

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 363 be amended to read as follows:

- 1 Page 9, between lines 17 and 18, begin a new paragraph and insert:
2 "SECTION 9. IC 25-1-2-10 IS ADDED TO THE INDIANA CODE
3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
4 1, 2011]: **Sec. 10. (a) As used in this section, "agency" refers to the**
5 **Indiana professional licensing agency established by IC 25-1-5-3.**
6 **(b) As used in this section, "fund" refers to the accountant**
7 **investigative fund established by IC 25-2.1-8-4.**
8 **(c) The agency shall create an amnesty program for persons,**
9 **including firms, required to be licensed under IC 25-2.1 who did**
10 **not renew their licenses for one (1) or more renewal periods during**
11 **the period beginning January 1, 2003, and ending June 30, 2011.**
12 **The amnesty program begins July 1, 2011, and ends June 30, 2012.**
13 **(d) To be eligible for the program, the person must:**
14 **(1) have held a valid license under IC 25-2.1 on January 1,**
15 **2003;**
16 **(2) have met the requirements for each missed license period**
17 **during each missed license period, except for the**
18 **requirements of having submitted a renewal form and paid**
19 **the renewal fee; and**
20 **(3) provide a sworn statement that the person has not**
21 **committed any act during the missed renewal periods that**
22 **would constitute a violation of IC 25-1-11.**
23 **(e) When renewing a license under this section, the licensee shall**

1 pay:

- 2 (1) all missed license renewal fees;
 3 (2) the current license renewal fee; and
 4 (3) an additional fee of one hundred dollars (\$100) to be
 5 deposited in the fund.

6 (f) The agency shall amend the renewal records of a person who
 7 has successfully completed the requirements under this section to
 8 reflect that the person has been properly renewed during the
 9 missed renewal periods.

10 (g) This section expires July 1, 2012."

11 Page 10, between lines 15 and 16, begin a new paragraph and insert:

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

- 18 (1) Permanently revoke a practitioner's license.
 19 (2) Suspend a practitioner's license.
 20 (3) Censure a practitioner.
 21 (4) Issue a letter of reprimand.
 22 (5) Place a practitioner on probation status and require the
 23 practitioner to:

24 (A) report regularly to the board upon the matters that are the
 25 basis of probation;

26 (B) limit practice to those areas prescribed by the board;

27 (C) continue or renew professional education approved by the
 28 board until a satisfactory degree of skill has been attained in
 29 those areas that are the basis of the probation; ~~or~~

30 (D) perform or refrain from performing any acts, including
 31 community restitution or service without compensation, that
 32 the board considers appropriate to the public interest or to the
 33 rehabilitation or treatment of the practitioner; ~~or~~

34 (E) satisfactorily complete a quality review (before July 1,
 35 2012) or peer review (after June 30, 2012) specified by the
 36 board as a condition for termination of probationary
 37 status if the practitioner is a licensee (as defined in
 38 IC 25-2.1-1-8).

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

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

46 (b) When imposing a civil penalty under subsection (a)(6), the board

1 shall consider a practitioner's ability to pay the amount assessed. If the
 2 practitioner fails to pay the civil penalty within the time specified by
 3 the board, the board may suspend the practitioner's license without
 4 additional proceedings. However, a suspension may not be imposed if
 5 the sole basis for the suspension is the practitioner's inability to pay a
 6 civil penalty.

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

11 SECTION 12. IC 25-2.1-1-8.7 IS ADDED TO THE INDIANA
 12 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 13 [EFFECTIVE JULY 1, 2011]: **Sec. 8.7. (a) "Peer review" means a**
 14 **study, an appraisal, or a review of at least one (1) aspect of the**
 15 **professional work of:**

16 (1) an individual who; or

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

18 **attests or issues compilation reports, by at least one (1) individual**
 19 **who holds a certificate from any state and possesses qualifications**
 20 **that meet the applicable substantial equivalency standards and**
 21 **who is independent of the individual or firm being reviewed. The**
 22 **term includes any part of a quality review conducted before July**
 23 **1, 2012, that becomes part of a peer review conducted or peer**
 24 **review report issued after June 30, 2012.**

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

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

34 (1) an individual who; or

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

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

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

41 SECTION 14. IC 25-2.1-2-15, AS AMENDED BY P.L.190-2007,
 42 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 43 JULY 1, 2011]: Sec. 15. The board may adopt rules under IC 4-22-2
 44 governing the administration and enforcement of this article and the
 45 conduct of licensees, including the following:

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

- 1 (2) The procedure of investigations and hearings.
 2 (3) The educational and experience qualifications required for the
 3 issuance of certificates under this article and the continuing
 4 professional education required for renewal of certificates under
 5 IC 25-2.1-4.
 6 (4) Rules of professional conduct directed to controlling the
 7 quality and probity of the practice of accountancy by licensees,
 8 including independence, integrity, and objectivity, competence
 9 and technical standards, and responsibilities to the public and
 10 clients.
 11 (5) The actions and circumstances that constitute professing to be
 12 a licensee in connection with the practice of accountancy.
 13 (6) The manner and circumstances of use of the title "certified
 14 public accountant" and the abbreviation "CPA".
 15 (7) Quality reviews **(before July 1, 2012) or peer reviews (after**
 16 **June 30, 2012)** that may be required to be performed under this
 17 article.
 18 (8) Methods of applying for and conducting the examinations,
 19 including methods for grading examinations and determining a
 20 passing grade required of an applicant for a certificate. However,
 21 the board shall to the extent possible provide that the
 22 examination, grading of the examination, and the passing grades
 23 are uniform with those applicable in other states.
 24 (9) Substantial equivalency.
 25 (10) Administration of the accountant investigative fund
 26 established by IC 25-2.1-8-4.
- 27 SECTION 15. IC 25-2.1-5-8, AS AMENDED BY P.L.190-2007,
 28 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2011]: Sec. 8. (a) The board shall adopt rules that require as
 30 a condition to renew a permit under this chapter, that an applicant
 31 undergo, not more than once every three (3) years, a quality review
 32 **(before July 1, 2012) or peer review (after June 30, 2012)** conducted
 33 in a manner the board specifies.
- 34 (b) The rules adopted under subsection (a) must:
- 35 (1) be adopted reasonably in advance of the time when a quality
 36 review **(before July 1, 2012) or peer review (after June 30,**
 37 **2012)** first becomes effective;
 38 (2) include reasonable provision for compliance by an applicant
 39 showing that the applicant has in the preceding three (3) years
 40 undergone a quality review **(before July 1, 2012) or peer review**
 41 **(after June 30, 2012)** that is a satisfactory equivalent to the
 42 quality review **(before July 1, 2012) or peer review (after June**
 43 **30, 2012)** required under this section;
 44 (3) require, with respect to quality reviews **(before July 1, 2012)**
 45 **or peer reviews (after June 30, 2012)** under subdivision (2), that
 46 the quality review **(before July 1, 2012) or peer review (after**

1 **June 30, 2012)** be subject to review by an oversight body
 2 established or sanctioned by the board that shall:

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

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

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

11 (A) the proceedings, records, and work papers of a review
 12 committee are privileged and are not subject to discovery,
 13 subpoena, or other means of legal process or introduction into
 14 evidence in a civil action, arbitration, administrative
 15 proceeding, or Indiana board of accountancy proceeding; and

16 (B) a member of the review committee or individual who was
 17 involved in the quality review **(before July 1, 2012) or peer**
 18 **review (after June 30, 2012)** process is not permitted or
 19 required to testify in a civil action, arbitration, administrative
 20 proceeding, or Indiana board of accountancy proceeding to
 21 matters:

22 (i) produced, presented, disclosed or discussed during, or in
 23 connection with, the quality review **(before July 1, 2012) or**
 24 **peer review (after June 30, 2012)** process; or

25 (ii) that involve findings, recommendations, evaluations,
 26 opinions, or other actions of the committee or a committee
 27 member.

28 SECTION 16. IC 25-2.1-5-9 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 9. (a) Notwithstanding
 30 section ~~8(4)(B)~~ **8(b)(4)(B)** of this chapter, information, documents, or
 31 records that are publicly available are not immune from discovery or
 32 use in any civil action, arbitration, administrative proceeding, or
 33 ~~Indiana board of accountancy~~ proceeding merely because they were
 34 presented or considered in connection with the quality review **(before**
 35 **July 1, 2012) or peer review (after June 30, 2012)** process.

36 (b) Any:

37 (1) materials prepared in connection with a particular engagement
 38 merely because they happen to subsequently be presented or
 39 considered as part of the quality review **(before July 1, 2012) or**
 40 **peer review (after June 30, 2012)** process; or

41 (2) dispute between review committees and individuals or firms
 42 subject to a quality review **(before July 1, 2012) or peer review**
 43 **(after June 30, 2012)** arising from the performance of the quality
 44 review **(before July 1, 2012) or peer review (after June 30,**
 45 **2012);**

46 are not privileged.

