

SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1233 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
2 paragraph and insert:
3 "SECTION 1. IC 2-5-33.3 IS ADDED TO THE INDIANA CODE
4 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2011]:
6 **Chapter 33.3. Interim Study Committee on Insurance**
7 **Sec. 1. As used in this chapter, "committee" refers to the**
8 **interim study committee on insurance established by section 2 of**
9 **this chapter.**
10 **Sec. 2. (a) There is established the interim study committee on**
11 **insurance.**
12 **(b) The committee shall study insurance in Indiana as follows:**
13 **(1) Issues determined by the chairperson of the committee.**
14 **(2) Issues assigned by the legislative council.**
15 **(3) Issues regulated under IC 27.**
16 **(4) Worker's compensation insurance.**
17 **(c) The committee shall, not later than November 1 of each year,**
18 **report the committee's findings and recommendations concerning**
19 **the committee's study under subsection (b) to the legislative council**
20 **in an electronic format under IC 5-14-6.**
21 **Sec. 3. Except as otherwise provided in this chapter, the**
22 **committee shall operate under the policies governing study**
23 **committees adopted by the legislative council.**
24 **Sec. 4. (a) The committee consists of the following voting**
25 **members:**
26 **(1) Four members of the senate standing committee having**
27 **primary responsibility for insurance matters, not more than**
28 **two (2) of whom may be members of the same political party,**
29 **appointed by the president pro tempore of the senate.**
30 **(2) Four (4) members of the house of representatives standing**

1 committee having primary responsibility for insurance
2 matters, not more than two (2) of whom may be members of
3 the same political party, appointed by the speaker of the
4 house of representatives.

5 **(b) The chairperson of the senate standing committee having
6 primary responsibility for insurance matters shall serve as:**

7 **(1) chairperson of the committee beginning on May 1 of each
8 odd-numbered year; and**

9 **(2) vice chairperson of the committee beginning on May 1 of
10 each even-numbered year.**

11 **(c) The chairperson of the house of representatives standing
12 committee having primary responsibility for insurance matters
13 shall serve as:**

14 **(1) chairperson of the committee beginning on May 1 of each
15 even-numbered year; and**

16 **(2) vice chairperson of the committee beginning on May 1 of
17 each odd-numbered year.**

18 **Sec. 5. The affirmative votes of a majority of the voting
19 members appointed to the committee are required for the
20 committee to take action on any measure, including final reports."**

21 Page 45, between lines 27 and 28, begin a new paragraph and insert:
22 "SECTION 72. IC 25-1-2-6, AS AMENDED BY P.L.84-2010,
23 SECTION 7, AND AS AMENDED BY P.L.113-2010, SECTION 100,
24 IS CORRECTED AND AMENDED TO READ AS FOLLOWS
25 [EFFECTIVE JULY 1, 2011]: Sec. 6. (a) As used in this section,
26 "license" includes all occupational and professional licenses,
27 registrations, permits, and certificates issued under the Indiana Code,
28 and "licensee" includes all occupational and professional licensees,
29 registrants, permittees, and certificate holders regulated under the
30 Indiana Code.

31 (b) This section applies to the following entities that regulate
32 occupations or professions under the Indiana Code:

33 (1) Indiana board of accountancy.

34 (2) Indiana grain buyers and warehouse licensing agency.

35 (3) Indiana auctioneer commission.

36 (4) Board of registration for architects and landscape architects.

37 ~~(5) State board of barber examiners.~~

38 ~~(6) (5) State board of cosmetology and barber examiners.~~

39 ~~(7) (6) Medical licensing board of Indiana.~~

40 ~~(8) (7) Secretary of state.~~

41 ~~(9) (8) State board of dentistry.~~

42 ~~(10) (9) State board of funeral and cemetery service.~~

43 ~~(11) (10) Worker's compensation board of Indiana.~~

44 ~~(12) (11) Indiana state board of health facility administrators.~~

45 ~~(13) (12) Committee of hearing aid dealer examiners.~~

46 ~~(14) (13) Indiana state board of nursing.~~

- 1 ~~(15)~~ (14) Indiana optometry board.
2 ~~(16)~~ (15) Indiana board of pharmacy.
3 ~~(17)~~ (16) Indiana plumbing commission.
4 ~~(18)~~ (17) Board of podiatric medicine.
5 ~~(19)~~ (18) Private investigator and security guard licensing board.
6 ~~(20)~~ (19) State board of registration for professional engineers.
7 ~~(21) Board of environmental health specialists.~~
8 ~~(22)~~ (20) State psychology board.
9 ~~(23)~~ (21) Indiana real estate commission.
10 ~~(24)~~ (22) Speech-language pathology and audiology board.
11 ~~(25)~~ (23) Department of natural resources.
12 ~~(26) (24) State athletic commission.~~
13 ~~(26)~~ ~~(25)~~ **(24)** Board of chiropractic examiners.
14 ~~(27)~~ ~~(26)~~ **(25)** Mining board.
15 ~~(28)~~ ~~(27)~~ **(26)** Indiana board of veterinary medical examiners.
16 ~~(29)~~ ~~(28)~~ **(27)** State department of health.
17 ~~(30)~~ ~~(29)~~ **(28)** Indiana physical therapy committee.
18 ~~(31)~~ ~~(30)~~ **(29)** Respiratory care committee.
19 ~~(32)~~ ~~(31)~~ **(30)** Occupational therapy committee.
20 ~~(33)~~ ~~(32)~~ **(31)** Behavioral health and human services licensing
21 board.
22 ~~(34)~~ ~~(33)~~ **(32)** Real estate appraiser licensure and certification
23 board.
24 ~~(35)~~ ~~(34)~~ **(33)** State board of registration for land surveyors.
25 ~~(36)~~ ~~(35)~~ **(34)** Physician assistant committee.
26 ~~(37)~~ ~~(36)~~ **(35)** Indiana dietitians certification board.
27 ~~(38) Indiana hypnotist committee.~~
28 ~~(39)~~ ~~(37)~~ **(36)** Attorney general (only for the regulation of athlete
29 agents).
30 ~~(40)~~ ~~(38)~~ **(37)** Manufactured home installer licensing board.
31 ~~(41)~~ ~~(39)~~ **(38)** Home inspectors licensing board.
32 ~~(42)~~ ~~(40)~~ **(39)** State board of massage therapy.
33 ~~(43)~~ ~~(41)~~ **(40)** Any other occupational or professional agency
34 created after June 30, 1981.

