



February 26, 1999

SENATE BILL No. 290

DIGEST OF SB 290 (Updated February 24, 1999 11:54 am - DI 97)

Citations Affected: IC 34-6; IC 34-30.

Synopsis: Health care peer review protection. Expands the definitions of "evaluation of patient care" and "peer review committee" for purposes of the Indiana health care provider peer review law to include evaluation of patient care generally. Specifies that the statute regarding privileged communications of health care provider peer review committees does not prevent the state department of health from collecting certain information regarding certain peer review committees for purposes of enforcing the state's hospital licensure laws. Specifies that information that is otherwise discoverable or admissible from original sources is not barred from discovery or use in any proceeding merely because it was presented before certain peer review committees.

Effective: July 1, 1999.

Miller

January 7, 1999, read first time and referred to Committee on Health and Provider Services.
February 25, 1999, amended, reported favorably — Do Pass.

SB 290—LS 7424/DI 97+



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February 26, 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.

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 34-6-2-44 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 44. (a) "Evaluation of
3 patient care", for purposes of IC 34-30-15, relates to:
4 (1) the accuracy of diagnosis;
5 (2) the propriety, appropriateness, quality, or necessity of care
6 rendered by a professional health care provider; ~~and~~
7 (3) the reasonableness of the utilization of services, procedures,
8 and facilities; ~~in the treatment of individual patients; and~~
9 (4) **an investigation or evaluation by a peer review committee**
10 **of a hospital licensed under IC 16-21 that is performed for**
11 **purposes of:**
12 (A) **identifying or measuring, on:**
13 (i) **an institutional;**
14 (ii) **a departmental;**
15 (iii) **a unit; or**
16 (iv) **a service line;**
17 **basis, the level of the quality of care provided by or in the**

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1 **hospital; or**
 2 **(B) evaluating the sufficiency of the hospital's quality**
 3 **assessment and improvement programs.**

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

8 (b) The term does not relate to charges for services or to methods
 9 used in arriving at diagnoses.

10 SECTION 2. IC 34-6-2-99 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 99. (a) "Peer review
 12 committee", for purposes of IC 34-30-15, means a committee that:

- 13 (1) has the responsibility of evaluation of:
- 14 (A) qualifications of professional health care providers;
- 15 (B) patient care ~~rendered by professional health care~~
 16 ~~providers; (as defined in IC 34-6-2-44);~~ or
- 17 (C) the merits of a complaint against a professional health care
 18 provider that includes a determination or recommendation
 19 concerning the complaint, and the complaint is based on the
 20 competence or professional conduct of an individual health
 21 care provider, whose competence or conduct affects or could
 22 affect adversely the health or welfare of a patient or patients;
 23 and
- 24 (2) meets the following criteria:
- 25 (A) The committee is organized:
- 26 (i) by a state, regional, or local organization of professional
 27 health care providers or by a nonprofit foundation created by
 28 the professional organization for purposes of improvement
 29 of patient care;
- 30 (ii) by the professional staff of a hospital, another health care
 31 facility, a nonprofit health care organization (under section
 32 117(23) of this chapter), or a professional health care
 33 organization;
- 34 (iii) by state or federal law or regulation;
- 35 (iv) by a governing board of a hospital, a nonprofit health
 36 care organization (under section 117(23) of this chapter), or
 37 professional health care organization;
- 38 (v) as a governing board or committee of the board of a
 39 hospital, a nonprofit health care organization (under section
 40 117(23) of this chapter), or professional health care
 41 organization;
- 42 (vi) by an organization, a plan, or a program described in



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1 section 117(16) through 117(17) of this chapter;
 2 (vii) as a hospital or a nonprofit health care organization
 3 (under section 117(23) of this chapter) medical staff or a
 4 section of that staff; or
 5 (viii) as a governing board or committee of the board of a
 6 professional health care provider (as defined in section
 7 117(16) through 117(17) of this chapter).

8 (B) At least fifty percent (50%) of the committee members are:
 9 (i) individual professional health care providers, the
 10 governing board of a hospital, the governing board of a
 11 nonprofit health care organization (under section 117(23) of
 12 this chapter), or professional health care organization, or the
 13 governing board or a committee of the board of a
 14 professional health care provider (as defined in section
 15 117(16) through 117(17) of this chapter); or
 16 (ii) individual professional health care providers and the
 17 committee is organized as an interdisciplinary committee to
 18 conduct evaluation of patient care services.

19 (b) However, "peer review committee" does not include a medical
 20 review panel created under IC 34-18-10 (or IC 27-12-10 before its
 21 repeal).

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

- 29 (1) **The name of the peer review committees engaged in the**
 30 **evaluation of patient care (as defined in IC 34-6-2-44(a)(4))**
 31 **and participating in the hospital's quality assessment and**
 32 **improvement program required under IC 16-21 and the rules**
 33 **adopted under IC 16-21.**
 34 (2) **The identities of the individuals comprising the committees**
 35 **identified in subdivision (1).**
 36 (3) **The general subject matter of a meeting of a peer review**
 37 **committee identified in subdivision (1).**
 38 (4) **Any action taken by a peer review committee identified in**
 39 **subdivision (1) for purposes of addressing the opportunities**
 40 **for improvement found through the hospital's quality**
 41 **assessment and improvement program.**
 42 (5) **Any documentation of the peer review committee**



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1 **regarding:**
2 **(A) the effectiveness of any action described in subdivision**
3 **(4);**
4 **(B) any continued follow-up regarding the action; and**
5 **(C) the action's impact on patient care.**
6 **(b) The information and material described in subsection (a)**
7 **may not include:**
8 **(1) the identify of any:**
9 **(A) patient; or**
10 **(B) individual professional health care provider; or**
11 **(2) communications to or deliberations of the peer review**
12 **committee.**
13 **(c) Information that is otherwise discoverable or admissible**
14 **from original sources is not barred from discovery or use in any**
15 **proceeding if the information was presented during proceedings**
16 **before a peer review committee engaged in an evaluation of patient**
17 **care (as defined in IC 31-6-2-44(a)(4)).**

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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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