1 SECTION 17. IC 25-2.1-8-1, AS AMENDED BY P.L.190-2007,
 2 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2011]: Sec. 1. (a) The board may impose sanctions for any of
 4 the following reasons:

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

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

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

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

18 (5) Failure to complete continuing education requirements
 19 satisfactorily.

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

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

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

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

29 The board shall investigate a complaint made by a board of
 30 accountancy or the equivalent of a board of accountancy in another
 31 state.

32 SECTION 18. IC 25-2.1-8-2 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. In place of or in
 34 addition to any remedy specifically provided in IC 25-1-11, the board
 35 may require the following of a licensee:

36 (1) **To undergo** a quality review ~~conducted~~ **(before July 1,**
 37 **2012) or a peer review (after June 30, 2012).**

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

40 SECTION 19. IC 25-2.1-9-3, AS AMENDED BY P.L.84-2010,
 41 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 2011]: Sec. 3. (a) If the board has reason to believe that the
 43 subject of an investigation has committed a violation of this article or
 44 IC 25-1-11:

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

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

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

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

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

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

13 SECTION 20. IC 25-2.1-9-4 IS ADDED TO THE INDIANA CODE
14 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
15 1, 2011]: **Sec. 4. (a) This section applies to a licensee that receives**
16 **a peer review rating of fail on a peer review report issued after**
17 **June 30, 2012, for a peer review conducted under IC 25-2.1-5-8.**

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

19 (1) **"Administering entity" refers to the oversight body**
20 **established or sanctioned by the board to conduct a peer**
21 **review program.**

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

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

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

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

32 (d) **Not more than thirty (30) days after the issuance of a report,**
33 **the administering entity shall make the report available to the**
34 **oversight committee. The oversight committee may forward the**
35 **report to the director. Receipt of the report shall be treated under**
36 **IC 25-1-7-4, IC 25-1-7-5, and IC 25-1-7-6 as a complaint submitted**
37 **by the board. If, after conducting an investigation, the director**
38 **believes that a licensee should be subjected to disciplinary**
39 **sanctions by the board, the director shall report the director's**
40 **determination to the attorney general. Upon receiving the**
41 **director's report, the attorney general may prosecute the matter,**
42 **on behalf of the state of Indiana, before the board. IC 25-1-7-7(b)**
43 **does not apply to a determination related to a complaint filed**
44 **under this section.**

45 (e) **The administering entity and the peer review committee**
46 **issuing a report shall cooperate with an investigation under**
47 **IC 25-1-7 of a complaint filed under this section and with any**

1 resulting proceeding, including compliance with any request for
 2 access to or production of the proceedings, records, and work
 3 papers of the review committee by the director, the office of the
 4 attorney general, or a party to any proceeding initiated as a result
 5 of the filing of a complaint under this section. However, all
 6 complaints and information pertaining to a complaint are
 7 confidential until the attorney general files notice with the board
 8 of the attorney general's intent to prosecute a licensee under
 9 IC 25-1-7-7. Any meeting of the board, the oversight committee, or
 10 a designee of the board or oversight committee that is required in
 11 an investigation conducted before the attorney general files notice
 12 of intent to prosecute shall be conducted as an executive session
 13 under IC 5-14-1.5-6.1.

14 SECTION 21. IC 25-2.1-9-5 IS ADDED TO THE INDIANA CODE
 15 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 16 1, 2011]: **Sec. 5. An:**

17 (1) entity administering a quality review program before July
 18 1, 2012, or a peer review program after June 30, 2012;

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

22 (3) employee or member of a quality review committee before
 23 July 1, 2012, or a peer review committee after June 30, 2012;
 24 and

25 (4) entity in which or for which a member of a quality review
 26 committee (before July 1, 2012) or peer review committee
 27 (after June 30, 2012) is a sole proprietor, a partner, a
 28 shareholder, a member, or an employee;

29 is immune from civil liability that would otherwise arise from
 30 communications, supervision, findings, recommendations,
 31 evaluations, reports, opinions, or other actions taken or omissions
 32 occurring in good faith in the course and scope of the duties of a
 33 quality review administering entity (before July 1, 2012) or peer
 34 review administering entity (after June 30, 2012) or a quality
 35 review committee (before July 1, 2012) or peer review committee
 36 (after June 30, 2012) that arise under this article, including the
 37 rules adopted by the board. The immunity granted under this
 38 section includes immunity for an act or omission related to any
 39 part of a quality review conducted under this article before July 1,
 40 2012, that becomes part of a peer review conducted or peer review
 41 report issued after June 30, 2012.

