



January 26, 2021

HOUSE BILL No. 1002

DIGEST OF HB 1002 (Updated January 25, 2021 2:54 pm - DI 106)

Citations Affected: IC 5-1.2; IC 25-1; IC 34-6; IC 34-7; IC 34-12; IC 34-13; IC 34-30; IC 34-31.

Synopsis: Civil immunity related to COVID-19. Protects health care providers from professional discipline for certain acts or omissions arising from a disaster emergency unless the act or omission constitutes gross negligence, willful or wanton misconduct, or intentional misrepresentation. Provides that a health care provider is not protected from professional discipline for actions that are outside the skills, education, and training of the health care provider, unless certain circumstances apply. Specifies that orders and recommendations issued by local, state, and federal government agencies and officials during a state disaster emergency do not create new causes of action or new legal duties. Specifies that the orders and recommendations are presumed irrelevant to the issue of the existence of a duty or breach of a duty. Specifies that the orders and recommendations are inadmissible at trial to establish that a new cause of action has been created or proof of a duty or a breach of a duty. Prohibits filing a class action lawsuit against a defendant in a civil action allowed by the statute. Specifies
(Continued next page)

Effective: March 1, 2020 (retroactive).

Torr, Young J, Jeter, Lehman

January 4, 2021, read first time and referred to Committee on Judiciary.
January 26, 2021, amended, reported — Do Pass.

HB 1002—LS 7087/DI 92



Digest Continued

that a governmental entity or employee is not liable if a loss results from an act or omission arising from COVID-19 unless the act or omission constitutes gross negligence, willful or wanton misconduct, or intentional misrepresentation. Provides that a person is not liable to a claimant for loss, damage, injury, or death arising from COVID-19 unless the claimant proves by clear and convincing evidence that the person caused the loss, damage, injury, or death by an act or omission constituting gross negligence, willful or wanton misconduct, or intentional misrepresentation. Provides immunity from civil liability to certain persons, entities, and facilities providing health care and other services for certain acts or omissions related to the provision of health care services and other services during a state disaster emergency.

HB 1002—LS 7087/DI 92



January 26, 2021

First Regular Session of the 122nd General Assembly (2021)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in *this style type*, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

HOUSE BILL No. 1002

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

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

- 1 SECTION 1. IC 5-1.2-12-4, AS ADDED BY P.L.189-2018,
2 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 MARCH 1, 2020 (RETROACTIVE)]: Sec. 4. (a) The authority shall do
4 the following under this chapter:
5 (1) Be responsible for the management of all aspects of the
6 Indiana brownfields program.
7 (2) Prepare and provide program information.
8 (3) Negotiate the negotiable aspects of each financial assistance
9 agreement.
10 (4) Sign each financial assistance agreement.
11 (5) Review each proposed project and financial assistance
12 agreement to determine if the project meets the credit, economic,
13 or fiscal criteria established by guidelines of the authority.
14 (6) Periodically inspect or cause to be inspected projects to
15 determine compliance with this chapter.

HB 1002—LS 7087/DI 92



- 1 (7) Conduct or cause to be conducted an evaluation concerning
 2 the financial ability of a private individual or entity, nonprofit
 3 entity, or political subdivision to:
- 4 (A) pay a loan or other financial assistance and other
 5 obligations evidencing loans or other financial assistance, if
 6 required to be paid; and
 7 (B) otherwise comply with terms of the financial assistance
 8 agreement.
- 9 (8) Evaluate or cause to be evaluated the technical aspects of the
 10 private individual or entity, nonprofit entity, or political
 11 subdivision's:
- 12 (A) environmental assessment of potential brownfield
 13 properties;
 14 (B) proposed remediation; and
 15 (C) remediation activities conducted on brownfield properties.
- 16 (9) Inspect or cause to be inspected remediation activities
 17 conducted under this chapter.
- 18 (10) Act as a liaison to the United States Environmental
 19 Protection Agency regarding the Indiana brownfields program.
- 20 (11) Be a point of contact for private entities, nonprofit entities,
 21 and political subdivisions concerning questions about the Indiana
 22 brownfields program.
- 23 (12) Enter into memoranda of understanding, as necessary, with
 24 the department of environmental management and the budget
 25 agency concerning the administration and management of the
 26 Indiana brownfields fund and the Indiana brownfields program.
- 27 (b) The authority may do the following under this chapter:
- 28 (1) Undertake activities to make private environmental insurance
 29 products available to encourage and facilitate the cleanup and
 30 redevelopment of brownfield properties.
- 31 (2) Enter into agreements with private entities, nonprofit entities,
 32 and political subdivisions to manage any of the following
 33 conducted on brownfield properties:
- 34 (A) Environmental assessment activities.
 35 (B) Environmental remediation activities.
 36 (C) Demolition and clearance activities.
- 37 (c) The authority may:
- 38 (1) negotiate with;
 39 (2) select; and
 40 (3) contract with;
 41 one (1) or more insurers to provide insurance products as described in
 42 subsection (b)(1).



1 (d) The authority may:

2 (1) negotiate with;

3 (2) select; and

4 (3) contract with;

5 one (1) or more environmental consultants to undertake the activities
6 described in subsection (b)(2) for the benefit of private entities,
7 nonprofit entities, and political subdivisions.

8 (e) Notwithstanding IC 13-23, IC 13-24-1, and IC 13-25-4, the
9 authority is not liable for any contamination addressed by the authority
10 under an agreement under subsection (b)(2) unless existing
11 contamination on the brownfield is exacerbated due to gross negligence
12 or intentional misconduct by the authority.

13 (f) For purposes of subsection (e), reckless, willful, or wanton
14 misconduct constitutes gross negligence.

15 (g) The authority is entitled to the same governmental immunity
16 afforded a political subdivision under ~~IC 34-13-3-3(22)~~
17 **IC 34-13-3-3(a)(22)** for any act taken to investigate or remediate
18 hazardous substances, petroleum, or other pollutants associated with a
19 brownfield under an agreement under subsection (b)(2).

20 (h) This chapter does not require the authority to provide a loan or
21 other financial assistance to any private individual or entity, nonprofit
22 entity, or political subdivision to the extent the authority determines
23 that providing the loan or other financial assistance is not in the best
24 interests of the Indiana brownfields program and the authority.

