



April 6, 2001

ENGROSSED HOUSE BILL No. 1541

DIGEST OF HB 1541 (Updated April 4, 2001 5:10 PM - DI 98)

Citations Affected: IC 25-1.

Synopsis: Health professions standards. Defines "sexual contact" as: (1) sexual intercourse; (2) deviate sexual conduct; or (3) any fondling or touching intended to arouse or satisfy the sexual desires of either the individual performing the fondling or touching or the individual being fondled or touched. Adds to the health professions standards a prohibition against a practitioner engaging in or soliciting sexual contact with a patient who is not the practitioner's spouse.

Effective: July 1, 2001.

Dillon, Brown C, Ulmer

(SENATE SPONSORS — ALTING, SIMPSON)

January 11, 2001, read first time and referred to Committee on Public Health.

February 1, 2001, reported — Do Pass.

February 8, 2001, read second time, ordered engrossed. Engrossed.

February 12, 2001, read third time, passed. Yeas 96, nays 0.

SENATE ACTION

February 27, 2001, read first time and referred to Committee on Health and Provider Services.

April 5, 2001, amended, reported favorably — Do Pass.

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EH 1541—LS 6427/DI 77+



April 6, 2001

First Regular Session 112th General Assembly (2001)

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 2000 General Assembly.

ENGROSSED HOUSE BILL No. 1541

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:

- 1 SECTION 1. IC 25-1-9-3.5 IS ADDED TO THE INDIANA CODE
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2001]: **Sec. 3.5. As used in this chapter, "sexual contact" means:**
4 **(1) sexual intercourse (as defined in IC 35-41-1-26);**
5 **(2) deviate sexual conduct (as defined in IC 35-41-1-9); or**
6 **(3) any fondling or touching intended to arouse or satisfy the**
7 **sexual desires of either the individual performing the fondling**
8 **or touching or the individual being fondled or touched.**
9 SECTION 2. IC 25-1-9-4, AS AMENDED BY P.L.22-1999,
10 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2001]: Sec. 4. (a) A practitioner shall conduct the
12 practitioner's practice in accordance with the standards established by
13 the board regulating the profession in question and is subject to the
14 exercise of the disciplinary sanctions under section 9 of this chapter if,
15 after a hearing, the board finds:
16 (1) a practitioner has:
17 (A) engaged in or knowingly cooperated in fraud or material

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- 1 deception in order to obtain a license to practice;
 2 (B) engaged in fraud or material deception in the course of
 3 professional services or activities; or
 4 (C) advertised services in a false or misleading manner;
 5 (2) a practitioner has been convicted of a crime that has a direct
 6 bearing on the practitioner's ability to continue to practice
 7 competently;
 8 (3) a practitioner has knowingly violated any state statute or rule,
 9 or federal statute or regulation, regulating the profession in
 10 question;
 11 (4) a practitioner has continued to practice although the
 12 practitioner has become unfit to practice due to:
 13 (A) professional incompetence that:
 14 (i) may include the undertaking of professional activities
 15 that the practitioner is not qualified by training or experience
 16 to undertake; and
 17 (ii) does not include activities performed under
 18 IC 16-21-2-9;
 19 (B) failure to keep abreast of current professional theory or
 20 practice;
 21 (C) physical or mental disability; or
 22 (D) addiction to, abuse of, or severe dependency upon alcohol
 23 or other drugs that endanger the public by impairing a
 24 practitioner's ability to practice safely;
 25 (5) a practitioner has engaged in a course of lewd or immoral
 26 conduct in connection with the delivery of services to the public;
 27 (6) a practitioner has allowed the practitioner's name or a license
 28 issued under this chapter to be used in connection with an
 29 individual who renders services beyond the scope of that
 30 individual's training, experience, or competence;
 31 (7) a practitioner has had disciplinary action taken against the
 32 practitioner or the practitioner's license to practice in any other
 33 state or jurisdiction on grounds similar to those under this
 34 chapter;
 35 (8) a practitioner has diverted:
 36 (A) a legend drug (as defined in IC 16-18-2-199); or
 37 (B) any other drug or device issued under a drug order (as
 38 defined in IC 16-42-19-3) for another person;
 39 (9) a practitioner, except as otherwise provided by law, has
 40 knowingly prescribed, sold, or administered any drug classified
 41 as a narcotic, addicting, or dangerous drug to a habitue or addict;
 42 or

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- 1 (10) a practitioner has failed to comply with an order imposing a
- 2 sanction under section 9 of this chapter; or
- 3 **(11) a practitioner has engaged in sexual contact with a**
- 4 **patient under the practitioner's care or has used the**
- 5 **practitioner-patient relationship to solicit sexual contact with**
- 6 **a patient under the practitioner's care.**
- 7 (b) **A practitioner who provides health care services to the**
- 8 **practitioner's spouse is not subject to disciplinary action under**
- 9 **subsection (a)(11).**
- 10 (c) A certified copy of the record of disciplinary action is conclusive
- 11 evidence of the other jurisdiction's disciplinary action under subsection
- 12 (a)(7).

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1541, 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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COMMITTEE REPORT

Mr. President: The Senate Committee on Health and Provider Services, to which was referred House Bill No. 1541, 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, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 25-1-9-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 3.5. As used in this chapter, "sexual contact" means:**

- (1) sexual intercourse (as defined in IC 35-41-1-26);**
- (2) deviate sexual conduct (as defined in IC 35-41-1-9); or**
- (3) any fondling or touching intended to arouse or satisfy the sexual desires of either the individual performing the fondling or touching or the individual being fondled or touched."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1541 as printed February 2, 2001.)

MILLER, Chairperson

Committee Vote: Yeas 8, Nays 0.

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