35 (c) Notwithstanding any other law, the entities included in
36 subsection (b) shall send a notice of the upcoming expiration of a
37 license to each licensee at least sixty (60) days prior to the expiration
38 of the license. The notice must inform the licensee of the need to renew
39 and the requirement of payment of the renewal fee. If this notice of
40 expiration is not sent by the entity, the licensee is not subject to a
41 sanction for failure to renew if, once notice is received from the entity,
42 the license is renewed within forty-five (45) days of the receipt of the
43 notice.

44 **(d) Notwithstanding any other law, the entities included in**
45 **subsection (b) shall send notice of the expiration of a license to each**
46 **individual whose license has expired within thirty (30) days**

1 following the expiration of the license. The notice must meet the
2 following requirements:

3 (1) Inform the individual of the following:

4 (A) That the individual's license has expired.

5 (B) Any requirements that must be met before
6 reinstatement of a license may occur.

7 (2) Be sent electronically. However, if the entity does not have
8 an electronic mail address on record for the individual, the
9 notice must be sent via United States mail.

10 SECTION 73. IC 25-1-2-10 IS ADDED TO THE INDIANA CODE
11 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
12 1, 2011]: Sec. 10. (a) As used in this section, "agency" refers to the
13 Indiana professional licensing agency established by IC 25-1-5-3.

14 (b) As used in this section, "fund" refers to the accountant
15 investigative fund established by IC 25-2.1-8-4.

16 (c) The agency shall create an amnesty program for persons,
17 including firms, required to be licensed under IC 25-2.1 who did
18 not renew their licenses for one (1) or more renewal periods during
19 the period beginning January 1, 2003, and ending June 30, 2011.
20 The amnesty program begins July 1, 2011, and ends September 1,
21 2011.

22 (d) To be eligible for the program, the person must:

23 (1) have held a valid license under IC 25-2.1 on January 1,
24 2003;

25 (2) have met the requirements for each missed license period
26 during each missed license period, except for the
27 requirements of having submitted a renewal form and paid
28 the renewal fee; and

29 (3) provide a sworn statement that the person has not
30 committed any act during the missed renewal periods that
31 would constitute a violation of IC 25-1-11.

32 (e) When renewing a license under this section, the licensee shall
33 pay:

34 (1) all missed license renewal fees;

35 (2) the current license renewal fee; and

36 (3) an additional fee of one hundred dollars (\$100) to be
37 deposited in the fund.

38 (f) This section expires July 1, 2012.

39 SECTION 74. IC 25-1-11-12, AS AMENDED BY P.L.177-2009,
40 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
41 JULY 1, 2011]: Sec. 12. (a) The board may impose any of the
42 following sanctions, singly or in combination, if the board finds that a
43 practitioner is subject to disciplinary sanctions under sections 5
44 through 9 of this chapter:

45 (1) Permanently revoke a practitioner's license.

46 (2) Suspend a practitioner's license.

47 (3) Censure a practitioner.