25 SECTION 2. IC 25-1-20 IS ADDED TO THE INDIANA CODE AS
26 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE MARCH
27 1, 2020 (RETROACTIVE)]:

28 **Chapter 20. Effect of a State Disaster Emergency on**
29 **Professional Disciplinary Action**

30 **Sec. 1. This chapter applies to acts or omissions relating to the**
31 **provision of health care services after February 29, 2020, and**
32 **before April 1, 2022.**

33 **Sec. 2. The following definitions apply throughout this chapter:**

34 (1) "Arising (or arises) from a (or the) state disaster
35 emergency" means an injury or harm:

36 (A) caused by or resulting from an act or omission
37 performed in response to a state disaster emergency
38 declared under IC 10-14-3-12; or

39 (B) arising from COVID-19 (as defined by IC 34-31-12-2).

40 (2) "COVID-19" has the meaning set forth in IC 34-12-4-2.

41 (3) "Health care provider" has the meaning set forth in
42 IC 4-6-14-2.



- 1 (4) "Health care services" has the meaning set forth in
2 IC 34-6-2-55(b).
- 3 **Sec. 3. Except as provided in section 4 of this chapter, a health**
4 **care provider is not subject to professional discipline under**
5 **IC 25-1-7 or IC 25-1-9 for any of the following:**
- 6 (1) Health care services provided in response to or arising
7 from a state disaster emergency declared under
8 IC 10-14-3-12.
- 9 (2) An act or omission of the health care provider committed
10 with respect to the provision, withholding, delay, or
11 withdrawal of health care services in response to or arising
12 from a state disaster emergency declared under
13 IC 10-14-3-12.
- 14 (3) Compliance with an executive order or local health order
15 issued in response to or arising from a state disaster
16 emergency declared under IC 10-14-3-12.
- 17 (4) An injury, a death, or a loss to a person or property
18 alleged to have occurred because the health care provider was
19 unable to treat, diagnose, or test the person for any illness,
20 disease, or condition, including an inability to perform any
21 elective procedure in compliance with an executive order or
22 local health order issued in response to or arising from a state
23 disaster emergency declared under IC 10-14-3-12.
- 24 **Sec. 4. (a) Except as provided by subsection (b), section 3 of this**
25 **chapter does not protect a health care provider from professional**
26 **discipline under IC 25-1-7 or IC 25-1-9 if the health care provider's**
27 **action, omission, decision, or compliance constitutes gross**
28 **negligence, willful or wanton misconduct, or intentional**
29 **misrepresentation.**
- 30 (b) The following do not constitute gross negligence, willful or
31 wanton misconduct, or intentional misrepresentation:
- 32 (1) Providing services without required personal protective
33 equipment caused by:
- 34 (A) a shortage; or
35 (B) an inability to timely acquire personal protective
36 equipment;
- 37 during an event that is declared a disaster emergency under
38 IC 10-14-3-12.
- 39 (2) Providing services without access to adequate or reliable
40 testing for COVID-19, even if the COVID-19 testing that was
41 used received emergency use authorization from the federal
42 Food and Drug Administration.



- 1 **(3) Using equipment, medicine, or supplies in a manner that**
- 2 **is not approved by the federal Food and Drug Administration**
- 3 **in good faith in response to COVID-19.**
- 4 **(4) Providing services under a reallocation of staff or**
- 5 **resources.**
- 6 **(5) Providing services under a staffing shortage.**
- 7 **(6) Providing services that are outside of an individual's**
- 8 **expertise or specialty in good faith in response to COVID-19.**

9 **Sec. 5. (a) An order or a recommendation issued in response to**
 10 **or arising from a state disaster emergency declared under**
 11 **IC 10-14-3-12 by:**

- 12 **(1) the governor or a state agency;**
- 13 **(2) the executive of a city, town, or county;**
- 14 **(3) a local health official or local health department; or**
- 15 **(4) an agency of the federal government;**

16 **does not create a new cause of action or substantive legal right**
 17 **against any person with respect to the matters contained in the**
 18 **order or recommendation.**

19 **(b) An order or a recommendation described in subsection (a)**
 20 **is inadmissible as evidence that a new standard of professional**
 21 **conduct was established by the order or recommendation.**

22 **Sec. 6. An order or a recommendation described in section 5 of**
 23 **this chapter is inadmissible in a proceeding conducted under**
 24 **IC 25-1-7 or IC 25-1-9 to establish proof of a person's alleged**
 25 **failure to comply with any applicable standard of professional**
 26 **conduct.**

27 **SECTION 3. IC 34-6-2-10.5 IS ADDED TO THE INDIANA CODE**
 28 **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
 29 **MARCH 1, 2020 (RETROACTIVE)]: Sec. 10.5. "Arising (or arises)**
 30 **from a (or the) state disaster emergency", for purposes of**
 31 **IC 34-7-8 and IC 34-30-13.5, means an injury or harm:**

32 **(1) caused by or resulting from an act or omission performed**
 33 **in response to a state disaster emergency declared under**
 34 **IC 10-14-3-12; or**

35 **(2) arising from COVID-19 (as defined by IC 34-31-12-2).**

36 **SECTION 4. IC 34-6-2-46.4 IS ADDED TO THE INDIANA CODE**
 37 **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
 38 **MARCH 1, 2020 (RETROACTIVE)]: Sec. 46.4. "Financial interest",**
 39 **for purposes of IC 34-30-13.5-3, means an ownership or investment**
 40 **interest through equity, debt, or other means. The term includes an**
 41 **ownership or investment interest in an entity that holds, either**
 42 **directly or through a subsidiary, an ownership or investment**



1 **interest.**

2 SECTION 5. IC 34-6-2-55, AS AMENDED BY P.L.161-2015,
3 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 MARCH 1, 2020 (RETROACTIVE)]: Sec. 55. (a) "Health care
5 services":

6 (1) except as provided in subdivision (2), for purposes of
7 IC 34-30-13, has the meaning set forth in IC 27-13-1-18(a); and
8 (2) for purposes of IC 34-30-13-1.2, means only noninvasive
9 examinations, treatments, and procedures and the following
10 invasive procedures:

- 11 (A) Routine dental services.
12 (B) Injections.
13 (C) Suturing of minor lacerations.
14 (D) Incisions of boils or superficial abscesses.

15 The term does not include performance of an abortion, including
16 abortion by surgical means, by use of an abortion inducing drug,
17 or by prescribing a controlled substance or scheduled drug under
18 IC 35-48.

