authority to perform patient services in an independent practice in a profession.

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

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

(A) a physician;

(B) a psychiatric hospital;

(C) a hospital;

(D) a health maintenance organization or limited service health maintenance organization;

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(E) a health facility;
(F) a dentist;
(G) a registered or licensed practical nurse;
(H) a midwife;
(I) an optometrist;
(J) a podiatrist;
(K) a chiropractor;
(L) a physical therapist; or
(M) a psychologist.

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

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

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

(1) the person performs an act that an Indiana statute does not authorize the person to perform; and

(2) the act qualifies in whole or in part as the practice of medicine or osteopathic medicine.

(c) An employment or other contractual relationship between an entity described in subsection (a)(20) through (a)(21) and a licensed physician does not constitute the unlawful practice of medicine under this article if the entity does not direct or control independent medical acts, decisions, or judgment of the licensed physician. However, if the direction or control is done by the entity under IC 34-4-12.6, the entity is excluded from the application of this article as it relates to the unlawful practice of medicine or osteopathic medicine.

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

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

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

(1) the individual desires; or

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(2) the legal representative of the individual authorizes;
if a licensed physician has personally examined the individual and agrees to treat the individual.

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

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

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

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

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

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

(c) Medical treatment of an individual that is:

(1) described in this section; and

(2) provided by a licensed physician;
is not malpractice and is not actionable under any provision of IC 35.

Sec. 5. This chapter does not require a health insurer (as defined in IC 27-8-24.7-2) to provide coverage for medical treatment authorized under this chapter.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, Corporations and Small Business, to which was referred House Bill 1060, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

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

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-10-8-8, AS AMENDED BY P.L.67-1995, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 8. (a) This section applies only to the state and its employees who are not covered by a plan established under section 6 of this chapter.

(b) After June 30, 1986, the state shall provide a group health insurance plan to each retired employee:

(1) whose retirement date is:

(A) after June 29, 1986, for a retired employee who was a member of the field examiners' retirement fund;

(B) after May 31, 1986, for a retired employee who was a member of the Indiana state teachers' retirement fund; or

(C) after June 30, 1986, for a retired employee not covered by clause (A) or (B);

(2) who will have reached fifty-five (55) years of age on or before the employee's retirement date but who will not be eligible on that date for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.;

(3) who will have completed twenty (20) years of creditable employment with a public employer on or before the employee's retirement date, ten (10) years of which shall have been completed immediately preceding the retirement; and

(4) who will have completed at least fifteen (15) years of participation in the retirement plan of which the employee is a member on or before the employee's retirement date.

(c) After June 30, 1998, the state shall provide a group health insurance plan to each retired employee:

(1) whose retirement date is:

(A) after June 29, 1998, for a retired employee who was a member of the field examiners' retirement fund;

(B) after May 31, 1998, for a retired employee who was a member of the Indiana state teachers' retirement

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fund; or

(C) after June 30, 1998, for a retired employee not covered by clause (A) or (B);

(2) who will have reached fifty-five (55) years of age on or before the employee's retirement date but who will not be eligible on that date for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.;

(3) who will have completed twenty (20) years of creditable employment with a public employer on or before the employee's retirement date, ten (10) years of which shall have been completed immediately preceding the retirement; and

(4) who will have completed at least ten (10) years of participation in the retirement plan of which the employee is a member on or before the employee's retirement date.

~~(c)~~ **(d)** The state shall provide a group health insurance program to each retired employee:

(1) who is a retired judge;

(2) whose retirement date is after June 30, 1990;

(3) who is at least sixty-two (62) years of age;

(4) who is not eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.; and

(5) who has at least eight (8) years of service credit as a participant in the Indiana judges' retirement fund, with at least eight (8) years of that service credit completed immediately preceding the judge's retirement.

