



February 26, 2014

ENGROSSED HOUSE BILL No. 1097

DIGEST OF HB 1097 (Updated February 24, 2014 11:57 am - DI 106)

Citations Affected: IC 25-1; IC 34-30.

Synopsis: Immunity for providing volunteer health care. Requires the professional licensing agency to maintain a registry of certain persons licensed to provide health care who intend to provide voluntary health care services. Grants certain persons licensed to provide health care services immunity from liability for an act or omission relating to the provision of health care if: (1) the person is licensed to provide health care; (2) the care was provided voluntarily and without compensation; (3) the person providing the care provides notice of immunity; and (4) the person providing health care is on the registry maintained by the professional licensing agency. Specifies that immunity for providing: (1) dental services is available if the dental services are provided in a dental office or elsewhere; and (2) nondental health care services is only available if the nondental health care services are provided in a setting other than a medical clinic, health care facility, or permanent facility whose primary purpose is the provision of health care services. Provides that the immunity for certain health care providers is not available if the health care provider provided substandard care or committed gross negligence or willful or wanton misconduct. Grants immunity from health care related claims to certain owners, operators, lessors, and lessees who make their real property available for the provision of voluntary health care services.

Effective: July 1, 2014.

Frizzell, Zent, Koch, Hale

(SENATE SPONSORS — MILLER PATRICIA, MILLER PETE)

January 9, 2014, read first time and referred to Committee on Judiciary.

January 28, 2014, amended, reported — Do Pass.

January 30, 2014, read second time, amended, ordered engrossed.

January 31, 2014, engrossed.

February 3, 2014, read third time, passed. Yeas 86, nays 4.

SENATE ACTION

February 10, 2014, read first time and referred to Committee on Civil Law.

February 25, 2014, amended, reported favorably — Do Pass.

EH 1097—LS 6986/DI 106



February 26, 2014

Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1097

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 25-1-5-4.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2014]: **Sec. 4.5. (a) Before the issuance or renewal of a license for
4 a physician, physician's assistant, dentist, nurse, or nurse
5 practitioner, the agency shall inquire whether the person is going
6 to provide voluntary health care services.**

7 **(b) If a person informs the agency that the person will provide
8 voluntary health care services under subsection (a), the agency
9 shall list the person on a registry established and maintained by the
10 agency.**

11 **(c) The board may adopt rules under IC 4-22-2 to implement
12 this section.**

13 SECTION 2. IC 34-30-13-3 IS ADDED TO THE INDIANA CODE
14 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
15 1, 2014]: **Sec. 3. (a) As used in this section, "health care services"
16 includes dental services.**

EH 1097—LS 6986/DI 106



1 **(b) Except as provided in subsection (c), a person who meets the**
 2 **following criteria is immune from civil liability resulting from an**
 3 **act or omission relating to the provision of health care services:**

4 **(1) The person is a licensed physician, physician's assistant,**
 5 **dentist, nurse, or nurse practitioner under Indiana law.**

6 **(2) The person voluntarily and without compensation**
 7 **provides health care services to another person within the**
 8 **scope of the person's license.**

9 **(3) The person provides the person:**

10 **(A) receiving health care services; or**

11 **(B) responsible for the care of the person receiving health**
 12 **care services;**

13 **prior to the rendering of health care services, notice that the**
 14 **person who provides voluntary health care services is immune**
 15 **from civil liability for the provision of voluntary health care**
 16 **services under this section.**

17 **(4) The person is listed as a health care provider who intends**
 18 **to provide voluntary health care services on the registry**
 19 **described in IC 25-1-5-4.5(b).**

20 **(c) The immunity provided in subsection (a) does not apply if**
 21 **the act or omission relating to the provision of health care services**
 22 **was the result of substandard care, gross negligence, or willful or**
 23 **wanton misconduct.**

24 **(d) The immunity provided by this section applies:**

25 **(1) to dental services provided in a dental office; and**

26 **(2) to health care services that are provided in a setting other**
 27 **than:**

28 **(A) a physician's office;**

29 **(B) a health care facility; or**

30 **(C) any other permanent facility whose primary purpose**
 31 **is the provision of health care services.**