19 (b) "Health care services", for purposes of IC 34-30-13.5, means:

20 (1) any services provided by an individual licensed under:

- 21 (A) IC 25-2.5;
22 (B) IC 25-10;
23 (C) IC 25-13;
24 (D) IC 25-14;
25 **(E) IC 25-19;**
26 ~~(F)~~ (F) IC 25-22.5;
27 ~~(G)~~ (G) IC 25-23;
28 ~~(H)~~ (H) IC 25-23.5;
29 ~~(I)~~ (I) IC 25-23.6;
30 ~~(J)~~ (J) IC 25-24;
31 ~~(K)~~ (K) IC 25-26;
32 ~~(L)~~ (L) IC 25-27;
33 ~~(M)~~ (M) IC 25-27.5;
34 ~~(N)~~ (N) IC 25-29;
35 ~~(O)~~ (O) IC 25-33;
36 ~~(P)~~ (P) IC 25-34.5; or
37 ~~(Q)~~ (Q) IC 25-35.6;

38 (2) services provided as the result of hospitalization, **to an**
39 **individual admitted to a health facility licensed under**
40 **IC 16-28, or to a person residing in a housing with services**
41 **establishment (as defined by IC 12-10-15-3);**

42 (3) services incidental to the furnishing of services described in



- 1 subdivisions (1) or (2);
- 2 (4) any services by individuals:
- 3 (A) licensed as paramedics;
- 4 (B) certified as advanced emergency medical technicians; or
- 5 (C) certified as emergency medical technicians under
- 6 ~~IC 16-31-2~~; **IC 16-31**;
- 7 (5) any services provided by individuals certified as emergency
- 8 medical responders under ~~IC 16-31-2~~; **or IC 16-31**;
- 9 **(6) any services provided by certified health care**
- 10 **professionals who are registered with the Indiana state**
- 11 **department of health, including:**
- 12 **(A) certified nurse aides certified under IC 16-28-1-11;**
- 13 **(B) qualified medication aides certified under**
- 14 **IC 16-28-1-11; and**
- 15 **(C) home health aides registered under rules adopted**
- 16 **under IC 16-27-1-7;**
- 17 **(7) any services provided by unlicensed health care**
- 18 **professionals who have successfully completed any applicable**
- 19 **training required by the Indiana state department of health;**
- 20 **(8) any services provided by health care volunteers who are**
- 21 **permitted to practice during an event that is declared a**
- 22 **disaster emergency under IC 10-14-3-12;**
- 23 **(9) any services provided by individuals with provisional or**
- 24 **temporary licenses who are permitted to practice during an**
- 25 **event that is declared a disaster emergency under**
- 26 **IC 10-14-3-12; or**
- 27 ~~(10)~~ **(10) any other services or goods furnished for the purpose of**
- 28 **preventing, alleviating, curing, or healing human illness, physical**
- 29 **disability, or injury, including environmental cleaning services.**
- 30 SECTION 6. IC 34-7-8 IS ADDED TO THE INDIANA CODE AS
- 31 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE MARCH
- 32 1, 2020 (RETROACTIVE)]:
- 33 **Chapter 8. Effect of Orders Issued in Response to or Arising**
- 34 **From a State Disaster Emergency**
- 35 **Sec. 1. This chapter applies to an act or omission occurring after**
- 36 **February 29, 2020, and before April 1, 2022.**
- 37 **Sec. 2. (a) An order or a recommendation issued in response to**
- 38 **or arising from a state disaster emergency declared under**
- 39 **IC 10-14-3-12 by:**
- 40 **(1) the governor or a state agency;**
- 41 **(2) the executive of a city, town, or county;**
- 42 **(3) a local health official or local health department; or**



1 **(4) an agency of the federal government;**
 2 **does not create a new cause of action or substantive legal right**
 3 **against any person with respect to the matters contained in the**
 4 **order or recommendation.**

5 **(b) An order or a recommendation described in subsection (a)**
 6 **is inadmissible as evidence that a new cause of action or**
 7 **substantive legal right was established by the order or**
 8 **recommendation.**

9 **Sec. 3. An order or a recommendation described in section 2 of**
 10 **this chapter does not create any new legal duties for purposes of**
 11 **tort liability.**

12 **Sec. 4. An order or a recommendation described in section 2 of**
 13 **this chapter is inadmissible at trial to establish proof of a duty or**
 14 **a breach of a duty in a tort action.**

15 SECTION 7. IC 34-12-4 IS ADDED TO THE INDIANA CODE AS
 16 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE MARCH
 17 1, 2020 (RETROACTIVE)]:

18 **Chapter 4. Prohibited Causes of Action Arising from COVID-19**

19 **Sec. 1. (a) Except as provided in subsection (b), this chapter**
 20 **applies to alleged losses, damages, injuries, or deaths arising from**
 21 **COVID-19 after February 29, 2020, and before April 1, 2022.**

22 **(b) This chapter does not apply to causes of action relating to**
 23 **the provision of health care services that are subject to**
 24 **IC 34-30-13.5.**

25 **Sec. 2. As used in this chapter, "COVID-19" refers to any of the**
 26 **following:**

- 27 **(1) The novel coronavirus known as SARS-CoV-2.**
 28 **(2) Any mutation of SARS-CoV-2.**
 29 **(3) The coronavirus disease 2019.**

30 **Sec. 3. As used in this chapter, "person" means an individual, a**
 31 **corporation, a limited liability company, a partnership, or other**
 32 **legal entity.**

33 **Sec. 4. A person may not bring a civil action against another**
 34 **person based in whole or in part on an allegation that the person's**
 35 **loss, damage, injury, or death was caused by:**

- 36 **(1) an exposure to COVID-19;**
 37 **(2) a transmission of COVID-19; or**
 38 **(3) a contraction of COVID-19;**

39 **unless the person establishes that the other person caused the loss,**
 40 **damage, injury, or death by an act or omission constituting gross**
 41 **negligence, willful or wanton misconduct, or intentional**
 42 **misrepresentation. However, a person may not file a class action**



1 lawsuit against a person who is a defendant in a cause of action
2 allowed under this section.

3 **Sec. 5. If a claim described in this section is:**

4 (1) a claim for injury or death resulting from medical
5 malpractice; and

6 (2) not barred by the immunity provided under this chapter;
7 the claimant is required to comply with all of the provisions of
8 IC 34-18 (medical malpractice act).

