

Adopted	Rejected
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# COMMITTEE REPORT

<b>YES:</b>	<b>11</b>
<b>NO:</b>	<b>0</b>

## MR. SPEAKER:

*Your Committee on Public Health, to which was referred House Bill 1298, 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 Page 1, delete lines 1 through 17.
- 2 Delete page 2.
- 3 Page 3, delete lines 1 through 35.
- 4 Page 3, line 40, delete "renewal amnesty" and insert "**accountant**
- 5 **investigative fund established by IC 25-2.1-8-4.**"
- 6 Page 3, delete line 41.
- 7 Page 3, line 42, delete "individuals" and insert "**persons, including**
- 8 **firms, required to be**".
- 9 Page 4, line 1, delete "this title" and insert "**IC 25-2.1**".
- 10 Page 4, line 3, delete "2000," and insert "**2003**".
- 11 Page 4, line 5, delete "licensee must have been" and insert "**person**
- 12 **must:**
- 13 **(1) have held a valid license under IC 25-2.1 on January 1,**

- 1           **2003;**  
 2           **(2) have met the requirements for each missed license period**  
 3           **during each missed license period, except for the**  
 4           **requirements of having submitted a renewal form and paid**  
 5           **the renewal fee; and**  
 6           **(3) provide a sworn statement that the person has not**  
 7           **committed any act during the missed renewal periods that**  
 8           **would constitute a violation of IC 25-1-11."**

9           Page 4, line 10, delete "the license renewal fee; and" and insert "**all**  
 10           **missed license renewal fees;**

11           **(2) the current license renewal fee; and"**.

12           Page 4, line 11, delete "(2)" and insert "(3)".

13           Page 4, line 12, delete "renewal amnesty program fund established"  
 14           and insert "**fund."**

15           Page 4, delete lines 13 through 29, begin a new paragraph and  
 16           insert:

17           **"(f) The agency shall amend the renewal records of a person**  
 18           **who has successfully completed the requirements under this section**  
 19           **to reflect that the person has been properly renewed during the**  
 20           **missed renewal periods.**

21           **(g) This section expires July 1, 2012.**

22           SECTION 2. IC 25-1-11-12, AS AMENDED BY P.L.177-2009,  
 23           SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 24           JULY 1, 2011]: Sec. 12. (a) The board may impose any of the  
 25           following sanctions, singly or in combination, if the board finds that a  
 26           practitioner is subject to disciplinary sanctions under sections 5  
 27           through 9 of this chapter:

- 28           (1) Permanently revoke a practitioner's license.  
 29           (2) Suspend a practitioner's license.  
 30           (3) Censure a practitioner.  
 31           (4) Issue a letter of reprimand.  
 32           (5) Place a practitioner on probation status and require the  
 33           practitioner to:  
 34           (A) report regularly to the board upon the matters that are the  
 35           basis of probation;  
 36           (B) limit practice to those areas prescribed by the board;  
 37           (C) continue or renew professional education approved by the  
 38           board until a satisfactory degree of skill has been attained in

1           those areas that are the basis of the probation; ~~or~~  
 2           (D) perform or refrain from performing any acts, including  
 3           community restitution or service without compensation, that  
 4           the board considers appropriate to the public interest or to the  
 5           rehabilitation or treatment of the practitioner; **or**  
 6           **(E) satisfactorily complete a quality review (before July 1,**  
 7           **2012) or peer review (after June 30, 2012) specified by the**  
 8           **board as a condition for termination of probationary**  
 9           **status if the practitioner is a licensee (as defined in**  
 10           **IC 25-2.1-1-8).**

11           (6) Assess a civil penalty against the practitioner for not more  
 12           than one thousand dollars (\$1,000) for each violation listed in  
 13           sections 5 through 9 of this chapter except for a finding of  
 14           incompetency due to a physical or mental disability.

15           (7) Order a practitioner to pay consumer restitution to a person  
 16           who suffered damages as a result of the conduct or omission that  
 17           was the basis for the disciplinary sanctions under this chapter.

18           (b) When imposing a civil penalty under subsection (a)(6), the board  
 19           shall consider a practitioner's ability to pay the amount assessed. If the  
 20           practitioner fails to pay the civil penalty within the time specified by  
 21           the board, the board may suspend the practitioner's license without  
 22           additional proceedings. However, a suspension may not be imposed if  
 23           the sole basis for the suspension is the practitioner's inability to pay a  
 24           civil penalty.

25           (c) The board may withdraw or modify the probation under  
 26           subsection (a)(5) if the board finds after a hearing that the deficiency  
 27           that required disciplinary action has been remedied or that changed  
 28           circumstances warrant a modification of the order.

