

SENATE MOTION

MADAM PRESIDENT:

I move that Senate Bill 207 be amended to read as follows:

- 1 Page 2, line 7, delete "entity that has been certified as a patient" and
2 insert "**entity:**
- 3 **(A) that certifies that it meets the criteria under 42 U.S.C.**
4 **299b-24 as a patient safety organization and whose**
5 **certification has been accepted by the federal Department**
6 **of Health and Human Services; or**
7 **(B) that has been determined by the state department to**
8 **satisfy the criteria in 42 U.S.C. 299b-24 for certification as**
9 **a patient safety organization to a degree sufficient to**
10 **enable the entity to perform the activities of an agency**
11 **under this chapter; or".**
- 12 Page 2, delete line 8.
- 13 Page 2, line 11, delete "a certified" and insert "**an**".
- 14 Page 2, line 11, delete "." and insert "**as described in subdivision**
15 **(1).**".
- 16 Page 2, line 40, delete "an incident" and insert "**a**".
- 17 Page 3, line 5, delete "for information in an incident report that" and
18 insert "**as provided in subsections (d) and (e), the following are**
19 **confidential and privileged from use as evidence in an**
20 **administrative or a judicial proceeding:**
- 21 **(1) Oral or written information or reports given to the agency.**
22 **(2) Proceedings, records, deliberations, and findings of the**
23 **agency.**
- 24 **(b) The agency may not disclose to a person outside of the**
25 **agency the contents of:**
- 26 **(1) communications to the agency;**
27 **(2) agency records; or**
28 **(3) agency determinations;**
- 29 **that are generated, undertaken, or performed as a result of a**
30 **report described in section 4 of this chapter or under the**
31 **agreement described in section 3(a) of this chapter.**

1 (c) A person who has participated in an agency proceeding or
2 deliberation may not disclose to a person outside of the agency:

3 (1) matters or opinions related to the agency's proceedings or
4 deliberations; or

5 (2) the contents of any confidential or privileged information
6 that the person obtains and that consists of information that
7 was not provided to the agency by the person.

8 However, the person may disclose information that the person
9 provided to the agency.

10 (d) The agency may disclose information concerning patient
11 safety or quality of health care matters addressed in the agreement
12 described in section 3(a) of this chapter if the information does not
13 disclose any of the following:

14 (1) The identity of the health care facility, health care
15 provider, or patient.

16 (2) The identity of a person that provided information to the
17 agency.

18 (3) Information that could reasonably be expected to result in
19 the identification of a health care facility, health care
20 provider, patient, or person that has provided information to
21 the agency.

22 (e) Information or material that is confidential and privileged
23 under this section may be used as evidence in a criminal
24 proceeding only if the court first makes an in camera
25 determination that the information:

26 (1) is relevant to the criminal proceeding;

27 (2) is material to the proceeding; and

28 (3) is not reasonably available from another source."

29 Page 3, delete lines 6 through 30.

30 Page 4, line 15, delete "A" and insert "**Upon approval by the**
31 **health care facility's governing body, the**".

32 Page 4, line 17, delete "administering IC 16-40-5".

33 Page 4, line 17, delete "IC 16-40-5:" and insert "**patient safety or**
34 **quality of health care matters in the agreement:**".

35 Page 4, line 26, delete "civil" and insert "**judicial**".

36 Page 4, line 26, after "proceeding." insert "**However, the agency**
37 **may issue a report that is based upon information submitted or**
38 **disclosed to the agency by a peer review committee if the report or**
39 **any other information released does not disclose the identity of the**
40 **health care facility, health care provider, or patient.**".

41 Page 4, delete lines 27 through 33.

42 Page 4, line 34, delete "(g)" and insert "**(f)**".

43 Page 4, line 34, delete "board" and insert "**body**".

44 Page 4, line 38, after "without" insert ":

45 (1)".

46 Page 4, line 38, delete "." and insert "; or

47 (2) **waiving the confidentiality or privilege attached to the**

1 **communications, proceedings, records, or deliberations of the**
2 **peer review committee."**

(Reference is to SB 207 as printed February 23, 2007.)

Senator DILLON