9 SECTION 8. IC 34-13-3-3, AS AMENDED BY P.L.65-2016,
10 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 MARCH 1, 2020 (RETROACTIVE)]: Sec. 3. (a) A governmental
12 entity or an employee acting within the scope of the employee's
13 employment is not liable if a loss results from the following:

14 (1) The natural condition of unimproved property.

15 (2) The condition of a reservoir, dam, canal, conduit, drain, or
16 similar structure when used by a person for a purpose that is not
17 foreseeable.

18 (3) The temporary condition of a public thoroughfare or extreme
19 sport area that results from weather.

20 (4) The condition of an unpaved road, trail, or footpath, the
21 purpose of which is to provide access to a recreation or scenic
22 area.

23 (5) The design, construction, control, operation, or normal
24 condition of an extreme sport area, if all entrances to the extreme
25 sport area are marked with:

26 (A) a set of rules governing the use of the extreme sport area;

27 (B) a warning concerning the hazards and dangers associated
28 with the use of the extreme sport area; and

29 (C) a statement that the extreme sport area may be used only
30 by persons operating extreme sport equipment.

31 This subdivision shall not be construed to relieve a governmental
32 entity from liability for the continuing duty to maintain extreme
33 sports areas in a reasonably safe condition.

34 (6) The initiation of a judicial or an administrative proceeding.

35 (7) The performance of a discretionary function; however, the
36 provision of medical or optical care as provided in IC 34-6-2-38
37 shall be considered as a ministerial act.

38 (8) The adoption and enforcement of or failure to adopt or
39 enforce:

40 (A) a law (including rules and regulations); or

41 (B) in the case of a public school or charter school, a policy;
42 unless the act of enforcement constitutes false arrest or false



- 1 imprisonment.
- 2 (9) An act or omission performed in good faith and without
3 malice under the apparent authority of a statute which is invalid
4 if the employee would not have been liable had the statute been
5 valid.
- 6 (10) The act or omission of anyone other than the governmental
7 entity or the governmental entity's employee.
- 8 (11) The issuance, denial, suspension, or revocation of, or failure
9 or refusal to issue, deny, suspend, or revoke any permit, license,
10 certificate, approval, order, or similar authorization, where the
11 authority is discretionary under the law.
- 12 (12) Failure to make an inspection, or making an inadequate or
13 negligent inspection, of any property, other than the property of
14 a governmental entity, to determine whether the property
15 complied with or violates any law or contains a hazard to health
16 or safety.
- 17 (13) Entry upon any property where the entry is expressly or
18 impliedly authorized by law.
- 19 (14) Misrepresentation if unintentional.
- 20 (15) Theft by another person of money in the employee's official
21 custody, unless the loss was sustained because of the employee's
22 own negligent or wrongful act or omission.
- 23 (16) Injury to the property of a person under the jurisdiction and
24 control of the department of correction if the person has not
25 exhausted the administrative remedies and procedures provided
26 by section 7 of this chapter.
- 27 (17) Injury to the person or property of a person under supervision
28 of a governmental entity and who is:
- 29 (A) on probation; or
- 30 (B) assigned to an alcohol and drug services program under
31 IC 12-23, a minimum security release program under
32 IC 11-10-8, a pretrial conditional release program under
33 IC 35-33-8, or a community corrections program under
34 IC 11-12.
- 35 (18) Design of a highway (as defined in IC 9-13-2-73), toll road
36 project (as defined in IC 8-15-2-4(4)), tollway (as defined in
37 IC 8-15-3-7), or project (as defined in IC 8-15.7-2-14) if the
38 claimed loss occurs at least twenty (20) years after the public
39 highway, toll road project, tollway, or project was designed or
40 substantially redesigned; except that this subdivision shall not be
41 construed to relieve a responsible governmental entity from the
42 continuing duty to provide and maintain public highways in a



- 1 reasonably safe condition.
- 2 (19) Development, adoption, implementation, operation,
3 maintenance, or use of an enhanced emergency communication
4 system.
- 5 (20) Injury to a student or a student's property by an employee of
6 a school corporation if the employee is acting reasonably under a:
7 (A) discipline policy adopted under IC 20-33-8-12; or
8 (B) restraint and seclusion plan adopted under IC 20-20-40-14.
- 9 (21) An act or omission performed in good faith under the
10 apparent authority of a court order described in IC 35-46-1-15.1
11 or IC 35-46-1-15.3 that is invalid, including an arrest or
12 imprisonment related to the enforcement of the court order, if the
13 governmental entity or employee would not have been liable had
14 the court order been valid.
- 15 (22) An act taken to investigate or remediate hazardous
16 substances, petroleum, or other pollutants associated with a
17 brownfield (as defined in IC 13-11-2-19.3) unless:
18 (A) the loss is a result of reckless conduct; or
19 (B) the governmental entity was responsible for the initial
20 placement of the hazardous substances, petroleum, or other
21 pollutants on the brownfield.
- 22 (23) The operation of an off-road vehicle (as defined in
23 IC 14-8-2-185) by a nongovernmental employee, or by a
24 governmental employee not acting within the scope of the
25 employment of the employee, on a public highway in a county
26 road system outside the corporate limits of a city or town, unless
27 the loss is the result of an act or omission amounting to:
28 (A) gross negligence;
29 (B) willful or wanton misconduct; or
30 (C) intentional misconduct.
- 31 This subdivision shall not be construed to relieve a governmental
32 entity from liability for the continuing duty to maintain highways
33 in a reasonably safe condition for the operation of motor vehicles
34 licensed by the bureau of motor vehicles for operation on public
35 highways.
- 36 (24) Any act or omission rendered in connection with a request,
37 investigation, assessment, or opinion provided under
38 IC 36-9-28.7.
- 39 **(b) This subsection applies to a cause of action that accrues after**
40 **February 29, 2020, and before April 1, 2022. A governmental entity**
41 **or an employee acting within the scope of the employee's**
42 **employment is not liable for an act or omission arising from**



1 **COVID-19 (as defined by IC 34-31-12-2) unless the act or omission**
 2 **constitutes gross negligence, willful or wanton misconduct, or**
 3 **intentional misrepresentation. IC 34-31-12-8 applies to a cause of**
 4 **action alleging loss, damage, injury, or death based on exposure to**
 5 **or contraction of COVID-19 (as defined by IC 34-31-12-4). If a**
 6 **claim described in this subsection is:**

7 (1) **a claim for injury or death resulting from medical**
 8 **malpractice; and**

9 (2) **not barred by the immunity provided under this**
 10 **subsection;**

11 **the claimant is required to comply with all of the provisions of**
 12 **IC 34-18 (medical malpractice act).**

13 SECTION 9. IC 34-30-13.5-1, AS ADDED BY P.L.138-2006,
 14 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 MARCH 1, 2020 (RETROACTIVE)]: Sec. 1. (a) **This subsection**
 16 **applies before March 1, 2020, and after March 31, 2022.** Except as
 17 provided in section 2 of this chapter, a person who meets the following
 18 criteria may not be held civilly liable for an act or omission relating to
 19 the provision of health care services in response to an event that is
 20 declared a disaster emergency under IC 10-14-3-12, regardless of
 21 whether the provision of health care services occurred before or after
 22 the declaration of a disaster emergency:

23 (1) Has a license to provide health care services under Indiana
 24 law or the law of another state.