29           SECTION 3. IC 25-2.1-1-8.7 IS ADDED TO THE INDIANA  
 30           CODE AS A NEW SECTION TO READ AS FOLLOWS  
 31           [EFFECTIVE JULY 1, 2011]: **Sec. 8.7. (a) "Peer review" means a**  
 32           **study, an appraisal, or a review of at least one (1) aspect of the**  
 33           **professional work of:**

34                   **(1) an individual who; or**

35                   **(2) a firm in the practice of accountancy that;**

36           **attests or issues compilation reports, by at least one (1) individual**  
 37           **who holds a certificate from any state and possesses qualifications**  
 38           **that meet the applicable substantial equivalency standards and**

1 **who is independent of the individual or firm being reviewed. The**  
 2 **term includes any part of a quality review conducted before July**  
 3 **1, 2012, that becomes part of a peer review conducted or peer**  
 4 **review report issued after June 30, 2012.**

5 **(b) After June 30, 2012, any reference in any law, rule, or other**  
 6 **document to "quality review" as that term was applied under this**  
 7 **article before July 1, 2012, shall be treated as a reference to peer**  
 8 **review.**

9 SECTION 4. IC 25-2.1-1-12, AS AMENDED BY P.L.197-2007,  
 10 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 11 JULY 1, 2011]: Sec. 12. (a) "Quality review" means a study, an  
 12 appraisal, or a review of at least one (1) aspect of the professional work  
 13 of:

14 (1) an individual who; or

15 (2) a firm in the practice of accountancy that;

16 attests or issues compilation reports, by at least one (1) individual who  
 17 holds a certificate from any state and possesses qualifications that meet  
 18 the applicable substantial equivalency standards and who is  
 19 independent of the individual or firm being reviewed.

20 **(b) This section expires July 1, 2012.**

21 SECTION 5. IC 25-2.1-2-15, AS AMENDED BY P.L.190-2007,  
 22 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 23 JULY 1, 2011]: Sec. 15. The board may adopt rules under IC 4-22-2  
 24 governing the administration and enforcement of this article and the  
 25 conduct of licensees, including the following:

26 (1) The board's meetings and conduct of business.

27 (2) The procedure of investigations and hearings.

28 (3) The educational and experience qualifications required for the  
 29 issuance of certificates under this article and the continuing  
 30 professional education required for renewal of certificates under  
 31 IC 25-2.1-4.

32 (4) Rules of professional conduct directed to controlling the  
 33 quality and probity of the practice of accountancy by licensees,  
 34 including independence, integrity, and objectivity, competence  
 35 and technical standards, and responsibilities to the public and  
 36 clients.

37 (5) The actions and circumstances that constitute professing to be  
 38 a licensee in connection with the practice of accountancy.

1 (6) The manner and circumstances of use of the title "certified  
2 public accountant" and the abbreviation "CPA".

3 (7) Quality reviews **(before July 1, 2012) or peer reviews (after**  
4 **June 30, 2012)** that may be required to be performed under this  
5 article.

6 (8) Methods of applying for and conducting the examinations,  
7 including methods for grading examinations and determining a  
8 passing grade required of an applicant for a certificate. However,  
9 the board shall to the extent possible provide that the  
10 examination, grading of the examination, and the passing grades  
11 are uniform with those applicable in other states.

12 (9) Substantial equivalency.

13 (10) Administration of the accountant investigative fund  
14 established by IC 25-2.1-8-4.

15 SECTION 6. IC 25-2.1-5-8, AS AMENDED BY P.L.190-2007,  
16 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
17 JULY 1, 2011]: Sec. 8. (a) The board shall adopt rules that require as  
18 a condition to renew a permit under this chapter, that an applicant  
19 undergo, not more than once every three (3) years, a quality review  
20 **(before July 1, 2012) or peer review (after June 30, 2012)** conducted  
21 in a manner the board specifies.

22 (b) The rules adopted under subsection (a) must:

23 (1) be adopted reasonably in advance of the time when a quality  
24 review **(before July 1, 2012) or peer review (after June 30,**  
25 **2012)** first becomes effective;

26 (2) include reasonable provision for compliance by an applicant  
27 showing that the applicant has in the preceding three (3) years  
28 undergone a quality review **(before July 1, 2012) or peer review**  
29 **(after June 30, 2012)** that is a satisfactory equivalent to the  
30 quality review **(before July 1, 2012) or peer review (after June**  
31 **30, 2012)** required under this section;

32 (3) require, with respect to quality reviews **(before July 1, 2012)**  
33 **or peer reviews (after June 30, 2012)** under subdivision (2), that  
34 the quality review **(before July 1, 2012) or peer review (after**  
35 **June 30, 2012)** be subject to review by an oversight body  
36 established or sanctioned by the board that shall:

37 (A) **comply with IC 25-2.1-9-4; and**

38 (B) periodically report to the board on the effectiveness of the

- 1 review program and provide to the board a listing of firms that  
 2 have participated in a quality review **(before July 1, 2012) or**  
 3 **peer review (after June 30, 2012)** program; and  
 4 **(4) subject to section 9 of this chapter and IC 25-2.1-9-4,**  
 5 require, with respect to quality reviews **(before July 1, 2012) or**  
 6 **peer reviews (after June 30, 2012)** under subdivision (2), that:  
 7 (A) the proceedings, records, and work papers of a review  
 8 committee are privileged and are not subject to discovery,  
 9 subpoena, or other means of legal process or introduction into  
 10 evidence in a civil action, arbitration, administrative  
 11 proceeding, or Indiana board of accountancy proceeding; and  
 12 (B) a member of the review committee or individual who was  
 13 involved in the quality review **(before July 1, 2012) or peer**  
 14 **review (after June 30, 2012)** process is not permitted or  
 15 required to testify in a civil action, arbitration, administrative  
 16 proceeding, or ~~Indiana board of accountancy~~ proceeding to  
 17 matters:  
 18 (i) produced, presented, disclosed or discussed during, or in  
 19 connection with, the quality review **(before July 1, 2012) or**  
 20 **peer review (after June 30, 2012)** process; or  
 21 (ii) that involve findings, recommendations, evaluations,  
 22 opinions, or other actions of the committee or a committee  
 23 member.
- 24 SECTION 7. IC 25-2.1-5-9 IS AMENDED TO READ AS  
 25 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 9. (a) Notwithstanding  
 26 section ~~8(4)(B)~~ **8(b)(4)(B)** of this chapter, information, documents, or  
 27 records that are publicly available are not immune from discovery or  
 28 use in any civil action, arbitration, administrative proceeding, or  
 29 ~~Indiana board of accountancy~~ proceeding merely because they were  
 30 presented or considered in connection with the quality review **(before**  
 31 **July 1, 2012) or peer review (after June 30, 2012)** process.
- 32 (b) Any:  
 33 (1) materials prepared in connection with a particular engagement  
 34 merely because they happen to subsequently be presented or  
 35 considered as part of the quality review **(before July 1, 2012) or**  
 36 **peer review (after June 30, 2012)** process; or  
 37 (2) dispute between review committees and individuals or firms  
 38 subject to a quality review **(before July 1, 2012) or peer review**

1           **(after June 30, 2012)** arising from the performance of the quality  
 2           review **(before July 1, 2012) or peer review (after June 30,**  
 3           **2012);**

4           are not privileged.

5           SECTION 8. IC 25-2.1-8-1, AS AMENDED BY P.L.190-2007,  
 6           SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 7           JULY 1, 2011]: Sec. 1. (a) The board may impose sanctions for any of  
 8           the following reasons:

9           (1) A violation of IC 25-1-11-5, **including:**  
 10           **(A) a peer review rating of fail; or**  
 11           **(B) an act or omission that is the basis of a peer review**  
 12           **rating of fail;**  
 13           **on any peer review report issued under this article after June**  
 14           **30, 2012.**

15           (2) Revocation or suspension of the right to practice before a state  
 16           or federal agency.

17           (3) Dishonesty, fraud, or gross negligence in the practice of  
 18           accountancy or in the filing of or failure to file the licensee's own  
 19           income tax returns.

20           (4) Any conduct reflecting adversely on the licensee's fitness to  
 21           engage in the practice of accountancy.

22           (5) Failure to complete continuing education requirements  
 23           satisfactorily.

24           (6) Failure to furnish evidence, when required, of satisfactory  
 25           completion of continuing education requirements.

26           (b) A holder of a CPA certificate issued under this article is subject  
 27           to disciplinary action in this state if the CPA certificate holder:

28           (1) offers or renders services or uses the CPA title in another  
 29           state; and

30           (2) commits an act in that other state for which the CPA  
 31           certificate holder would be subject to discipline in the other state  
 32           if the CPA certificate holder were licensed in the other state.

33           The board shall investigate a complaint made by a board of  
 34           accountancy or the equivalent of a board of accountancy in another  
 35           state.

36           SECTION 9. IC 25-2.1-8-2 IS AMENDED TO READ AS  
 37           FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. In place of or in  
 38           addition to any remedy specifically provided in IC 25-1-11, the board

1 may require the following of a licensee:

2 (1) **To undergo** a quality review ~~conducted~~ **(before July 1,**  
3 **2012) or a peer review (after June 30, 2012).**

4 (2) ~~Satisfactory completion of~~ **To satisfactorily complete**  
5 continuing professional education programs.

6 SECTION 10. IC 25-2.1-9-3, AS AMENDED BY P.L.84-2010,  
7 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
8 JULY 1, 2011]: Sec. 3. (a) If the board has reason to believe that the  
9 subject of an investigation has committed a violation of this article or  
10 IC 25-1-11:

11 (1) the board shall direct that a complaint be issued under  
12 IC 25-1-7, if the subject of the investigation is a licensee; and

13 (2) the board shall take appropriate action under IC 25-1-7-14, if  
14 the subject of the investigation is not a licensee.

15 **(b) Subsection (a) does not prohibit the board from taking an**  
16 **action permitted under IC 25-1 or IC 25-2.1-8-2, including an**  
17 **action under the following:**

18 **(1) IC 25-1-4-5 (conditional license and other actions related**  
19 **to continuing education or lapsed license).**

20 **(2) IC 25-1-6-4 (refusal to issue a license or placement on**  
21 **probationary status).**

22 ~~(b)~~ **(c)** If the board does not proceed under subsection (a) **or (b)**, the  
23 board shall close the matter and may release the information only with  
24 the consent of the individual or firm that was under investigation.

