

Adopted Rejected

COMMITTEE REPORT

YES: 12
NO: 2

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:*

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 professions and occupations.
- 4 Page 1, between the enacting clause and line 1, begin a new
- 5 paragraph and insert:
- 6 "SECTION 1. IC 5-10-8-8, AS AMENDED BY P.L.67-1995,
- 7 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 8 JULY 1, 1998]: Sec. 8. (a) This section applies only to the state and its
- 9 employees who are not covered by a plan established under section 6
- 10 of this chapter.
- 11 (b) After June 30, 1986, the state shall provide a group health
- 12 insurance plan to each retired employee:
- 13 (1) whose retirement date is:
- 14 (A) after June 29, 1986, for a retired employee who was a
- 15 member of the field examiners' retirement fund;
- 16 (B) after May 31, 1986, for a retired employee who was a

- 1 member of the Indiana state teachers' retirement fund; or
 2 (C) after June 30, 1986, for a retired employee not covered
 3 by clause (A) or (B);
- 4 (2) who will have reached fifty-five (55) years of age on or
 5 before the employee's retirement date but who will not be
 6 eligible on that date for Medicare coverage as prescribed by 42
 7 U.S.C. 1395 et seq.;
- 8 (3) who will have completed twenty (20) years of creditable
 9 employment with a public employer on or before the employee's
 10 retirement date, ten (10) years of which shall have been
 11 completed immediately preceding the retirement; and
- 12 (4) who will have completed at least fifteen (15) years of
 13 participation in the retirement plan of which the employee is a
 14 member on or before the employee's retirement date.
- 15 **(c) After June 30, 1998, the state shall provide a group health**
 16 **insurance plan to each retired employee:**
- 17 **(1) whose retirement date is:**
- 18 **(A) after June 29, 1998, for a retired employee who was**
 19 **a member of the field examiners' retirement fund;**
- 20 **(B) after May 31, 1998, for a retired employee who was**
 21 **a member of the Indiana state teachers' retirement**
 22 **fund; or**
- 23 **(C) after June 30, 1998, for a retired employee not**
 24 **covered by clause (A) or (B);**
- 25 **(2) who will have reached fifty-five (55) years of age on or**
 26 **before the employee's retirement date but who will not be**
 27 **eligible on that date for Medicare coverage as prescribed by**
 28 **42 U.S.C. 1395 et seq.;**
- 29 **(3) who will have completed twenty (20) years of creditable**
 30 **employment with a public employer on or before the**
 31 **employee's retirement date, ten (10) years of which shall**
 32 **have been completed immediately preceding the retirement;**
 33 **and**
- 34 **(4) who will have completed at least ten (10) years of**
 35 **participation in the retirement plan of which the employee is**
 36 **a member on or before the employee's retirement date.**
- 37 **(d) The state shall provide a group health insurance program**
 38 **to each retired employee:**

- 1 (1) who is a retired judge;
 2 (2) whose retirement date is after June 30, 1990;
 3 (3) who is at least sixty-two (62) years of age;
 4 (4) who is not eligible for Medicare coverage as prescribed by 42
 5 U.S.C. 1395 et seq.; and
 6 (5) who has at least eight (8) years of service credit as a
 7 participant in the Indiana judges' retirement fund, with at least
 8 eight (8) years of that service credit completed immediately
 9 preceding the judge's retirement.

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

- 12 **(1) who is a retired judge;**
 13 **(2) whose retirement date is after June 30, 1998;**
 14 **(3) who is at least sixty-two (62) years of age;**
 15 **(4) who is not eligible for Medicare coverage as prescribed**
 16 **by 42 U.S.C. 1395 et seq.; and**
 17 **(5) who has at least eight (8) years of service credit as a**
 18 **participant in the Indiana judges' retirement fund, with at**
 19 **least eight (8) years of that service credit completed**
 20 **immediately preceding the judge's retirement.**

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

- 23 (1) who is a retired participant under the prosecuting attorneys
 24 retirement fund;
 25 (2) whose retirement date is after January 1, 1990;
 26 (3) who is at least sixty-two (62) years of age;
 27 (4) who is not eligible for Medicare coverage as prescribed by 42
 28 U.S.C. 1395 et seq.; and
 29 (5) who has at least ten (10) years of service credit as a
 30 participant in the prosecuting attorneys retirement fund, with at
 31 least ten (10) years of that service credit completed immediately
 32 preceding the participant's retirement.

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

- 36 (1) is no longer a member of the general assembly;
 37 (2) is not eligible for Medicare coverage as prescribed by 42
 38 U.S.C. 1395 et seq. or, in the case of a surviving spouse, the

1 surviving spouse is not eligible for Medicare coverage as
 2 prescribed by 42 U.S.C. 1395 et seq.; and
 3 (3) has at least ten (10) years of service credit as a member in the
 4 general assembly, with at least eight (8) years of that service
 5 credit completed immediately preceding the member's retirement
 6 or death.

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

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

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

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

37 **A dependent child's eligibility for insurance coverage under this**
 38 **section ends on the date the child becomes eighteen (18) years of**

1 **age, the date the child becomes twenty-three (23) years of age (if**
 2 **the child is enrolled in and regularly attending a secondary school**
 3 **or is a full-time student at an accredited college or university), or**
 4 **after the entire period of the child's physical or mental disability,**
 5 **whichever is latest.**

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

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

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

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

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

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

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

37 (4) An individual who is not a licensee who resides in another
 38 state or country and is authorized to practice medicine or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 Page 2, line 20, delete "chapter" and insert "**section**".
- 2 Page 2, line 22, delete "or the unlawful practice of medicine" and
- 3 insert "**and is not actionable under any provision of IC 35.**".
- 4 Page 2, after line 22, begin a new paragraph and insert:
- 5 "**Sec. 5. This chapter does not require a health insurer (as**
- 6 **defined in IC 27-8-24.7-2) to provide coverage for medical**
- 7 **treatment authorized under this chapter.**".
- 8 Renumber SECTIONS consecutively.
(Reference is to HB 1060 as introduced.)

and when so amended that said bill do pass.

Representative Fry