25 (2) Provides a health care service:

26 (A) within the scope of the person's license to another person;
 27 and

28 (B) at a location where health care services are provided
 29 during an event that is declared as a disaster.

30 (b) **This subsection applies after February 29, 2020, and before**
 31 **April 1, 2022. Except as provided in section 2 of this chapter, the**
 32 **following apply to the provision or delay of health care services or**
 33 **other services in response to or arising from a disaster emergency**
 34 **under IC 10-14-3-12:**

35 (1) **A person providing health care services or emergency**
 36 **medical services, whether in person or through telemedicine**
 37 **services permitted by IC 25-1-9.5, at a facility or other**
 38 **location where health care services or emergency medical**
 39 **services are provided may not be held civilly liable for an act**
 40 **or omission relating to:**

41 (A) **the provision or delay of health care services in**
 42 **response to or arising from a state disaster emergency**



- 1 **declared under IC 10-14-3-12; and**
 2 **(B) any of the activities listed in items (i) through (iii), if**
 3 **the activity was materially affected by an event that is**
 4 **declared a disaster emergency under IC 10-14-3-12:**
 5 **(i) clinical or nonclinical administrative activities,**
 6 **organization, management, planning, preparation, or**
 7 **staffing concerning a health care service;**
 8 **(ii) the use or nonuse of supplies or equipment in the**
 9 **course of providing health care services; or**
 10 **(iii) the performance, supervision, or monitoring of a**
 11 **health care service;**
 12 **regardless of whether the provision or delay of health care**
 13 **services occurs before or after the declaration of a state**
 14 **disaster emergency.**
 15 **(2) An employee or agent providing services, including**
 16 **administrative services and emergency medical services, at a**
 17 **facility or other location where health care services or**
 18 **emergency medical services are provided may not be held**
 19 **civily liable for an act or omission related to the provision of**
 20 **those services in response to or arising from a state disaster**
 21 **emergency declared under IC 10-14-3-12, regardless of**
 22 **whether the provision of services occurs before or after the**
 23 **declaration of a state disaster emergency.**
 24 **(3) An employer, including an agency that provides or**
 25 **arranges health care services, of a person described in**
 26 **subdivision (1) or (2) may not be held civily liable for an act**
 27 **or omission relating to:**
 28 **(A) the provision or delay of health care services or other**
 29 **services provided in response to or arising from a state**
 30 **disaster emergency declared under IC 10-14-3-12; and**
 31 **(B) any of the activities listed in items (i) through (iii) if the**
 32 **activity was materially affected by an event that is**
 33 **declared a disaster emergency under IC 10-14-3-12:**
 34 **(i) clinical or nonclinical administrative activities,**
 35 **organization, management, planning, preparation, or**
 36 **staffing concerning a health care service;**
 37 **(ii) the use or nonuse of supplies or equipment in the**
 38 **course of providing health care services; or**
 39 **(iii) the performance, supervision, or monitoring of a**
 40 **health care service;**
 41 **regardless of whether the provision or delay of health care**
 42 **services or other services occurs before or after the**



- 1 **declaration of a state disaster emergency.**
- 2 **(c) This subsection applies after February 29, 2020, and before**
- 3 **April 1, 2022. A person or an employer of a person described in**
- 4 **this chapter may not be held civilly liable, and the action does not**
- 5 **constitute gross negligence, willful or wanton misconduct, or**
- 6 **intentional misrepresentation under this chapter, for the following:**
- 7 **(1) Providing services without required personal protective**
- 8 **equipment caused by:**
- 9 **(A) a shortage; or**
- 10 **(B) an inability to timely acquire personal protective**
- 11 **equipment;**
- 12 **in response to or arising from a disaster emergency under**
- 13 **IC 10-14-3-12.**
- 14 **(2) Providing services without access to adequate or reliable**
- 15 **testing for COVID-19, even if the COVID-19 testing that was**
- 16 **used received emergency use authorization from the federal**
- 17 **Food and Drug Administration.**
- 18 **(3) Using equipment, medicine, or supplies in a manner that**
- 19 **is not approved by the federal Food and Drug Administration**
- 20 **in good faith in response to COVID-19.**
- 21 **(4) Providing services under a reallocation of staff or**
- 22 **resources.**
- 23 **(5) Providing services under a staffing shortage.**
- 24 **(6) Providing services that are outside of an individual's**
- 25 **expertise or specialty in good faith in response to COVID-19.**

26 SECTION 10. IC 34-30-13.5-2, AS ADDED BY P.L.138-2006,
 27 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 MARCH 1, 2020 (RETROACTIVE)]: Sec. 2. A person described in
 29 this chapter is not immune from civil liability if the damages resulting
 30 from the act or omission relating to the provision **or delay** of the health
 31 care services **or other services** resulted from the person's gross
 32 negligence, ~~or willful misconduct.~~ **or wanton misconduct, or**
 33 **intentional misrepresentation.**

34 SECTION 11. IC 34-30-13.5-3, AS ADDED BY P.L.138-2006,
 35 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 MARCH 1, 2020 (RETROACTIVE)]: Sec. 3. **(a) This subsection**
 37 **applies before March 1, 2020, and after March 31, 2022.** A facility
 38 or other location that is providing health care services in response to an
 39 event that is declared as a disaster emergency may not be held civilly
 40 liable for an act or omission relating to the provision of health care
 41 services in response to that event by a health professional licensed to
 42 provide the health care service under Indiana law or the law of another



1 state if the person is acting during an event that is declared as a disaster
2 emergency, regardless of whether the provision of health care services
3 occurred before or after the declaration of a disaster emergency.