25 SECTION 11. IC 25-2.1-9-4 IS ADDED TO THE INDIANA CODE  
26 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
27 1, 2011]: Sec. 4. **(a) This section applies to a licensee that receives**  
28 **a peer review rating of fail on a peer review report issued after**  
29 **June 30, 2012, for a peer review conducted under IC 25-2.1-5-8.**

30 **(b) The following definitions apply throughout this section:**

31 **(1) "Administering entity" refers to the oversight body**  
32 **established or sanctioned by the board to conduct a peer**  
33 **review program.**

34 **(2) "Director" refers to the director of the division of**  
35 **consumer protection in the office of the attorney general.**

36 **(3) "Oversight committee" refers to a committee of licensees**  
37 **who are not board members that is designated by the board**  
38 **to receive a report.**

1           **(4) "Report" refers to a peer review report described in**  
2           **subsection (a), including any description of the deficiencies on**  
3           **which the peer review rating of fail is based.**

4           **(c) The board shall provide the director with the name and**  
5           **contact information for the administering entity.**

6           **(d) Not more than thirty (30) days after the issuance of a report,**  
7           **the administering entity shall make the report available to the**  
8           **oversight committee. The oversight committee may forward the**  
9           **report to the director. Receipt of the report shall be treated under**  
10           **IC 25-1-7-4, IC 25-1-7-5, and IC 25-1-7-6 as a complaint submitted**  
11           **by the board. If, after conducting an investigation, the director**  
12           **believes that a licensee should be subjected to disciplinary**  
13           **sanctions by the board, the director shall report the director's**  
14           **determination to the attorney general. Upon receiving the**  
15           **director's report, the attorney general may prosecute the matter,**  
16           **on behalf of the state of Indiana, before the board. IC 25-1-7-7(b)**  
17           **does not apply to a determination related to a complaint filed**  
18           **under this section.**

19           **(e) The administering entity and the peer review committee**  
20           **issuing a report shall cooperate with an investigation under**  
21           **IC 25-1-7 of a complaint filed under this section and with any**  
22           **resulting proceeding, including compliance with any request for**  
23           **access to or production of the proceedings, records, and work**  
24           **papers of the review committee by the director, the office of the**  
25           **attorney general, or a party to any proceeding initiated as a result**  
26           **of the filing of a complaint under this section. However, all**  
27           **complaints and information pertaining to a complaint are**  
28           **confidential until the attorney general files notice with the board**  
29           **of the attorney general's intent to prosecute a licensee under**  
30           **IC 25-1-7-7. Any meeting of the board, the oversight committee, or**  
31           **a designee of the board or oversight committee that is required in**  
32           **an investigation conducted before the attorney general files notice**  
33           **of intent to prosecute shall be conducted as an executive session**  
34           **under IC 5-14-1.5-6.1.**

35           **SECTION 12. IC 25-2.1-9-5 IS ADDED TO THE INDIANA CODE**  
36           **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**  
37           **1, 2011]: Sec. 5. An:**

38           **(1) entity administering a quality review program before July**

1           **1, 2012, or a peer review program after June 30, 2012;**

2           **(2) officer, member, or employee of an entity administering a**  
 3           **quality review program before July 1, 2012, or a peer review**  
 4           **program after June 30, 2012;**

5           **(3) employee or member of a quality review committee before**  
 6           **July 1, 2012, or a peer review committee after June 30, 2012;**  
 7           **and**

8           **(4) entity in which or for which a member of a quality review**  
 9           **committee (before July 1, 2012) or peer review committee**  
 10           **(after June 30, 2012) is a sole proprietor, a partner, a**  
 11           **shareholder, a member, or an employee;**

12           **is immune from civil liability that would otherwise arise from**  
 13           **communications, supervision, findings, recommendations,**  
 14           **evaluations, reports, opinions, or other actions taken or omissions**  
 15           **occurring in good faith in the course and scope of the duties of a**  
 16           **quality review administering entity (before July 1, 2012) or peer**  
 17           **review administering entity (after June 30, 2012) or a quality**  
 18           **review committee (before July 1, 2012) or peer review committee**  
 19           **(after June 30, 2012) that arise under this article, including the**  
 20           **rules adopted by the board. The immunity granted under this**  
 21           **section includes immunity for an act or omission related to any**  
 22           **part of a quality review conducted under this article before July 1,**  
 23           **2012, that becomes part of a peer review conducted or peer review**  
 24           **report issued after June 30, 2012.**

25           SECTION 13. IC 25-2.1-11-2 IS AMENDED TO READ AS  
 26           FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. Before reinstating a  
 27           suspended certificate or permit under IC 25-1-11-14, the board may  
 28           require the applicant to show successful completion of specified  
 29           continuing professional education, and the board may make the  
 30           reinstatement of a certificate or permit conditional on satisfactory  
 31           completion of a quality review **(before July 1, 2012) or peer review**  
 32           **(after June 30, 2012)** specified by the board.

33           SECTION 14. IC 25-2.1-14-2 IS AMENDED TO READ AS  
 34           FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. The information  
 35           derived from or as the result of professional services is confidential and  
 36           privileged. However, this section does not prohibit a certified public  
 37           accountant, a public accountant, or an accounting practitioner from  
 38           disclosing any data required to be disclosed by the standards of the

- 1 profession:
- 2 (1) in rendering an opinion on the presentation of financial
- 3 statements;
- 4 (2) in ethical investigations conducted by private professional
- 5 organizations;
- 6 (3) in the course of quality reviews **(before July 1, 2012) or peer**
- 7 **reviews (after June 30, 2012) or an investigation or**
- 8 **proceeding related to a quality review (before July 1, 2012) or**
- 9 **peer review (after June 30, 2012); or**
- 10 (4) in making disclosure where the financial statements or the
- 11 professional services of an accountant are contested.