- 1 (4) Issue a letter of reprimand.
- 2 (5) Place a practitioner on probation status and require the
- 3 practitioner to:
- 4 (A) report regularly to the board upon the matters that are the
- 5 basis of probation;
- 6 (B) limit practice to those areas prescribed by the board;
- 7 (C) continue or renew professional education approved by the
- 8 board until a satisfactory degree of skill has been attained in
- 9 those areas that are the basis of the probation; **or**
- 10 (D) perform or refrain from performing any acts, including
- 11 community restitution or service without compensation, that
- 12 the board considers appropriate to the public interest or to the
- 13 rehabilitation or treatment of the practitioner; **or**
- 14 **(E) satisfactorily complete a quality review (before July 1,**
- 15 **2012) or peer review (after June 30, 2012) specified by the**
- 16 **board as a condition for termination of probationary**
- 17 **status if the practitioner is a licensee (as defined in**
- 18 **IC 25-2.1-1-8).**
- 19 (6) Assess a civil penalty against the practitioner for not more
- 20 than one thousand dollars (\$1,000) for each violation listed in
- 21 sections 5 through 9 of this chapter except for a finding of
- 22 incompetency due to a physical or mental disability.
- 23 (7) Order a practitioner to pay consumer restitution to a person
- 24 who suffered damages as a result of the conduct or omission that
- 25 was the basis for the disciplinary sanctions under this chapter.
- 26 (b) When imposing a civil penalty under subsection (a)(6), the board
- 27 shall consider a practitioner's ability to pay the amount assessed. If the
- 28 practitioner fails to pay the civil penalty within the time specified by
- 29 the board, the board may suspend the practitioner's license without
- 30 additional proceedings. However, a suspension may not be imposed if
- 31 the sole basis for the suspension is the practitioner's inability to pay a
- 32 civil penalty.
- 33 (c) The board may withdraw or modify the probation under
- 34 subsection (a)(5) if the board finds after a hearing that the deficiency
- 35 that required disciplinary action has been remedied or that changed
- 36 circumstances warrant a modification of the order.
- 37 SECTION 75. IC 25-2.1-1-8.7 IS ADDED TO THE INDIANA
- 38 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 39 [EFFECTIVE JULY 1, 2011]: **Sec. 8.7. (a) "Peer review" means a**
- 40 **study, an appraisal, or a review of at least one (1) aspect of the**
- 41 **professional work of:**
- 42 **(1) an individual who; or**
- 43 **(2) a firm in the practice of accountancy that;**
- 44 **attests or issues compilation reports, by at least one (1) individual**
- 45 **who holds a certificate from any state and possesses qualifications**
- 46 **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 76. 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 77. 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.

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

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

44 (8) Methods of applying for and conducting the examinations,
 45 including methods for grading examinations and determining a
 46 passing grade required of an applicant for a certificate. However,

1 the board shall to the extent possible provide that the
 2 examination, grading of the examination, and the passing grades
 3 are uniform with those applicable in other states.

4 (9) Substantial equivalency.

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

7 SECTION 78. IC 25-2.1-5-8, AS AMENDED BY P.L.190-2007,
 8 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2011]: Sec. 8. (a) The board shall adopt rules that require as
 10 a condition to renew a permit under this chapter, that an applicant
 11 undergo, not more than once every three (3) years, a quality review
 12 **(before July 1, 2012) or peer review (after June 30, 2012)** conducted
 13 in a manner the board specifies.

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

15 (1) be adopted reasonably in advance of the time when a quality
 16 review **(before July 1, 2012) or peer review (after June 30,**
 17 **2012)** first becomes effective;

18 (2) include reasonable provision for compliance by an applicant
 19 showing that the applicant has in the preceding three (3) years
 20 undergone a quality review **(before July 1, 2012) or peer review**
 21 **(after June 30, 2012)** that is a satisfactory equivalent to the
 22 quality review **(before July 1, 2012) or peer review (after June**
 23 **30, 2012)** required under this section;

24 (3) require, with respect to quality reviews **(before July 1, 2012)**
 25 **or peer reviews (after June 30, 2012)** under subdivision (2), that
 26 the quality review **(before July 1, 2012) or peer review (after**
 27 **June 30, 2012)** be subject to review by an oversight body
 28 established or sanctioned by the board that shall:

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

30 **(B) periodically report to the board on the effectiveness of the**
 31 **review program and provide to the board a listing of firms that**
 32 **have participated in a quality review (before July 1, 2012) or**
 33 **peer review (after June 30, 2012) program; and**

34 **(4) subject to section 9 of this chapter and IC 25-2.1-9-4,**
 35 **require, with respect to quality reviews (before July 1, 2012) or**
 36 **peer reviews (after June 30, 2012) under subdivision (2), that:**

37 **(A) the proceedings, records, and work papers of a review**
 38 **committee are privileged and are not subject to discovery,**
 39 **subpoena, or other means of legal process or introduction into**
 40 **evidence in a civil action, arbitration, administrative**
 41 **proceeding, or Indiana board of accountancy proceeding; and**

42 **(B) a member of the review committee or individual who was**
 43 **involved in the quality review (before July 1, 2012) or peer**
 44 **review (after June 30, 2012) process is not permitted or**
 45 **required to testify in a civil action, arbitration, administrative**
 46 **proceeding, or Indiana board of accountancy proceeding to**

1 matters:

- 2 (i) produced, presented, disclosed or discussed during, or in
 3 connection with, the quality review **(before July 1, 2012) or**
 4 **peer review (after June 30, 2012)** process; or
 5 (ii) that involve findings, recommendations, evaluations,
 6 opinions, or other actions of the committee or a committee
 7 member.

8 SECTION 79. IC 25-2.1-5-9 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 9. (a) Notwithstanding
 10 section ~~8(4)(B)~~ **8(b)(4)(B)** of this chapter, information, documents, or
 11 records that are publicly available are not immune from discovery or
 12 use in any civil action, arbitration, administrative proceeding, or
 13 ~~Indiana board of accountancy~~ proceeding merely because they were
 14 presented or considered in connection with the quality review **(before**
 15 **July 1, 2012) or peer review (after June 30, 2012)** process.

16 (b) Any:

- 17 (1) materials prepared in connection with a particular engagement
 18 merely because they happen to subsequently be presented or
 19 considered as part of the quality review **(before July 1, 2012) or**
 20 **peer review (after June 30, 2012)** process; or
 21 (2) dispute between review committees and individuals or firms
 22 subject to a quality review **(before July 1, 2012) or peer review**
 23 **(after June 30, 2012)** arising from the performance of the quality
 24 review **(before July 1, 2012) or peer review (after June 30,**
 25 **2012);**

26 are not privileged.