42 SECTION 22. IC 25-2.1-11-2 IS AMENDED TO READ AS
 43 FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 2.** Before reinstating a
 44 suspended certificate or permit under IC 25-1-11-14, the board may
 45 require the applicant to show successful completion of specified
 46 continuing professional education, and the board may make the
 47 reinstatement of a certificate or permit conditional on satisfactory

1 completion of a quality review **(before July 1, 2012) or peer review**
 2 **(after June 30, 2012)** specified by the board.

3 SECTION 23. IC 25-2.1-14-2 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. The information
 5 derived from or as the result of professional services is confidential and
 6 privileged. However, this section does not prohibit a certified public
 7 accountant, a public accountant, or an accounting practitioner from
 8 disclosing any data required to be disclosed by the standards of the
 9 profession:

- 10 (1) in rendering an opinion on the presentation of financial
 11 statements;
- 12 (2) in ethical investigations conducted by private professional
 13 organizations;
- 14 (3) in the course of quality reviews **(before July 1, 2012) or peer**
 15 **reviews (after June 30, 2012) or an investigation or**
 16 **proceeding related to a quality review (before July 1, 2012) or**
 17 **peer review (after June 30, 2012); or**
- 18 (4) in making disclosure where the financial statements or the
 19 professional services of an accountant are contested.

20 SECTION 24. IC 25-2.1-14-3 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. **(a) The following**
 22 **definitions apply throughout this section:**

- 23 (1) **"Client provided records" means accounting or other**
 24 **records belonging to the client that were provided to the**
 25 **licensee by or on behalf of the client.**
- 26 (2) **"Client records prepared by the licensee" means**
 27 **accounting or other records (for example, tax returns, general**
 28 **ledgers, subsidiary journals, and supporting schedules such as**
 29 **detailed employee payroll records and depreciation schedules)**
 30 **that the licensee was engaged to prepare for the client.**
- 31 (3) **"Supporting records" means information not reflected in**
 32 **the client's books and records that are otherwise not available**
 33 **to the client with the result that the client's financial**
 34 **information is incomplete.**
- 35 (4) **"Working papers" include, but are not limited to, audit**
 36 **programs, analytical review schedules, and statistical**
 37 **sampling results, analyses, and schedules prepared by the**
 38 **client at the request of the licensee.**

39 **(b)** All statements, records, schedules, working papers, and
 40 memoranda made by a licensee or a partner, a member, a shareholder,
 41 an officer, a director, or an employee of a licensee, including
 42 information prepared by the client for the work and services rendered
 43 to a client in the practice of accountancy, except the reports submitted
 44 by the licensee to the client and records that are part of the client's
 45 records, must remain the property of the licensee except in an express
 46 agreement between the licensee and the client to the contrary.

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

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

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

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

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

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

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

28 SECTION 26. IC 25-27.5-2-13 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 13. "Supervising
 30 physician" means a physician ~~registered with~~ **licensed by** the board
 31 who supervises and is responsible for a physician assistant.

32 SECTION 27. IC 25-27.5-2-14, AS AMENDED BY P.L.3-2008,
 33 SECTION 190, IS AMENDED TO READ AS FOLLOWS
 34 [EFFECTIVE JULY 1, 2011]: Sec. 14. (a) "Supervision" means
 35 **overseeing the activities of, and accepting responsibility for, the**
 36 **medical services rendered by a physician assistant and** that the
 37 conditions set forth in subdivision (1) or (2) are met at all times that
 38 services are rendered or tasks are performed by the physician assistant:

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

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

43 ~~(A)~~ **(2) The practicing supervising physician or the supervising**
 44 **physician designee is immediately available for consultation,**
 45 **including through the use of telecommunications or other**
 46 **electronic means.**

1 ~~(B)~~ Either:

- 2 (i) the supervising physician or the physician designee is in
 3 the county of, or a contiguous county to, the onsite location
 4 in which services are rendered or tasks are performed by the
 5 physician assistant; or
 6 (ii) the physician or physician assistant is practicing at a
 7 hospital or health facility; or traveling to or from the hospital
 8 or health facility.