(e) The state shall provide a group health insurance program to each retired employee:

(1) who is a retired judge;

(2) whose retirement date is after June 30, 1998;

(3) who is at least sixty-two (62) years of age;

(4) who is not eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.; and

(5) who has at least eight (8) years of service credit as a participant in the Indiana judges' retirement fund, with at least eight (8) years of that service credit completed immediately preceding the judge's retirement.

~~(d)~~ **(f)** The state shall provide a group health insurance program to each retired employee:

(1) who is a retired participant under the prosecuting attorneys retirement fund;

(2) whose retirement date is after January 1, 1990;

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(3) who is at least sixty-two (62) years of age;

(4) who is not eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.; and

(5) who has at least ten (10) years of service credit as a participant in the prosecuting attorneys retirement fund, with at least ten (10) years of that service credit completed immediately preceding the participant's retirement.

~~(e)~~ **(g)** The state shall make available a group health insurance program to each former member of the general assembly or surviving spouse of each former member if the former member:

(1) is no longer a member of the general assembly;

(2) is not eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq. or, in the case of a surviving spouse, the surviving spouse is not eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.; and

(3) has at least ten (10) years of service credit as a member in the general assembly, with at least eight (8) years of that service credit completed immediately preceding the member's retirement or death.

A former member or surviving spouse of a former member who obtains insurance under this section is responsible for paying both the employer and the employee share of the cost of the coverage.

~~(f)~~ **(h)** The group health insurance program required under subsections (b) through ~~(e)~~ **(g)** must be equal to that offered active employees. The retired employee may participate in the group health insurance program if the retired employee pays an amount equal to the ~~employer's and the~~ employee's premium for the group health insurance for an active employee and if the retired employee within ninety (90) days after the employee's retirement date files a written request for insurance coverage with the employer. ~~However,~~ The employer **shall pay the employer's premium for the group health insurance and** may elect to pay ~~any~~ **all or** part of the retired employee's premium.

~~(g)~~ **(i)** A retired employee's eligibility to continue insurance under this section ends when the employee becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq., or when the employer terminates the health insurance program. A retired employee who is eligible for insurance coverage under this section may elect to have the employee's spouse **and dependent children** covered under the health insurance program at the time the employee retires. If a retired employee's spouse pays the amount the retired employee would have been required to pay for coverage selected by the spouse, the spouse's subsequent eligibility to continue insurance under this section is not

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affected by the death of the retired employee. The surviving spouse's eligibility ends on the earliest of the following:

(1) When the spouse becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) When the employer terminates the health insurance program.

(3) Two (2) years after the date of the employee's death.

(4) The date of the spouse's remarriage.

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

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

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

Page 1, delete lines 1 through 9, begin a new paragraph and insert:

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

(1) A student in training in a medical school approved by the board, or while performing duties as an intern or a resident in a hospital under the supervision of the hospital's staff or in a program approved by the medical school.

(2) A person who renders service in case of emergency where no fee or other consideration is contemplated, charged, or received.

(3) Commissioned medical officers or medical service officers of the armed forces of the United States, the United States Public

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Health Service, and medical officers of the United States Department of Veterans Affairs in the discharge of their official duties in Indiana.

(4) An individual who is not a licensee who resides in another state or country and is authorized to practice medicine or osteopathic medicine there, who is called in for consultation by an individual licensed to practice medicine or osteopathic medicine in Indiana.

(5) A person administering a domestic or family remedy to a member of the person's family.

(6) A member of a church practicing the religious tenets of the church if the member does not make a medical diagnosis, prescribe or administer drugs or medicines, perform surgical or physical operations, or assume the title of or profess to be a physician.

(7) A school corporation and a school employee who acts under IC 34-4-16.5-3.5.

(8) A chiropractor practicing the chiropractor's profession under IC 25-10 or to an employee of a chiropractor acting under the direction and supervision of the chiropractor under IC 25-10-1-13.

(9) A dental hygienist practicing the dental hygienist's profession under IC 25-13.

(10) A dentist practicing the dentist's profession under IC 25-14.