27 SECTION 80. IC 25-2.1-8-1, AS AMENDED BY P.L.190-2007,
 28 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2011]: Sec. 1. (a) The board may impose sanctions for any of
 30 the following reasons:

- 31 (1) A violation of IC 25-1-11-5, **including:**
 32 **(A) a peer review rating of fail; or**
 33 **(B) an act or omission that is the basis of a peer review**
 34 **rating of fail;**
 35 **on any peer review report issued under this article after June**
 36 **30, 2012.**
 37 (2) Revocation or suspension of the right to practice before a state
 38 or federal agency.
 39 (3) Dishonesty, fraud, or gross negligence in the practice of
 40 accountancy or in the filing of or failure to file the licensee's own
 41 income tax returns.
 42 (4) Any conduct reflecting adversely on the licensee's fitness to
 43 engage in the practice of accountancy.
 44 (5) Failure to complete continuing education requirements
 45 satisfactorily.
 46 (6) Failure to furnish evidence, when required, of satisfactory

1 completion of continuing education requirements.
 2 (b) A holder of a CPA certificate issued under this article is subject
 3 to disciplinary action in this state if the CPA certificate holder:
 4 (1) offers or renders services or uses the CPA title in another
 5 state; and
 6 (2) commits an act in that other state for which the CPA
 7 certificate holder would be subject to discipline in the other state
 8 if the CPA certificate holder were licensed in the other state.
 9 The board shall investigate a complaint made by a board of
 10 accountancy or the equivalent of a board of accountancy in another
 11 state.

12 SECTION 81. IC 25-2.1-8-2 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. In place of or in
 14 addition to any remedy specifically provided in IC 25-1-11, the board
 15 may require the following of a licensee:

- 16 (1) **To undergo a quality review ~~conducted~~ (before July 1,**
 17 **2012) or a peer review (after June 30, 2012).**
 18 (2) ~~Satisfactory completion of~~ **To satisfactorily complete**
 19 continuing professional education programs.

20 SECTION 82. IC 25-2.1-9-3, AS AMENDED BY P.L.84-2010,
 21 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2011]: Sec. 3. (a) If the board has reason to believe that the
 23 subject of an investigation has committed a violation of this article or
 24 IC 25-1-11:

- 25 (1) the board shall direct that a complaint be issued under
 26 IC 25-1-7, if the subject of the investigation is a licensee; and
 27 (2) the board shall take appropriate action under IC 25-1-7-14, if
 28 the subject of the investigation is not a licensee.

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

- 32 **(1) IC 25-1-4-5 (conditional license and other actions related**
 33 **to continuing education or lapsed license).**
 34 **(2) IC 25-1-6-4 (refusal to issue a license or placement on**
 35 **probationary status).**

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

39 SECTION 83. IC 25-2.1-9-4 IS ADDED TO THE INDIANA CODE
 40 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 41 1, 2011]: Sec. 4. **(a) This section applies to a licensee that receives**
 42 **a peer review rating of fail on a peer review report issued after**
 43 **June 30, 2012, for a peer review conducted under IC 25-2.1-5-8.**

44 **(b) The following definitions apply throughout this section:**
 45 **(1) "Administering entity" refers to the oversight body**
 46 **established or sanctioned by the board to conduct a peer**

- 1 review program.
- 2 (2) "Director" refers to the director of the division of
3 consumer protection in the office of the attorney general.
- 4 (3) "Oversight committee" refers to a committee of licensees
5 who are not board members that is designated by the board
6 to receive a report.
- 7 (4) "Report" refers to a peer review report described in
8 subsection (a), including any description of the deficiencies on
9 which the peer review rating of fail is based.
- 10 (c) The board shall provide the director with the name and
11 contact information for the administering entity.
- 12 (d) Not more than thirty (30) days after the issuance of a report,
13 the administering entity shall make the report available to the
14 oversight committee. The oversight committee may forward the
15 report to the director. Receipt of the report shall be treated under
16 IC 25-1-7-4, IC 25-1-7-5, and IC 25-1-7-6 as a complaint submitted
17 by the board. If, after conducting an investigation, the director
18 believes that a licensee should be subjected to disciplinary
19 sanctions by the board, the director shall report the director's
20 determination to the attorney general. Upon receiving the
21 director's report, the attorney general may prosecute the matter,
22 on behalf of the state of Indiana, before the board. IC 25-1-7-7(b)
23 does not apply to a determination related to a complaint filed
24 under this section.
- 25 (e) The administering entity and the peer review committee
26 issuing a report shall cooperate with an investigation under
27 IC 25-1-7 of a complaint filed under this section and with any
28 resulting proceeding, including compliance with any request for
29 access to or production of the proceedings, records, and work
30 papers of the review committee by the director, the office of the
31 attorney general, or a party to any proceeding initiated as a result
32 of the filing of a complaint under this section. However, all
33 complaints and information pertaining to a complaint are
34 confidential until the attorney general files notice with the board
35 of the attorney general's intent to prosecute a licensee under
36 IC 25-1-7-7. Any meeting of the board, the oversight committee, or
37 a designee of the board or oversight committee that is required in
38 an investigation conducted before the attorney general files notice
39 of intent to prosecute shall be conducted as an executive session
40 under IC 5-14-1.5-6.1.
- 41 SECTION 84. IC 25-2.1-9-5 IS ADDED TO THE INDIANA CODE
42 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
43 1, 2011]: **Sec. 5. An:**
- 44 (1) entity administering a quality review program before July
45 1, 2012, or a peer review program after June 30, 2012;
- 46 (2) officer, member, or employee of an entity administering a
47 quality review program before July 1, 2012, or a peer review