4 **(b) This subsection applies after February 29, 2020, and before**
5 **April 1, 2022. A facility or other location, including a location used**
6 **to provide emergency medical services or used to provide**
7 **telemedicine services permitted under IC 25-1-9.5, that provides**
8 **health care services or emergency medical services in response to**
9 **or arising from a state disaster emergency declared under**
10 **IC 10-14-3-12 may not be held civilly liable for:**

- 11 (1) the policies or procedures of the facility or other location;
12 (2) an act or omission relating to the provision or delay of
13 health care services or other services by a person described in
14 this chapter; or
15 (3) an act or omission relating to provision or delay of health
16 care services or other services by an employer or agency
17 described in this chapter;

18 regardless of whether the policy or procedure was developed or the
19 act or omission occurred before or after the declaration of a state
20 disaster emergency.

21 **(c) This subsection applies after February 29, 2020, and before**
22 **April 1, 2022. A facility or other location that provides health care**
23 **services or emergency medical services in response to or arising**
24 **from a state disaster emergency declared under IC 10-14-3-12 may**
25 **not be held civilly liable for an act or omission relating to the**
26 **transport of patients, including the movement of patients for**
27 **cohorting within a facility or the transport of patients to another**
28 **facility:**

- 29 (1) if the transport occurs in response to or arises from the
30 state disaster emergency; and
31 (2) regardless of whether the transport occurs before or after
32 the declaration of the state disaster emergency.

33 **(d) This subsection applies after February 29, 2020, and before**
34 **April 1, 2022. An individual or an entity that:**

- 35 (1) has a financial interest in;
36 (2) serves on the board of directors of; or
37 (3) provides management or administrative services for;

38 a facility or other location that provides health care services or
39 emergency medical services in response to or arising from a state
40 disaster emergency declared under IC 10-14-3-12 may not be held
41 civilly liable for a policy or procedure described in subsection (b)
42 or for an act or omission described in subsection (b) or (c).



1 SECTION 12. IC 34-30-13.5-4 IS ADDED TO THE INDIANA
 2 CODE AS A NEW SECTION TO READ AS FOLLOWS
 3 [EFFECTIVE MARCH 1, 2020 (RETROACTIVE)]: **Sec. 4. This**
 4 **section applies after February 29, 2020, and before April 1, 2022.**
 5 **If a claim described in this chapter is:**

6 (1) a claim for injury or death resulting from medical
 7 malpractice; and

8 (2) not barred by the immunity provided under this chapter;
 9 the claimant is required to comply with all of the provisions of
 10 IC 34-18 (medical malpractice act).

11 SECTION 13. IC 34-31-12 IS ADDED TO THE INDIANA CODE
 12 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 13 MARCH 1, 2020 (RETROACTIVE)]:

14 **Chapter 12. Limited Liability Arising from COVID-19**

15 **Sec. 1. (a) This chapter applies to an act or omission occurring**
 16 **after February 29, 2020, and before April 1, 2022.**

17 **(b) This chapter does not:**

18 (1) create a cause of action;

19 (2) eliminate a required element of any existing cause of
 20 action;

21 (3) affect a worker's compensation claim under IC 22-3; or

22 (4) amend, repeal, alter, or affect any immunity, defense,
 23 limitation of liability, or procedure available or required
 24 under law or contract.

25 **Sec. 2. (a) As used in this chapter, "arising from COVID-19"**
 26 **means an injury or harm caused by or resulting from:**

27 (1) the actual, alleged, or possible exposure to or contraction
 28 of COVID-19; or

29 (2) services, treatment, or other actions performed, not
 30 performed, or delayed in response to COVID-19.

31 **(b) The term includes:**

32 (1) the implementation of policies and procedures to prevent
 33 or minimize the spread of COVID-19;

34 (2) testing;

35 (3) monitoring, collecting, reporting, tracking, tracing,
 36 disclosing, or investigating COVID-19 exposure or other
 37 COVID-19 related information;

38 (4) using, designing, manufacturing, providing, donating, or
 39 servicing precautionary, diagnostic, collection, or other health
 40 equipment or supplies, including personal protective
 41 equipment;

42 (5) closing or partially closing to prevent or minimize the



1 spread of COVID-19;

2 (6) delaying or modifying the schedule or performance of any
3 medical procedure; and

4 (7) providing services or products in response to government
5 appeal or repurposing operations to address an urgent need
6 for personal protective equipment, sanitation products, or
7 other products necessary to protect the public.

8 Sec. 3. As used in this chapter, "claimant" refers to a person
9 who initiates a cause of action alleging loss, damage, injury, or
10 death arising from COVID-19.

11 Sec. 4. As used in this chapter, "COVID-19" refers to any of the
12 following:

13 (1) The novel coronavirus known as SARS-CoV-2.

14 (2) Any mutation of SARS-CoV-2.

15 (3) The coronavirus disease 2019.

16 Sec. 5. As used in this chapter, "health care provider" means:

17 (1) a person listed in IC 16-39-7-1;

18 (2) a person licensed, certified, registered, or regulated by an
19 entity described in IC 25-0.5-11;

20 (3) an employee, agent, or contractor of a person described in
21 either subdivision (1) or (2);

22 (4) a resident, intern, student, fellow, or volunteer of a
23 teaching hospital; or

24 (5) an individual licensed as a paramedic, advanced
25 emergency medical technician under IC 16-31, or an
26 individual certified as an emergency medical responder under
27 IC 16-31.

28 Sec. 6. As used in this chapter, "person" means an individual, a
29 corporation, a health care provider, an approved postsecondary
30 educational institution (as defined by IC 21-7-13-6), a political
31 subdivision (as defined by IC 36-1-2-13), a limited liability
32 company, a partnership, an entity organized under IC 23, or any
33 other legal entity.

34 Sec. 7. A person is not liable to a claimant for loss, damage,
35 injury, or death arising from COVID-19 unless the claimant proves
36 by clear and convincing evidence that the person caused the loss,
37 damage, injury, or death by an act or omission constituting gross
38 negligence, willful or wanton misconduct, or intentional
39 misrepresentation.

40 Sec. 8. If a claim described in this chapter is:

41 (1) a claim for injury or death resulting from medical
42 malpractice; and



1 **(2) not barred by the immunity provided under this chapter;**
2 **the claimant is required to comply with all of the provisions of**
3 **IC 34-18 (medical malpractice act).**
4 **SECTION 14. An emergency is declared for this act.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1002, 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:

Page 3, delete lines 33 through 36, begin a new paragraph and insert:

"Sec. 2. The following definitions apply throughout this chapter:

(1) "Arising (or arises) from a (or the) state disaster emergency" means an injury or harm:

(A) caused by or resulting from an act or omission performed in response to a state disaster emergency declared under IC 10-14-3-12; or

(B) arising from COVID-19 (as defined by IC 34-31-12-2).