(11) A hearing aid dealer practicing the hearing aid dealer's profession under IC 25-20.

(12) A nurse practicing the nurse's profession under IC 25-23. However, a registered nurse may administer anesthesia if the registered nurse acts under the direction of and in the immediate presence of a physician and holds a certificate of completion of a course in anesthesia approved by the American Association of Nurse Anesthetists or a course approved by the board.

(13) An optometrist practicing the optometrist's profession under IC 25-24.

(14) A pharmacist practicing the pharmacist's profession under IC 25-26.

(15) A physical therapist practicing the physical therapist's profession under IC 25-27.

(16) A podiatrist practicing the podiatrist's profession under IC 25-29.

(17) A psychologist practicing the psychologist's profession under IC 25-33.

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(18) A speech-language pathologist or audiologist practicing the pathologist's or audiologist's profession under IC 25-35.6.
(19) An employee of a physician or group of physicians who performs an act, a duty, or a function that is customarily within the specific area of practice of the employing physician or group of physicians, if the act, duty, or function is performed under the direction and supervision of the employing physician or a physician of the employing group within whose area of practice the act, duty, or function falls. An employee may not make a diagnosis or prescribe a treatment and must report the results of an examination of a patient conducted by the employee to the employing physician or the physician of the employing group under whose supervision the employee is working. An employee may not administer medication without the specific order of the employing physician or a physician of the employing group. Unless an employee is licensed or registered to independently practice in a profession described in subdivisions (8) through (17), nothing in this subsection grants the employee independent practitioner status or the authority to perform patient services in an independent practice in a profession.
(20) A hospital licensed under IC 16-21 or IC 12-25.
(21) A health care organization whose members, shareholders, or partners are individuals, partnerships, corporations, facilities, or institutions licensed or legally authorized by this state to provide health care or professional services as:
(A) a physician;
(B) a psychiatric hospital;
(C) a hospital;
(D) a health maintenance organization or limited service health maintenance organization;
(E) a health facility;
(F) a dentist;
(G) a registered or licensed practical nurse;
(H) a midwife;
(I) an optometrist;
(J) a podiatrist;
(K) a chiropractor;
(L) a physical therapist; or
(M) a psychologist.
(22) A physician assistant practicing the physician assistant's profession under IC 25-27.5.
(23) A physician providing medical treatment under

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IC 25-22.5-1-2.1.

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

(1) the person performs an act that an Indiana statute does not authorize the person to perform; and

(2) the act qualifies in whole or in part as the practice of medicine or osteopathic medicine.

(c) An employment or other contractual relationship between an entity described in subsection (a)(20) through (a)(21) and a licensed physician does not constitute the unlawful practice of medicine under this article if the entity does not direct or control independent medical acts, decisions, or judgment of the licensed physician. However, if the direction or control is done by the entity under IC 34-4-12.6, the entity is excluded from the application of this article as it relates to the unlawful practice of medicine or osteopathic medicine.

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

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

SECTION 3. IC 25-22.5-1-2.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 2.1. (a) An individual may receive**".

Page 1, line 15, delete "Sec. 3." and insert "**(b)**".

Page 2, line 1, delete "section 2 of this chapter" and insert "**subsection (a)**".

Page 2, line 19, delete "Sec. 4." and insert "**(c)**".

Page 2, line 20, delete "authorized under" and insert "**described in**".

Page 2, line 20, delete "chapter" and insert "**section**".

Page 2, line 22, delete "or the unlawful practice of medicine" and insert "**and is not actionable under any provision of IC 35.**".

Page 2, after line 22, begin a new paragraph and insert:

"**Sec. 5. This chapter does not require a health insurer (as defined in IC 27-8-24.7-2) to provide coverage for medical treatment authorized under this chapter.**".

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Renumber SECTIONS consecutively.

and when so amended that said bill do pass.
(Reference is to House Bill 1060 as introduced.)

FRY, Chair

Committee Vote: yeas 12, nays 2.

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