1 **program after June 30, 2012;**
 2 **(3) employee or member of a quality review committee before**
 3 **July 1, 2012, or a peer review committee after June 30, 2012;**
 4 **and**
 5 **(4) entity in which or for which a member of a quality review**
 6 **committee (before July 1, 2012) or peer review committee**
 7 **(after June 30, 2012) is a sole proprietor, a partner, a**
 8 **shareholder, a member, or an employee;**

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

22 SECTION 85. IC 25-2.1-11-2 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. Before reinstating a
 24 suspended certificate or permit under IC 25-1-11-14, the board may
 25 require the applicant to show successful completion of specified
 26 continuing professional education, and the board may make the
 27 reinstatement of a certificate or permit conditional on satisfactory
 28 completion of a quality review **(before July 1, 2012) or peer review**
 29 **(after June 30, 2012)** specified by the board.

30 SECTION 86. IC 25-2.1-14-2 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. The information
 32 derived from or as the result of professional services is confidential and
 33 privileged. However, this section does not prohibit a certified public
 34 accountant, a public accountant, or an accounting practitioner from
 35 disclosing any data required to be disclosed by the standards of the
 36 profession:

- 37 (1) in rendering an opinion on the presentation of financial
 38 statements;
 39 (2) in ethical investigations conducted by private professional
 40 organizations;
 41 (3) in the course of quality reviews **(before July 1, 2012) or peer**
 42 **reviews (after June 30, 2012) or an investigation or**
 43 **proceeding related to a quality review (before July 1, 2012) or**
 44 **peer review (after June 30, 2012);** or
 45 (4) in making disclosure where the financial statements or the
 46 professional services of an accountant are contested.

1 SECTION 87. IC 25-2.1-14-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. (a) **The following**
3 **definitions apply throughout this section:**

4 (1) **"Client provided records" means accounting or other**
5 **records belonging to the client that were provided to the**
6 **licensee by or on behalf of the client.**

7 (2) **"Client records prepared by the licensee" means**
8 **accounting or other records (for example, tax returns, general**
9 **ledgers, subsidiary journals, and supporting schedules such as**
10 **detailed employee payroll records and depreciation schedules)**
11 **that the licensee was engaged to prepare for the client.**

12 (3) **"Supporting records" means information not reflected in**
13 **the client's books and records that are otherwise not available**
14 **to the client with the result that the client's financial**
15 **information is incomplete.**

16 (4) **"Working papers" include, but are not limited to, audit**
17 **programs, analytical review schedules, and statistical**
18 **sampling results, analyses, and schedules prepared by the**
19 **client at the request of the licensee.**

20 (b) All statements, records, schedules, working papers, and
21 memoranda made by a licensee or a partner, a member, a shareholder,
22 an officer, a director, or an employee of a licensee, including
23 information prepared by the client for the work and services rendered
24 to a client in the practice of accountancy, except the reports submitted
25 by the licensee to the client and records that are part of the client's
26 records, must remain the property of the licensee except in an express
27 agreement between the licensee and the client to the contrary.

28 (c) **Upon a client's request, a licensee is required to provide the**
29 **following to the client:**

30 (1) **Client provided records in the licensee's custody or**
31 **control.**

32 (2) **Client records prepared by the licensee. However, client**
33 **records prepared by the licensee may be withheld if the**
34 **preparation of the records is not complete or there are fees**
35 **due the licensee for the engagement to prepare those records.**

36 (3) **Supporting records related to a completed and issued**
37 **work product of a licensee. However, supporting records**
38 **prepared by the licensee may be withheld if there are fees due**
39 **to the licensee for the specific work product.**

40 (d) **A licensee may make and retain a copy of any records**
41 **returned to a client. Records may be provided in any format usable**
42 **to the client. To the extent practicable, records shall be returned to**
43 **a client not more than forty-five (45) days after a request is**
44 **received.**

45 SECTION 88. IC 25-2.1-14-5 IS AMENDED TO READ AS
46 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. (a) This chapter does
47 not prohibit a temporary transfer of work papers or other material

1 necessary to carry out quality reviews **(before July 1, 2012) or peer**
 2 **reviews (after June 30, 2012), conduct an investigation or**
 3 **proceeding related to a quality review (before July 1, 2012) or peer**
 4 **review (after June 30, 2012), or to** comply with the disclosure of
 5 information under this chapter.

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

8 Page 53, after line 42, begin a new paragraph and insert:

9 "SECTION 117. IC 25-27.5-2-13 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 13. "Supervising
 11 physician" means a physician ~~registered with~~ **licensed by** the board
 12 who supervises and is responsible for a physician assistant.