(2) "COVID-19" has the meaning set forth in IC 34-12-4-2.

(3) "Health care provider" has the meaning set forth in IC 4-6-14-2.

(4) "Health care services" has the meaning set forth in IC 34-6-2-55(b)."

Page 3, line 37, delete "Sec. 4." and insert "**Sec. 3.**".

Page 3, line 37, delete "section 5" and insert "**section 4**".

Page 3, line 39, delete "IC 25-1-11" and insert "**IC 25-1-9**".

Page 3, line 40, delete "during" and insert "**arising from**".

Page 4, line 1, after "withholding," insert "**delay,**".

Page 4, line 2, delete "during" and insert "**arising from**".

Page 4, line 5, delete "during" and insert "**arising from**".

Page 4, line 12, delete "during" and insert "**arising from**".

Page 4, line 14, delete "Sec. 5." and insert "**Sec. 4.**".

Page 4, line 14, delete "Section 4" and insert "**Except as provided by subsection (b), section 3**".

Page 4, line 16, delete "IC 25-1-11" and insert "**IC 25-1-9**".

Page 4, line 17, delete "negligence or willful misconduct." and insert "**negligence, willful or wanton misconduct, or intentional misrepresentation.**".

Page 4, delete lines 18 through 24, begin a new paragraph and insert:

"(b) The following do not constitute gross negligence, willful or wanton misconduct, or intentional misrepresentation:

(1) Providing services without required personal protective equipment caused by:

(A) a shortage; or



(B) an inability to timely acquire personal protective equipment;

during an event that is declared a disaster emergency under IC 10-14-3-12.

(2) Providing services without access to adequate or reliable testing for COVID-19, even if the COVID-19 testing that was used received emergency use authorization from the federal Food and Drug Administration.

(3) Using equipment, medicine, or supplies in a manner that is not approved by the federal Food and Drug Administration in good faith in response to COVID-19.

(4) Providing services under a reallocation of staff or resources.

(5) Providing services under a staffing shortage.

(6) Providing services that are outside of an individual's expertise or specialty in good faith in response to COVID-19."

Page 4, line 25, delete "Sec. 6." and insert "**Sec. 5.**".

Page 4, line 26, delete "during" and insert "**arising from**".

Page 4, line 38, delete "Sec. 7." and insert "**Sec. 6.**".

Page 4, line 38, delete "section 6" and insert "**section 5**".

Page 4, line 40, delete "IC 25-1-11" and insert "**IC 25-1-9**".

Page 4, after line 42, begin a new paragraph and insert:

"SECTION 3. IC 34-6-2-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2020 (RETROACTIVE)]: **Sec. 10.5. "Arising (or arises) from a (or the) state disaster emergency", for purposes of IC 34-7-8 and IC 34-30-13.5, means an injury or harm:**

(1) caused by or resulting from an act or omission performed in response to a state disaster emergency declared under IC 10-14-3-12; or

(2) arising from COVID-19 (as defined by IC 34-31-12-2).

SECTION 4. IC 34-6-2-46.4 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2020 (RETROACTIVE)]: **Sec. 46.4. "Financial interest", for purposes of IC 34-30-13.5-3, means an ownership or investment interest through equity, debt, or other means. The term includes an ownership or investment interest in an entity that holds, either directly or through a subsidiary, an ownership or investment interest."**

Page 5, delete lines 19 through 35, begin a new line block indented and insert:

"(1) any services provided by an individual licensed under:



- (A) IC 25-2.5;
- (B) IC 25-10;
- (C) IC 25-13;
- (D) IC 25-14;
- (E) IC 25-19;**
- ~~(F)~~ (F) IC 25-22.5;
- ~~(G)~~ (G) IC 25-23;
- ~~(H)~~ (H) IC 25-23.5;
- ~~(I)~~ (I) IC 25-23.6;
- ~~(J)~~ (J) IC 25-24;
- ~~(K)~~ (K) IC 25-26;
- ~~(L)~~ (L) IC 25-27;
- ~~(M)~~ (M) IC 25-27.5;
- ~~(N)~~ (N) IC 25-29;
- ~~(O)~~ (O) IC 25-33;
- ~~(P)~~ (P) IC 25-34.5; or
- ~~(Q)~~ (Q) IC 25-35.6;".

Page 6, line 4, strike "IC 16-31-2;" and insert "**IC 16-31;**".

Page 6, line 6, strike "IC 16-31-2; or" and insert "**IC 16-31;**".

Page 6, between lines 6 and 7, begin a new line block indented and insert:

"(6) any services provided by certified health care professionals who are registered with the Indiana state department of health, including:

- (A) certified nurse aides certified under IC 16-28-1-11;**
- (B) qualified medication aides certified under IC 16-28-1-11; and**
- (C) home health aides registered under rules adopted under IC 16-27-1-7;**

(7) any services provided by unlicensed health care professionals who have successfully completed any applicable training required by the Indiana state department of health;

(8) any services provided by health care volunteers who are permitted to practice during an event that is declared a disaster emergency under IC 10-14-3-12;

(9) any services provided by individuals with provisional or temporary licenses who are permitted to practice during an event that is declared a disaster emergency under IC 10-14-3-12; or"

Page 6, line 7, strike "(6)" and insert "**(10)**".

Page 6, line 9, delete "injury." and insert "injury, **including environmental cleaning services.**".



Page 6, line 13, delete "During" and insert "**Arising From**".

Page 6, line 18, delete "during" and insert "**arising from**".

Page 7, line 21, delete "negligence or willful misconduct." and insert "**negligence, willful or wanton misconduct, or intentional misrepresentation.**".

Page 7, between lines 23 and 24, begin a new paragraph and insert:

"Sec. 5. If a claim described in this section is:

(1) a claim for injury or death resulting from medical malpractice; and

(2) not barred by the immunity provided under this chapter; the claimant is required to comply with all of the provisions of IC 34-18 (medical malpractice act)."

Page 10, line 13, delete "January 1, 2022." and insert "**April 1, 2022.**".