12 SECTION 15. IC 25-2.1-14-3 IS AMENDED TO READ AS

13 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. **(a) The following**

14 **definitions apply throughout this section:**

15 (1) **"Client provided records" means accounting or other**

16 **records belonging to the client that were provided to the**

17 **licensee by or on behalf of the client.**

18 (2) **"Client records prepared by the licensee" means**

19 **accounting or other records (for example, tax returns, general**

20 **ledgers, subsidiary journals, and supporting schedules such as**

21 **detailed employee payroll records and depreciation schedules)**

22 **that the licensee was engaged to prepare for the client.**

23 (3) **"Supporting records" means information not reflected in**

24 **the client's books and records that are otherwise not available**

25 **to the client with the result that the client's financial**

26 **information is incomplete.**

27 (4) **"Working papers" include, but are not limited to, audit**

28 **programs, analytical review schedules, and statistical**

29 **sampling results, analyses, and schedules prepared by the**

30 **client at the request of the licensee.**

31 **(b)** All statements, records, schedules, working papers, and

32 memoranda made by a licensee or a partner, a member, a shareholder,

33 an officer, a director, or an employee of a licensee, including

34 information prepared by the client for the work and services rendered

35 to a client in the practice of accountancy, except the reports submitted

36 by the licensee to the client and records that are part of the client's

37 records, must remain the property of the licensee except in an express

38 agreement between the licensee and the client to the contrary.

1           (c) Upon a client's request, a licensee is required to provide the  
2 following to the client:

3           (1) Client provided records in the licensee's custody or  
4 control.

5           (2) Client records prepared by the licensee. However, client  
6 records prepared by the licensee may be withheld if the  
7 preparation of the records is not complete or there are fees  
8 due the licensee for the engagement to prepare those records.

9           (3) Supporting records related to a completed and issued  
10 work product of a licensee. However, supporting records  
11 prepared by the licensee may be withheld if there are fees due  
12 to the licensee for the specific work product.

13           (d) A licensee may make and retain a copy of any records  
14 returned to a client. Records may be provided in any format usable  
15 to the client. To the extent practicable, records shall be returned to  
16 a client not more than forty-five (45) days after a request is  
17 received.

18           SECTION 16. IC 25-2.1-14-5 IS AMENDED TO READ AS  
19 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. (a) This chapter does  
20 not prohibit a temporary transfer of work papers or other material  
21 necessary to carry out quality reviews (**before July 1, 2012**) or peer  
22 reviews (**after June 30, 2012**), conduct an investigation or  
23 proceeding related to a quality review (**before July 1, 2012**) or peer  
24 review (**after June 30, 2012**), or to comply with the disclosure of  
25 information under this chapter.

26           (b) A licensee is not required to keep any work paper beyond the  
27 period prescribed in any applicable statute.

28           SECTION 17. IC 25-27.5-2-13 IS AMENDED TO READ AS  
29 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 13. "Supervising  
30 physician" means a physician ~~registered with~~ **licensed by** the board  
31 who supervises and is responsible for a physician assistant.

32           SECTION 18. IC 25-27.5-2-14, AS AMENDED BY P.L.3-2008,  
33 SECTION 190, IS AMENDED TO READ AS FOLLOWS  
34 [EFFECTIVE JULY 1, 2011]: Sec. 14. (a) "Supervision" means  
35 **overseeing the activities of, and accepting responsibility for, the**  
36 **medical services rendered by a physician assistant and** that the  
37 conditions set forth in subdivision (1) or (2) are met at all times that  
38 services are rendered or tasks are performed by the physician assistant:

1 (1) The supervising physician or the physician designee is  
2 physically present at the location at which services are rendered  
3 or tasks are performed by the physician assistant.

4 ~~(2) Both of the following apply:~~

5 ~~(A) (2) The **practicing** supervising physician or the **supervising**~~  
6 ~~physician designee is immediately available for consultation,~~  
7 ~~**including through the use of telecommunications or other**~~  
8 ~~**electronic means.**~~

9 ~~(B) Either:~~

10 ~~(i) the supervising physician or the physician designee is in~~  
11 ~~the county of, or a contiguous county to, the onsite location~~  
12 ~~in which services are rendered or tasks are performed by the~~  
13 ~~physician assistant; or~~

14 ~~(ii) the physician or physician assistant is practicing at a~~  
15 ~~hospital or health facility; or traveling to or from the hospital~~  
16 ~~or health facility.~~

17 (b) The term includes the use of protocols, guidelines, and standing  
18 orders developed or approved by the supervising physician.

19 SECTION 19. IC 25-27.5-3-5, AS AMENDED BY P.L.177-2009,  
20 SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
21 JULY 1, 2011]: Sec. 5. (a) The committee shall have regular meetings,  
22 called upon the request of the president or by a majority of the  
23 members appointed to the committee, and upon the advice and consent  
24 of the executive director of the Indiana professional licensing agency,  
25 for the transaction of business that comes before the committee under  
26 this article. At the first committee meeting of each calendar year, the  
27 committee shall elect a president and any other officer considered  
28 necessary by the committee by an affirmative vote of a majority of the  
29 members appointed to the committee.