13 SECTION 118. IC 25-27.5-2-14, AS AMENDED BY P.L.3-2008,
 14 SECTION 190, IS AMENDED TO READ AS FOLLOWS
 15 [EFFECTIVE JULY 1, 2011]: Sec. 14. (a) "Supervision" means
 16 **overseeing the activities of, and accepting responsibility for, the**
 17 **medical services rendered by a physician assistant and, except as**
 18 **provided in subsection (c),** that the conditions set forth in subdivision
 19 (1) or (2) are met at all times that services are rendered or tasks are
 20 performed by the physician assistant:

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

24 (2) Both of the following apply:

25 (A) The supervising physician or the physician designee is:

- 26 (i) immediately available for consultation **through the use**
 27 **of telecommunications or other electronic means; and**
 28 (ii) **available to see the patient in person within**
 29 **twenty-four (24) hours upon request of the patient or**
 30 **physician assistant.**

31 (B) Either:

- 32 (i) The supervising physician or the physician designee is in:
 33 (i) the county ~~of; or a contiguous county to;~~ **in which** the
 34 onsite location ~~in~~ **at** which services are rendered or tasks are
 35 performed by the physician assistant **is located;** or
 36 (ii) the physician or physician assistant is practicing at a
 37 ~~hospital or health facility; or traveling to or from the hospital~~
 38 ~~or health facility.~~

39 **(ii) a county that is contiguous to the county described in**
 40 **item (i).**

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

43 **(c) If, after June 30, 2011, a physician assistant's onsite location**
 44 **does not meet the condition specified in subsection (a)(2)(B), the**
 45 **medical licensing board created by IC 25-22.5-2-1 may grant a**
 46 **waiver of the condition as follows:**

- 1 **(1) A request for a waiver must be filed with the medical**
- 2 **licensing board as part of the supervisory agreement and**
- 3 **must include the following:**
- 4 **(A) A description of the location of the physician assistant's**
- 5 **onsite location in relation to the location of the supervising**
- 6 **physician or physician designee.**
- 7 **(B) An explanation of the reason for the request for a**
- 8 **waiver, including the reason that compliance with**
- 9 **subsection (a)(2)(B) is not feasible.**
- 10 **(2) The medical licensing board:**
- 11 **(A) shall review a request filed under subdivision (1);**
- 12 **(B) may request a personal appearance of the supervising**
- 13 **physician or the physician assistant, or both, before the**
- 14 **medical licensing board to discuss the request for a waiver;**
- 15 **and**
- 16 **(C) shall make a determination regarding whether to grant**
- 17 **the waiver.**

18 **A physician assistant described in this subsection shall not provide**
 19 **services or perform tasks at the onsite location described in this**
 20 **subsection unless the medical licensing board has granted a waiver**
 21 **described in this subsection.**

22 SECTION 119. IC 25-27.5-3-5, AS AMENDED BY P.L.177-2009,
 23 SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2011]: Sec. 5. (a) The committee shall have regular meetings,
 25 called upon the request of the president or by a majority of the
 26 members appointed to the committee, and upon the advice and consent
 27 of the executive director of the Indiana professional licensing agency,
 28 for the transaction of business that comes before the committee under
 29 this article. At the first committee meeting of each calendar year, the
 30 committee shall elect a president and any other officer considered
 31 necessary by the committee by an affirmative vote of a majority of the
 32 members appointed to the committee.

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

- 36 (c) The committee shall do the following:
- 37 (1) Consider the qualifications of individuals who apply for an
- 38 initial license under this article.
- 39 (2) Approve or reject license applications.
- 40 (3) Approve or reject renewal applications.
- 41 ~~(4) Approve or reject applications for a change or addition of a~~
- 42 ~~supervising physician.~~
- 43 ~~(5) (4) Propose rules to the board concerning the competent~~
- 44 ~~practice of physician assistants and the administration of this~~
- 45 ~~article.~~
- 46 ~~(6) (5) Recommend to the board the amounts of fees required~~

- 1 under this article.
- 2 SECTION 120. IC 25-27.5-5-2, AS AMENDED BY P.L.177-2009,
3 SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2011]: Sec. 2. (a) A physician assistant must engage in a
5 dependent practice with physician supervision. A physician assistant
6 may perform, under the supervision of the supervising physician, the
7 duties and responsibilities that are delegated by the supervising
8 physician and that are within the supervising physician's scope of
9 practice, including prescribing and dispensing drugs and medical
10 devices. A patient may elect to be seen, examined, and treated by the
11 supervising physician.
- 12 (b) If a physician assistant determines that a patient needs to be
13 examined by a physician, the physician assistant shall immediately
14 notify the supervising physician or physician designee.
- 15 (c) If a physician assistant notifies the supervising physician that the
16 physician should examine a patient, the supervising physician shall:
- 17 (1) schedule an examination of the patient in a timely manner
18 unless the patient declines; or
19 (2) arrange for another physician to examine the patient.
- 20 (d) If a patient is subsequently examined by the supervising
21 physician or another physician because of circumstances described in
22 subsection (b) or (c), the visit must be considered as part of the same
23 encounter except for in the instance of a medically appropriate referral.
- 24 (e) A supervising physician or physician assistant who does not
25 comply with subsections (b) through (d) is subject to discipline under
26 IC 25-1-9.
- 27 (f) A physician assistant's supervisory agreement with a supervising
28 physician must:
- 29 (1) be in writing;
30 (2) include all the tasks delegated to the physician assistant by the
31 supervising physician;
32 (3) set forth the supervisory plans for the physician assistant,
33 including the emergency procedures that the physician assistant
34 must follow; and
35 (4) specify the name of the drug or drug classification being
36 delegated to the physician assistant and the protocol the physician
37 assistant shall follow in prescribing a drug.
- 38 (g) The physician shall submit the supervisory agreement to the
39 board. ~~for approval~~. The physician assistant may ~~not~~ prescribe a drug
40 under the supervisory agreement ~~until unless~~ the board ~~approves~~
41 **denies** the supervisory agreement. Any amendment to the supervisory
42 agreement must be resubmitted to the board, ~~for approval~~, and the
43 physician assistant may ~~not~~ operate under any new prescriptive
44 authority under the amended supervisory agreement ~~until unless~~ the
45 agreement has been ~~approved~~ **denied** by the board.
- 46 (h) A physician or a physician assistant who violates the supervisory

