



April 6, 1999

**ENGROSSED
SENATE BILL No. 290**

DIGEST OF SB0290 (Updated March 30, 1999 5:26 pm - DI 77)

Citations Affected: IC 34-30.

Synopsis: Hospital peer review. Defines "conflicted medical staff member" for purposes of hospital peer review. Provides that a professional health care provider is entitled to 1 appeal before the governing board of the hospital or a committee appointed by the governing board. Provides that if a peer review committee may not be formed without appointing a conflicted medical staff member, the hospital shall appoint a professional health care provider who holds the same professional license as the provider under review and who is not a member of the hospital's medical staff.

Effective: July 1, 1999.

Miller

(HOUSE SPONSORS — WELCH, BROWN T)

January 7, 1999, read first time and referred to Committee on Health and Provider Services.
February 25, 1999, amended, reported favorably — Do Pass.
March 2, 1999, read second time, amended, ordered engrossed.
March 3, 1999, engrossed.
March 4, 1999, read third time, passed. Yeas 49, nays 0.
HOUSE ACTION
March 10, 1999, read first time and referred to Committee on Public Health.
April 5, 1999, reported — Do Pass.

ES 290—LS 7424/DI 97+



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April 6, 1999

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

ENGROSSED SENATE BILL No. 290

A BILL FOR AN ACT to amend the Indiana Code concerning civil law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 34-30-15-5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) **As used in this**
3 **section, "conflicted medical staff member" means a professional**
4 **health care provider who is a member of a hospital's medical staff**
5 **and who is determined by the hospital to be:**
6 (1) **in direct economic competition with the professional**
7 **health care provider against whom the charges have been**
8 **brought; or**
9 (2) **reasonably unavailable to serve on a peer review**
10 **committee of the medical staff.**
11 (b) Except as provided in section 6(b) of this chapter, if charges are
12 brought against a professional health care provider in a hospital that,
13 if sustained by the governing board of the hospital, could result in an
14 action against a physician required to be reported to the medical
15 licensing board under IC 16-21-2-6 or a similar disciplinary action
16 against any other health care provider, the professional health care
17 provider is entitled to:

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- 1 (1) one (1) evidentiary hearing before a peer review committee of
- 2 the medical staff; and
- 3 (2) one (1) ~~additional hearing on~~ appeal before the governing
- 4 board of the hospital **or a committee appointed by the**
- 5 **governing board.**
- 6 **(c) If a hospital determines that a peer review committee of the**
- 7 **medical staff may not be formed without appointing a conflicted**
- 8 **medical staff member, the hospital:**
 - 9 **(1) may not appoint the conflicted medical staff member to**
 - 10 **the peer review committee; and**
 - 11 **(2) shall appoint a professional health care provider who:**
 - 12 **(A) holds the same professional license as the provider**
 - 13 **against whom the charges have been brought; and**
 - 14 **(B) is not a member of the hospital's medical staff;**
 - 15 **to serve on the peer review committee.**
 - 16 **(d) The professional health care provider appointed under**
 - 17 **subsection (c)(2) may not be in direct economic competition with**
 - 18 **the professional health care provider against whom the charges**
 - 19 **have been brought.**

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COMMITTEE REPORT

Mr. President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 290, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 6, strike "and".

Page 1, line 8, after "facilities" delete "." and insert ";".

Page 1, line 8, after "patients" insert "and".

Page 1, after line 8, begin a new line block indented and insert:

"(4) an investigation or evaluation by a peer review committee of a hospital licensed under IC 16-21 that is performed for purposes of:

(A) identifying or measuring, on:

- (i) an institutional;**
- (ii) a departmental;**
- (iii) a unit; or**
- (iv) a service line;**

basis, the level of the quality of care provided by or in the hospital; or

(B) evaluating the sufficiency of the hospital's quality assessment and improvement programs.

An investigation or evaluation under this subdivision does not include an evaluation by a peer review committee undertaken for purposes of evaluating the care provided by an individual professional health care provider."

Page 3, after line 5, begin a new paragraph and insert:

"SECTION 3. IC 34-30-15-13.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 13.5. (a) This chapter does not prevent the state department of health from obtaining, on a confidential basis for purposes of enforcing Indiana's hospital licensure laws under IC 16-21, information and material from a hospital licensed under IC 16-21 evidencing the following:

- (1) The name of the peer review committees engaged in the evaluation of patient care (as defined in IC 34-6-2-44(a)(4)) and participating in the hospital's quality assessment and improvement program required under IC 16-21 and the rules adopted under IC 16-21.**
- (2) The identities of the individuals comprising the committees identified in subdivision (1).**
- (3) The general subject matter of a meeting of a peer review**



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committee identified in subdivision (1).

(4) Any action taken by a peer review committee identified in subdivision (1) for purposes of addressing the opportunities for improvement found through the hospital's quality assessment and improvement program.

(5) Any documentation of the peer review committee regarding:

(A) the effectiveness of any action described in subdivision (4);

(B) any continued follow-up regarding the action; and

(C) the action's impact on patient care.

(b) The information and material described in subsection (a) may not include:

(1) the identify of any:

(A) patient; or

(B) individual professional health care provider; or

(2) communications to or deliberations of the peer review committee.

(c) Information that is otherwise discoverable or admissible from original sources is not barred from discovery or use in any proceeding if the information was presented during proceedings before a peer review committee engaged in an evaluation of patient care (as defined in IC 31-6-2-44(a)(4))."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 290 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 7, Nays 4.

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SENATE MOTION

Mr. President: I move that Senate Bill 290 be amended to read as follows:

Page 1, line 1, delete "IC 34-6-2-44" and insert "IC 34-30-15-5".

Page 1, line 2, delete "Sec. 44." and insert "Sec. 5.".

Page 1, line 2, delete "Evaluation of" and insert "**As used in this section, "conflicted medical staff member" means a**".

Page 1, delete lines 3 through 17.

Page 2, delete lines 1 through 6.

Page 2, line 7, beginning with "professional" block left.

Page 2, line 7, delete "." insert "**who is a member of a hospital's medical staff and who is determined by the hospital to be:**

(1) in direct economic competition with the professional health care provider against whom the charges have been brought; or

(2) reasonably unavailable to serve on a peer review committee of the medical staff.

(b) Except as provided in section 6(b) of this chapter, if charges are brought against a professional health care provider in a hospital that, if sustained by the governing board of the hospital, could result in an action against a physician required to be reported to the medical licensing board under IC 16-21-2-6 or a similar disciplinary action against any other health care provider, the professional health care provider is entitled to:

(1) one (1) evidentiary hearing before a peer review committee of the medical staff; and

(2) one (1) ~~additional hearing on~~ appeal before the governing board of the hospital **or a committee appointed by the governing board.**

(c) If a hospital determines that a peer review committee of the medical staff may not be formed without appointing a conflicted medical staff member, the hospital:

(1) may not appoint the conflicted medical staff member to the peer review committee; and

(2) shall appoint a professional health care provider who:

(A) holds the same professional license as the provider against whom the charges have been brought; and

(B) is not a member of the hospital's medical staff;

to serve on the peer review committee.

(d) The professional health care provider appointed under subsection (c)(2) may not be in direct economic competition with the professional health care provider against whom the charges

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have been brought."

Page 2, delete lines 8 through 42.

Delete pages 3 through 4.

(Reference is to SB 290 as printed February 26, 1999.)

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Senate Bill 290, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

BROWN C, Chair

Committee Vote: yeas 12, nays 0.

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