30 (b) Three (3) members of the committee constitute a quorum. An  
31 affirmative vote of a majority of the members appointed to the  
32 committee is required for the committee to take action on any business.

33 (c) The committee shall do the following:

34 (1) Consider the qualifications of individuals who apply for an  
35 initial license under this article.

36 (2) Approve or reject license applications.

37 (3) Approve or reject renewal applications.

38 ~~(4) Approve or reject applications for a change or addition of a~~

- 1           ~~supervising physician.~~
- 2           ~~(5)~~ (4) Propose rules to the board concerning the competent
- 3           practice of physician assistants and the administration of this
- 4           article.
- 5           ~~(6)~~ (5) Recommend to the board the amounts of fees required
- 6           under this article.

7           SECTION 20. IC 25-27.5-5-2, AS AMENDED BY P.L.177-2009,  
 8           SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 9           JULY 1, 2011]: Sec. 2. (a) A physician assistant must engage in a  
 10          dependent practice with physician supervision. A physician assistant  
 11          may perform, under the supervision of the supervising physician, the  
 12          duties and responsibilities that are delegated by the supervising  
 13          physician and that are within the supervising physician's scope of  
 14          practice, including prescribing and dispensing drugs and medical  
 15          devices. A patient may elect to be seen, examined, and treated by the  
 16          supervising physician.

17          (b) If a physician assistant determines that a patient needs to be  
 18          examined by a physician, the physician assistant shall immediately  
 19          notify the supervising physician or physician designee.

20          (c) If a physician assistant notifies the supervising physician that the  
 21          physician should examine a patient, the supervising physician shall:

- 22           (1) schedule an examination of the patient in a timely manner
- 23           unless the patient declines; or
- 24           (2) arrange for another physician to examine the patient.

25          (d) If a patient is subsequently examined by the supervising  
 26          physician or another physician because of circumstances described in  
 27          subsection (b) or (c), the visit must be considered as part of the same  
 28          encounter except for in the instance of a medically appropriate referral.

29          (e) A supervising physician or physician assistant who does not  
 30          comply with subsections (b) through (d) is subject to discipline under  
 31          IC 25-1-9.

32          (f) A physician assistant's supervisory agreement with a supervising  
 33          physician must:

- 34           (1) be in writing;
- 35           (2) include all the tasks delegated to the physician assistant by the
- 36           supervising physician;
- 37           (3) set forth the supervisory plans for the physician assistant,
- 38           including the emergency procedures that the physician assistant

1 must follow; and  
 2 (4) specify the name of the drug or drug classification being  
 3 delegated to the physician assistant and the protocol the physician  
 4 assistant shall follow in prescribing a drug.

5 (g) The physician shall submit the supervisory agreement to the  
 6 board. ~~for approval.~~ The physician assistant may ~~not~~ prescribe a drug  
 7 under the supervisory agreement ~~until unless~~ the board ~~approves~~  
 8 **denies** the supervisory agreement. Any amendment to the supervisory  
 9 agreement must be resubmitted to the board, ~~for approval~~, and the  
 10 physician assistant may ~~not~~ operate under any new prescriptive  
 11 authority under the amended supervisory agreement ~~until unless~~ the  
 12 agreement has been ~~approved~~ **denied** by the board.

13 (h) A physician or a physician assistant who violates the supervisory  
 14 agreement described in this section may be disciplined under  
 15 IC 25-1-9.

16 SECTION 21. IC 25-27.5-5-4, AS AMENDED BY P.L.90-2007,  
 17 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 18 JULY 1, 2011]: Sec. 4. (a) Except as provided in this section, a  
 19 physician assistant may prescribe, dispense, and administer drugs and  
 20 medical devices or services to the extent delegated by the supervising  
 21 physician.

22 (b) A physician assistant may not prescribe, dispense, or administer  
 23 ophthalmic devices, including glasses, contact lenses, and low vision  
 24 devices.

25 (c) ~~As permitted by the board,~~ A physician assistant may use or  
 26 dispense only drugs prescribed or approved by the supervising  
 27 physician. A physician assistant may not prescribe or dispense ~~the~~  
 28 ~~following drugs:~~

29 ~~(1) a schedule I substance listed in IC 35-48-2-4.~~

30 ~~(2) A schedule H substance listed in IC 35-48-2-6.~~

31 ~~(3) A schedule III, schedule IV, or schedule V drug if the drug~~  
 32 ~~contains oxycodone.~~

33 ~~However, a physician assistant may prescribe one (1) dose of a drug~~  
 34 ~~listed in subdivision (2) or (3) for immediate administration if the~~  
 35 ~~patient is in an inpatient hospital post-operative setting and the~~  
 36 ~~physician is unavailable to make the prescription.~~

37 (d) A physician assistant may request, receive, and sign for  
 38 professional samples and may distribute professional samples to

1 patients if the samples are within the scope of the physician assistant's  
2 prescribing privileges delegated by the supervising physician.

3 (e) A physician assistant may not prescribe drugs unless the  
4 physician assistant has successfully completed at least thirty (30)  
5 contact hours in pharmacology from an educational program that is  
6 approved by the committee.