32 **Except as provided by subdivision (1), the immunity provided by**
 33 **this section does not apply to health care services that are provided**
 34 **in a physician's office, a health care facility, or any other**
 35 **permanent facility whose primary purpose is the provision of**
 36 **health care services.**

37 **(e) An owner, operator, lessor, or lessee of real property, other**
 38 **than real property described in subsection (d)(2), who permits a**
 39 **person described in subsection (b) to provide health care services**
 40 **on the property is immune from civil liability resulting from an act**
 41 **or omission relating to the provision of health care services.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1097, 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 1, between lines 11 and 12, begin a new line block indented and insert:

"(3) The person provides the person:

(A) receiving health care services; or

(B) responsible for the care of the person receiving health care services;

prior to the rendering of health care services, notice that the person who provides voluntary health care services is not liable for any act or omission, unless the act or omission is the result of gross negligence or willful or wanton misconduct, related to the provision of health care services described in this section."

and when so amended that said bill do pass.

(Reference is to HB 1097 as introduced.)

WASHBURNE, Chair

Committee Vote: yeas 5, nays 4.



HOUSE MOTION

Mr. Speaker: I move that House Bill 1097 be amended to read as follows:

Page 2, between lines 5 and 6, begin a new line block indented and insert:

"(4) The person applies the established standard of care in the health care provider's profession when providing health care services under this section."

Page 2, line 9, delete "even if the" and insert "to".

Page 2, line 10, after "services" insert "that".

Page 2, line 11, delete "medial clinic or" and insert "**physician's office,**".

Page 2, line 11, delete "." and insert ", **or any permanent facility whose primary purpose is the provision of health care services.**".

(Reference is to HB 1097 as printed January 28, 2014.)

KOCH

 COMMITTEE REPORT

Madam President: The Senate Committee on Civil Law, to which was referred House Bill No. 1097, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 25-1-5-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 4.5. (a) Before the issuance or renewal of a license for a physician, physician's assistant, dentist, nurse, or nurse practitioner, the agency shall inquire whether the person is going to provide voluntary health care services.**

(b) If a person informs the agency that the person will provide voluntary health care services under subsection (a), the agency shall list the person on a registry established and maintained by the agency.

(c) The board may adopt rules under IC 4-22-2 to implement this section."

Page 1, line 3, after "(a)" insert "**As used in this section, "health care services" includes dental services.**

EH 1097—LS 6986/DI 106



(b)".

Page 1, line 3, delete "(b)," and insert "(c)".

Page 1, line 7, delete "licensed to provide health care services" and insert "**a licensed physician, physician's assistant, dentist, nurse, or nurse practitioner**".

Page 2, line 1, delete "not" and insert "**immune from civil liability for the provision of voluntary health care services under this section.**".

Page 2, delete lines 2 through 5.

Page 2, line 6, delete "The person applies the established standard of care in the" and insert "**The person is listed as a health care provider who intends to provide voluntary health care services on the registry described in IC 25-1-5-4.5(b).**".

Page 2, delete lines 7 through 8.

Page 2, line 9, delete "(b)" and insert "(c)".

Page 2, line 11, after "of" insert "**substandard care,**".

Page 2, line 11, delete "negligence" and insert "**negligence,**".

Page 2, delete lines 12 through 15, begin a new paragraph, and insert:

"(d) The immunity provided by this section applies:

(1) to dental services provided in a dental office; and

(2) to health care services that are provided in a setting other than:

(A) a physician's office;

(B) a health care facility; or

(C) any other permanent facility whose primary purpose is the provision of health care services.

Except as provided by subdivision (1), the immunity provided by this section does not apply to health care services that are provided in a physician's office, a health care facility, or any other permanent facility whose primary purpose is the provision of health care services."

Page 2, after line 15, begin a new paragraph and insert:

"(e) An owner, operator, lessor, or lessee of real property, other than real property described in subsection (d)(2), who permits a person described in subsection (b) to provide health care services



on the property is immune from civil liability resulting from an act or omission relating to the provision of health care services."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1097 as reprinted January 31, 2014.)

ZAKAS, Chairperson

Committee Vote: Yeas 7, Nays 0.