1 agreement described in this section may be disciplined under
2 IC 25-1-9.

3 SECTION 121. IC 25-27.5-5-4, AS AMENDED BY P.L.90-2007,
4 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2011]: Sec. 4. (a) Except as provided in this section, a
6 physician assistant may prescribe, dispense, and administer drugs and
7 medical devices or services to the extent delegated by the supervising
8 physician.

9 (b) A physician assistant may not prescribe, dispense, or administer
10 ophthalmic devices, including glasses, contact lenses, and low vision
11 devices.

12 (c) ~~As permitted by the board,~~ A physician assistant may use or
13 dispense only drugs prescribed or approved by the supervising
14 physician. A physician assistant may not prescribe or dispense the
15 following drugs:

16 (1) A schedule I substance listed in IC 35-48-2-4.

17 (2) A schedule II substance listed in IC 35-48-2-6.

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

20 However, a physician assistant may ~~prescribe one (1) dose of~~ **write a**
21 **drug order for** a drug listed in subdivision (2) ~~or (3) for immediate~~
22 **administration for use in the hospital** if the patient is in an inpatient
23 hospital ~~post-operative setting~~ and the physician is unavailable to make
24 the ~~prescription:~~ **drug order.**

25 (d) A physician assistant may request, receive, and sign for
26 professional samples and may distribute professional samples to
27 patients if the samples are within the scope of the physician assistant's
28 prescribing privileges delegated by the supervising physician.

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

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

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

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

40 (B) not involved in the conduct of the surgical or diagnostic
41 procedure; and

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

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

- 1 (B) The physician assistant is qualified to rescue patients from
- 2 deep sedation and is competent to manage a compromised
- 3 airway and provide adequate oxygenation and ventilation by
- 4 reason of meeting the following conditions:
- 5 (i) The physician assistant is certified in advanced
- 6 cardiopulmonary life support.
- 7 (ii) The physician assistant has knowledge of and training in
- 8 the medications used in moderate sedation, including
- 9 recommended doses, contraindications, and adverse
- 10 reactions.
- 11 (g) Before a physician assistant may prescribe drugs, the physician
- 12 assistant must have ~~been continuously employed~~ **practiced** as a
- 13 physician assistant:
- 14 (1) for ~~not less than at least~~ one (1) year after graduating from a
- 15 physician assistant program approved by the committee; ~~To be~~
- 16 ~~considered to have been continuously employed as a physician~~
- 17 ~~assistant for a year for purposes of this subsection; a person must~~
- 18 ~~have worked as a physician assistant more than and~~
- 19 ~~(2) at least~~ one thousand eight hundred (1,800) hours. ~~during the~~
- 20 ~~year.~~
- 21 SECTION 122. IC 25-27.5-5-6, AS ADDED BY P.L.90-2007,
- 22 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 23 JULY 1, 2011]: Sec. 6. (a) Except as provided in section 4(d) of this
- 24 chapter, a supervising physician may delegate authority to a physician
- 25 assistant to prescribe:
- 26 (1) legend drugs except as provided in section 4(c) of this chapter;
- 27 and
- 28 (2) medical devices (except ophthalmic devices, including
- 29 glasses, contact lenses, and low vision devices).
- 30 (b) Any prescribing authority delegated to a physician assistant must
- 31 be expressly delegated in writing by the physician assistant's
- 32 supervising physician, including:
- 33 (1) the name of the drug or drug classification being delegated by
- 34 the supervising physician; and
- 35 (2) the protocols the physician assistant shall use when
- 36 prescribing the drug.
- 37 (c) A physician assistant who is delegated the authority to prescribe
- 38 legend drugs or medical devices must do the following:
- 39 (1) Enter the following on each prescription form that the
- 40 physician assistant uses to prescribe a legend drug or medical
- 41 device:
- 42 (A) The signature of the physician assistant.
- 43 (B) The initials indicating the credentials awarded to the
- 44 physician assistant by the NCCPA.
- 45 (C) The physician assistant's state license number.
- 46 (2) Comply with all applicable state and federal laws concerning