7 (f) A physician assistant may not prescribe, administer, or monitor  
8 general anesthesia, regional anesthesia, or deep sedation as defined by  
9 the board. A physician assistant may not administer moderate sedation:

10 (1) if the moderate sedation contains agents in which the  
11 manufacturer's general warning advises that the drug should be  
12 administered and monitored by an individual who is:

13 (A) experienced in the use of general anesthesia; and

14 (B) not involved in the conduct of the surgical or diagnostic  
15 procedure; and

16 (2) during diagnostic tests, surgical procedures, or obstetric  
17 procedures unless the following conditions are met:

18 (A) A physician is physically present in the area, is  
19 immediately available to assist in the management of the  
20 patient, and is qualified to rescue patients from deep sedation.

21 (B) The physician assistant is qualified to rescue patients from  
22 deep sedation and is competent to manage a compromised  
23 airway and provide adequate oxygenation and ventilation by  
24 reason of meeting the following conditions:

25 (i) The physician assistant is certified in advanced  
26 cardiopulmonary life support.

27 (ii) The physician assistant has knowledge of and training in  
28 the medications used in moderate sedation, including  
29 recommended doses, contraindications, and adverse  
30 reactions.

31 (g) Before a physician assistant may prescribe drugs, the physician  
32 assistant must have ~~been continuously employed~~ **practiced** as a  
33 physician assistant:

34 (1) ~~for not less than at least one (1) year after graduating from a~~  
35 ~~physician assistant program approved by the committee; To be~~  
36 ~~considered to have been continuously employed as a physician~~  
37 ~~assistant for a year for purposes of this subsection; a person must~~  
38 ~~have worked as a physician assistant more than~~ **and**

1           **(2) at least** one thousand eight hundred (1,800) hours. ~~during the~~  
2           ~~year.~~

3           SECTION 22. IC 25-27.5-5-6, AS ADDED BY P.L.90-2007,  
4           SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
5           JULY 1, 2011]: Sec. 6. (a) Except as provided in section 4(d) of this  
6           chapter, a supervising physician may delegate authority to a physician  
7           assistant to prescribe:

8                 (1) legend drugs except as provided in section 4(c) of this chapter;  
9                 and

10                (2) medical devices (except ophthalmic devices, including  
11                glasses, contact lenses, and low vision devices).

12           (b) Any prescribing authority delegated to a physician assistant must  
13           be expressly delegated in writing by the physician assistant's  
14           supervising physician, including:

15                 (1) the name of the drug or drug classification being delegated by  
16                 the supervising physician; and

17                 (2) the protocols the physician assistant shall use when  
18                 prescribing the drug.

19           (c) A physician assistant who is delegated the authority to prescribe  
20           legend drugs or medical devices must do the following:

21                 (1) Enter the following on each prescription form that the  
22                 physician assistant uses to prescribe a legend drug or medical  
23                 device:

24                         (A) The signature of the physician assistant.

25                         (B) The initials indicating the credentials awarded to the  
26                         physician assistant by the NCCPA.

27                         (C) The physician assistant's state license number.

28                 (2) Comply with all applicable state and federal laws concerning  
29                 prescriptions for legend drugs and medical devices.

30           (d) A supervising physician may delegate to a physician assistant  
31           the authority to prescribe only legend drugs and medical devices that  
32           are within the scope of practice of the licensed supervising physician  
33           or the physician designee.

34           (e) A physician assistant who is delegated the authority to prescribe  
35           controlled substances under subsection (a) ~~and in accordance with the~~  
36           ~~limitations specified in section 4(c) of this chapter,~~ must do the  
37           following:

38                 (1) Obtain an Indiana controlled substance registration and a

- 1 federal Drug Enforcement Administration registration.
- 2 (2) Enter the following on each prescription form that the
- 3 physician assistant uses to prescribe a controlled substance:
- 4 (A) The signature of the physician assistant.
- 5 (B) The initials indicating the credentials awarded to the
- 6 physician assistant by the NCCPA.
- 7 (C) The physician assistant's state license number.
- 8 (D) The physician assistant's federal Drug Enforcement
- 9 Administration (DEA) number.
- 10 (3) Comply with all applicable state and federal laws concerning
- 11 prescriptions for controlled substances.
- 12 (f) A supervising physician may only delegate to a physician
- 13 assistant the authority to prescribe controlled substances:
- 14 (1) that may be prescribed within the scope of practice of the
- 15 licensed supervising physician or the physician designee;
- 16 (2) in an amount that does not exceed
- 17 (A) a ~~seven (7)~~ **thirty (30)** day supply; for treatment of a
- 18 ~~single acute episode of a condition or injury; or~~
- 19 ~~(B) if a controlled substance cannot be dispensed in an amount~~
- 20 ~~that is small enough to meet the requirement of clause (A); the~~
- 21 ~~smallest dispensable amount; and~~
- 22 (3) in accordance with the limitations set forth in section 4(c) of
- 23 this chapter.
- 24 SECTION 23. IC 25-27.5-6-1 IS AMENDED TO READ AS
- 25 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. ~~(a)~~ Supervision by
- 26 the supervising physician or the physician designee must be continuous
- 27 but does not require the physical presence of the supervising physician
- 28 at the time and the place that the services are rendered.
- 29 (b) A supervising physician or physician designee shall review all
- 30 patient encounters not later than ~~twenty-four (24)~~ **seventy-two (72)**
- 31 hours after the physician assistant has seen the patient.
- 32 **(c) The supervising physician or physician designee shall review**
- 33 **within seventy-two (72) hours of the patient encounter not less than**
- 34 **the following percentages of the patient charts:**
- 35 **(1) For the first year of employment of the physician assistant,**
- 36 **one hundred percent (100%).**
- 37 **(2) For the second year of employment of the physician**
- 38 **assistant, fifty percent (50%).**