Page 10, line 17, delete "negligence or willful misconduct." and insert "**negligence, willful or wanton misconduct, or intentional misrepresentation.**".

Page 10, line 20, after "IC 34-31-12-4)." insert "**If a claim described in this subsection is:**

(1) a claim for injury or death resulting from medical malpractice; and

(2) not barred by the immunity provided under this subsection;

the claimant is required to comply with all of the provisions of IC 34-18 (medical malpractice act)."

Page 10, delete lines 21 through 42.

Delete page 11.

Page 12, delete lines 1 through 16.

Page 12, delete lines 34 through 42, begin a new paragraph and insert:

"(b) This subsection applies after February 29, 2020, and before April 1, 2022. Except as provided in section 2 of this chapter, the following apply to the provision or delay of health care services or other services in response to or arising from a disaster emergency under IC 10-14-3-12:

(1) A person providing health care services or emergency medical services, whether in person or through telemedicine services permitted by IC 25-1-9.5, at a facility or other location where health care services or emergency medical services are provided may not be held civilly liable for an act or omission relating to:

(A) the provision or delay of health care services in



response to or arising from a state disaster emergency declared under IC 10-14-3-12; and

(B) any of the activities listed in items (i) through (iii), if the activity was materially affected by an event that is declared a disaster emergency under IC 10-14-3-12:

(i) clinical or nonclinical administrative activities, organization, management, planning, preparation, or staffing concerning a health care service;

(ii) the use or nonuse of supplies or equipment in the course of providing health care services; or

(iii) the performance, supervision, or monitoring of a health care service;

regardless of whether the provision or delay of health care services occurs before or after the declaration of a state disaster emergency.

(2) An employee or agent providing services, including administrative services and emergency medical services, at a facility or other location where health care services or emergency medical services are provided may not be held civilly liable for an act or omission related to the provision of those services in response to or arising from a state disaster emergency declared under IC 10-14-3-12, regardless of whether the provision of services occurs before or after the declaration of a state disaster emergency.

(3) An employer, including an agency that provides or arranges health care services, of a person described in subdivision (1) or (2) may not be held civilly liable for an act or omission relating to:

(A) the provision or delay of health care services or other services provided in response to or arising from a state disaster emergency declared under IC 10-14-3-12; and

(B) any of the activities listed in items (i) through (iii) if the activity was materially affected by an event that is declared a disaster emergency under IC 10-14-3-12:

(i) clinical or nonclinical administrative activities, organization, management, planning, preparation, or staffing concerning a health care service;

(ii) the use or nonuse of supplies or equipment in the course of providing health care services; or

(iii) the performance, supervision, or monitoring of a health care service;

regardless of whether the provision or delay of health care



services or other services occurs before or after the declaration of a state disaster emergency.

(c) This subsection applies after February 29, 2020, and before April 1, 2022. A person or an employer of a person described in this chapter may not be held civilly liable, and the action does not constitute gross negligence, willful or wanton misconduct, or intentional misrepresentation under this chapter, for the following:

(1) Providing services without required personal protective equipment caused by:

(A) a shortage; or

(B) an inability to timely acquire personal protective equipment;

in response to or arising from a disaster emergency under IC 10-14-3-12.

(2) Providing services without access to adequate or reliable testing for COVID-19, even if the COVID-19 testing that was used received emergency use authorization from the federal Food and Drug Administration.

(3) Using equipment, medicine, or supplies in a manner that is not approved by the federal Food and Drug Administration in good faith in response to COVID-19.

(4) Providing services under a reallocation of staff or resources.

(5) Providing services under a staffing shortage.

(6) Providing services that are outside of an individual's expertise or specialty in good faith in response to COVID-19.

SECTION 10. IC 34-30-13.5-2, AS ADDED BY P.L.138-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2020 (RETROACTIVE)]: Sec. 2. A person described in this chapter is not immune from civil liability if the damages resulting from the act or omission relating to the provision **or delay** of the health care services **or other services** resulted from the person's gross negligence, ~~or willful misconduct.~~ **or wanton misconduct, or intentional misrepresentation.**"

Page 13, delete lines 1 through 9.

Page 13, line 23, after "a location" insert "**used to provide emergency medical services or**".

Page 13, line 25, after "services" insert "**or emergency medical services**".

Page 13, line 25, delete "during" and insert "**arising from**".

Page 13, line 29, after "provision" insert "**or delay**".

Page 13, line 30, after "services" insert "**or other services**".



Page 13, line 30, delete "section 1(b)(1) of".

Page 13, line 32, delete "of" and insert "**or delay of health care services or other**".

Page 13, line 33, delete "employee or agent" and insert "**employer or agency**".

Page 13, line 33, delete "section 1(b)(2) of".

Page 13, line 39, after "services" insert "**or emergency medical services**".

Page 13, line 39, delete "during" and insert "**arising from**".

Page 14, line 2, delete "during" and insert "**arises from**".

Page 14, line 11, after "services" insert "**or emergency medical services**".

Page 14, line 12, delete "during" and insert "**arising from**".

Page 14, between lines 15 and 16, begin a new paragraph and insert:

"SECTION 12. IC 34-30-13.5-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2020 (RETROACTIVE)]: **Sec. 4. This section applies after February 29, 2020, and before April 1, 2022.**

If a claim described in this chapter is:

(1) a claim for injury or death resulting from medical malpractice; and

(2) not barred by the immunity provided under this chapter; the claimant is required to comply with all of the provisions of IC 34-18 (medical malpractice act)."

Page 14, line 21, delete "January 1, 2022." and insert "**April 1, 2022.**".

Page 14, line 34, delete "performed" and insert "**performed, not performed, or delayed**".

Page 15, line 26, delete "(2); or" and insert "**(2);**".

Page 15, line 28, delete "hospital." and insert "**hospital; or**

(5) an individual licensed as a paramedic, advanced emergency medical technician under IC 16-31, or an individual certified as an emergency medical responder under IC 16-31."

Page 15, delete line 39 and insert "**negligence, willful or wanton misconduct, or intentional misrepresentation.**".

Page 15, delete lines 40 through 42, begin a new paragraph and insert:

"Sec. 8. If a claim described in this chapter is:

(1) a claim for injury or death resulting from medical malpractice; and

(2) not barred by the immunity provided under this chapter;



the claimant is required to comply with all of the provisions of IC 34-18 (medical malpractice act)."

Page 16, delete lines 1 through 18.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1002 as introduced.)

TORR

Committee Vote: yeas 9, nays 3.