- 1 prescriptions for legend drugs and medical devices.
- 2 (d) A supervising physician may delegate to a physician assistant
3 the authority to prescribe only legend drugs and medical devices that
4 are within the scope of practice of the licensed supervising physician
5 or the physician designee.
- 6 (e) A physician assistant who is delegated the authority to prescribe
7 controlled substances under subsection (a) ~~and in accordance with the~~
8 ~~limitations specified in section 4(c) of this chapter~~, must do the
9 following:
- 10 (1) Obtain an Indiana controlled substance registration and a
11 federal Drug Enforcement Administration registration.
- 12 (2) Enter the following on each prescription form that the
13 physician assistant uses to prescribe a controlled substance:
- 14 (A) The signature of the physician assistant.
- 15 (B) The initials indicating the credentials awarded to the
16 physician assistant by the NCCPA.
- 17 (C) The physician assistant's state license number.
- 18 (D) The physician assistant's federal Drug Enforcement
19 Administration (DEA) number.
- 20 (3) Comply with all applicable state and federal laws concerning
21 prescriptions for controlled substances.
- 22 (f) A supervising physician may only delegate to a physician
23 assistant the authority to prescribe controlled substances:
- 24 (1) that may be prescribed within the scope of practice of the
25 licensed supervising physician or the physician designee;
- 26 (2) in an amount that does not exceed
- 27 ~~(A) a seven (7) one (1) time thirty (30) day supply; for~~
28 ~~treatment of a single acute episode of a condition or injury; or~~
29 ~~(B) if a controlled substance cannot be dispensed in an amount~~
30 ~~that is small enough to meet the requirement of clause (A); the~~
31 ~~smallest dispensable amount; and~~
- 32 (3) in accordance with the limitations set forth in section 4(c) of
33 this chapter.
- 34 **If an additional prescription for the controlled substance is**
35 **necessary after the one (1) time thirty (30) day supply described in**
36 **subdivision (2) has been prescribed, the additional prescription**
37 **may be prescribed only by a physician.**
- 38 SECTION 123. IC 25-27.5-6-1 IS AMENDED TO READ AS
39 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) Supervision by
40 the supervising physician or the physician designee must be continuous
41 but does not require the physical presence of the supervising physician
42 at the time and the place that the services are rendered.
- 43 (b) A supervising physician or physician designee shall review all
44 patient encounters not later than ~~twenty-four (24)~~ **seventy-two (72)**
45 hours after the physician assistant has seen the patient.
- 46 SECTION 124. IC 25-27.5-6-4, AS AMENDED BY P.L.177-2009,

1 SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2011]: Sec. 4. (a) A physician supervising a physician
3 assistant must do the following:

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

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

- 15 **(A) exercise supervision over the physician assistant in
16 accordance with any rules adopted by the board; and**
- 17 **(B) retain responsibility for the care rendered by the
18 physician assistant.**

19 **The agreement must be signed by the physician and physician
20 assistant, updated annually, and made available to the board
21 upon request.**

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

25 SECTION 125. IC 34-30-2-98.3 IS ADDED TO THE INDIANA
26 CODE AS A NEW SECTION TO READ AS FOLLOWS
27 [EFFECTIVE JULY 1, 2011]: **Sec. 98.3. IC 25-2.1-9-5 (Concerning
28 immunity of an entity administering a quality review (before July
29 1, 2012) or peer review (after June 30, 2012) program and
30 members of a quality review committee (before July 1, 2012) or
31 peer review committee (after June 30, 2012)).**

32 SECTION 126. IC 34-46-2-17 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 17. IC 25-2.1-5-8
34 (Concerning proceedings, records, and work papers of a quality review
35 committee that conducts a quality review of an accounting firm **before
36 July 1, 2012, or a peer review committee that conducts a peer
37 review of an accounting firm after June 30, 2012).**

38 SECTION 127. IC 35-48-3-9, AS AMENDED BY P.L.204-2005,
39 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
40 JULY 1, 2011]: Sec. 9. (a) Except for dosages medically required for
41 a period of not more than forty-eight (48) hours that are dispensed by
42 or on the direction of a practitioner or medication dispensed directly by
43 a practitioner, other than a pharmacy, to an ultimate user, no controlled
44 substance in schedule II may be dispensed without the written **or
45 electronic** prescription of a practitioner.

46 (b) In emergency situations, as defined by rule of the board,

1 schedule II drugs may be dispensed upon oral prescription of a
2 practitioner, reduced promptly to writing and filed by the pharmacy.
3 Prescriptions shall be retained in conformity with the requirements of
4 section 7 of this chapter. No prescription for a schedule II substance
5 may be refilled.

6 (c) Except for dosages medically required for a period of not more
7 than forty-eight (48) hours that are dispensed by or on the direction of
8 a practitioner, or medication dispensed directly by a practitioner, other
9 than a pharmacy, to an ultimate user, a controlled substance included
10 in schedule III or IV, which is a prescription drug as determined under
11 IC 16-42-19, shall not be dispensed without a written, **electronic**, or
12 oral prescription of a practitioner. The prescription shall not be filled
13 or refilled more than six (6) months after the date thereof or be refilled
14 more than five (5) times, unless renewed by the practitioner.
15 Prescriptions for schedule III, IV, and V controlled substances may be
16 transmitted by facsimile from the practitioner or the agent of the
17 practitioner to a pharmacy. The facsimile prescription is equivalent to
18 an original prescription to the extent permitted under federal law.

19 (d) A controlled substance included in schedule V shall not be
20 distributed or dispensed other than for a medical purpose."

21 Page 68, line 41, after "JULY 1, 2011]:" insert "IC 2-5-1.5;"

22 Renumber all SECTIONS consecutively.

(Reference is to EHB 1233 as printed April 15, 2011.)

Senator MILLER