1           **(3) For the third year of employment of the physician**  
2           **assistant, twenty-five percent (25%).**

3           **However, if the physician assistant has had less than one thousand**  
4           **eight hundred (1,800) hours of practice, the supervising physician**  
5           **or physician designee shall review one hundred percent (100%) of**  
6           **the charts within seventy-two (72) hours of the patient encounter.**

7           SECTION 24. IC 25-27.5-6-4, AS AMENDED BY P.L.177-2009,  
8           SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
9           JULY 1, 2011]: Sec. 4. (a) A physician supervising a physician  
10          assistant must do the following:

- 11           (1) Be licensed under IC 25-22.5.
- 12           (2) Register with the board the physician's intent to supervise a  
13           physician assistant.
- 14           (3) Submit a statement to the board that the physician will  
15           exercise supervision over the physician assistant in accordance  
16           with rules adopted by the board and retain professional and legal  
17           responsibility for the care rendered by the physician assistant.
- 18           (4) Not have a disciplinary action restriction that limits the  
19           physician's ability to supervise a physician assistant.

20          **(5) Maintain a written agreement with the physician assistant**  
21          **that states the physician will:**

- 22           **(A) exercise supervision over the physician assistant in**  
23           **accordance with any rules adopted by the board; and**
- 24           **(B) retain responsibility for the care rendered by the**  
25           **physician assistant.**

26          **The agreement must be signed by the physician and physician**  
27          **assistant, updated annually, and made available to the board**  
28          **upon request.**

29          (b) Except as provided in this section, this chapter may not be  
30          construed to limit the employment arrangement with a supervising  
31          physician under this chapter.

32          SECTION 25. IC 34-30-2-158 IS ADDED TO THE INDIANA  
33          CODE AS A NEW SECTION TO READ AS FOLLOWS  
34          [EFFECTIVE JULY 1, 2011]: **Sec. 158. IC 25-2.1-9-5 (Concerning**  
35          **immunity of an entity administering a quality review (before July**  
36          **1, 2012) or peer review (after June 30, 2012) program and**  
37          **members of a quality review committee (before July 1, 2012) or**  
38          **peer review committee (after June 30, 2012)).**

1 SECTION 26. IC 34-46-2-17 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 17. IC 25-2.1-5-8  
3 (Concerning proceedings, records, and work papers of a quality review  
4 committee that conducts a quality review of an accounting firm **before**  
5 **July 1, 2012, or a peer review committee that conducts a peer**  
6 **review of an accounting firm after June 30, 2012).**

7 SECTION 27. IC 35-48-3-9, AS AMENDED BY P.L.204-2005,  
8 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
9 JULY 1, 2011]: Sec. 9. (a) Except for dosages medically required for  
10 a period of not more than forty-eight (48) hours that are dispensed by  
11 or on the direction of a practitioner or medication dispensed directly by  
12 a practitioner, other than a pharmacy, to an ultimate user, no controlled  
13 substance in schedule II may be dispensed without the written **or**  
14 **electronic** prescription of a practitioner.

15 (b) In emergency situations, as defined by rule of the board,  
16 schedule II drugs may be dispensed upon oral prescription of a  
17 practitioner, reduced promptly to writing and filed by the pharmacy.  
18 Prescriptions shall be retained in conformity with the requirements of  
19 section 7 of this chapter. No prescription for a schedule II substance  
20 may be refilled.

21 (c) Except for dosages medically required for a period of not more  
22 than forty-eight (48) hours that are dispensed by or on the direction of  
23 a practitioner, or medication dispensed directly by a practitioner, other  
24 than a pharmacy, to an ultimate user, a controlled substance included  
25 in schedule III or IV, which is a prescription drug as determined under  
26 IC 16-42-19, shall not be dispensed without a written, **electronic**, or  
27 oral prescription of a practitioner. The prescription shall not be filled  
28 or refilled more than six (6) months after the date thereof or be refilled  
29 more than five (5) times, unless renewed by the practitioner.  
30 Prescriptions for schedule III, IV, and V controlled substances may be  
31 transmitted by facsimile from the practitioner or the agent of the  
32 practitioner to a pharmacy. The facsimile prescription is equivalent to  
33 an original prescription to the extent permitted under federal law.

- 1 (d) A controlled substance included in schedule V shall not be
- 2 distributed or dispensed other than for a medical purpose."
- 3 Renumber all SECTIONS consecutively.  
(Reference is to HB 1298 as introduced.)

**and when so amended that said bill do pass.**

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Representative Brown T