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

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

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

25 (c) The committee shall do the following:

- 26 (1) Consider the qualifications of individuals who apply for an
 27 initial license under this article.
 28 (2) Approve or reject license applications.
 29 (3) Approve or reject renewal applications.
 30 ~~(4) Approve or reject applications for a change or addition of a~~
 31 ~~supervising physician.~~
 32 ~~(5) (4) Propose rules to the board concerning the competent~~
 33 ~~practice of physician assistants and the administration of this~~
 34 ~~article.~~
 35 ~~(6) (5) Recommend to the board the amounts of fees required~~
 36 ~~under this article.~~

37 SECTION 29. IC 25-27.5-5-2, AS AMENDED BY P.L.177-2009,
 38 SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2011]: Sec. 2. (a) A physician assistant must engage in a
 40 dependent practice with physician supervision. A physician assistant
 41 may perform, under the supervision of the supervising physician, the
 42 duties and responsibilities that are delegated by the supervising
 43 physician and that are within the supervising physician's scope of
 44 practice, including prescribing and dispensing drugs and medical
 45 devices. A patient may elect to be seen, examined, and treated by the
 46 supervising physician.

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

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

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

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

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

16 (f) A physician assistant's supervisory agreement with a supervising
17 physician must:

- 18 (1) be in writing;
19 (2) include all the tasks delegated to the physician assistant by the
20 supervising physician;
21 (3) set forth the supervisory plans for the physician assistant,
22 including the emergency procedures that the physician assistant
23 must follow; and
24 (4) specify the name of the drug or drug classification being
25 delegated to the physician assistant and the protocol the physician
26 assistant shall follow in prescribing a drug.

27 (g) The physician shall submit the supervisory agreement to the
28 board. ~~for approval.~~ The physician assistant may ~~not~~ prescribe a drug
29 under the supervisory agreement ~~until unless~~ the board ~~approves~~
30 **denies** the supervisory agreement. Any amendment to the supervisory
31 agreement must be resubmitted to the board, ~~for approval~~, and the
32 physician assistant may ~~not~~ operate under any new prescriptive
33 authority under the amended supervisory agreement ~~until unless~~ the
34 agreement has been ~~approved denied~~ by the board.

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

38 SECTION 30. IC 25-27.5-5-4, AS AMENDED BY P.L.90-2007,
39 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
40 JULY 1, 2011]: Sec. 4. (a) Except as provided in this section, a
41 physician assistant may prescribe, dispense, and administer drugs and
42 medical devices or services to the extent delegated by the supervising
43 physician.

44 (b) A physician assistant may not prescribe, dispense, or administer
45 ophthalmic devices, including glasses, contact lenses, and low vision
46 devices.

1 (c) ~~As permitted by the board,~~ A physician assistant may use or
 2 dispense only drugs prescribed or approved by the supervising
 3 physician. A physician assistant may not prescribe or dispense ~~the~~
 4 ~~following drugs:~~

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

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

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

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

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

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

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

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

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

28 (B) not involved in the conduct of the surgical or diagnostic
 29 procedure; and

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

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

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

39 (i) The physician assistant is certified in advanced
 40 cardiopulmonary life support.

41 (ii) The physician assistant has knowledge of and training in
 42 the medications used in moderate sedation, including
 43 recommended doses, contraindications, and adverse
 44 reactions.

45 (g) Before a physician assistant may prescribe drugs, the physician
 46 assistant must have ~~been continuously employed~~ **practiced** as a

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physician assistant:
(1) for ~~not less than~~ **at least** one (1) year after graduating from a physician assistant program approved by the committee; ~~To be considered to have been continuously employed as a physician assistant for a year for purposes of this subsection;~~ a person must have worked as a physician assistant ~~more than~~ **and** (2) **at least** one thousand eight hundred (1,800) hours. ~~during the year.~~

SECTION 31. IC 25-27.5-5-6, AS ADDED BY P.L.90-2007, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. (a) Except as provided in section 4(d) of this chapter, a supervising physician may delegate authority to a physician assistant to prescribe:

- (1) legend drugs except as provided in section 4(c) of this chapter; and
- (2) medical devices (except ophthalmic devices, including glasses, contact lenses, and low vision devices).

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

- (1) the name of the drug or drug classification being delegated by the supervising physician; and
- (2) the protocols the physician assistant shall use when prescribing the drug.

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

- (1) Enter the following on each prescription form that the physician assistant uses to prescribe a legend drug or medical device:
 - (A) The signature of the physician assistant.
 - (B) The initials indicating the credentials awarded to the physician assistant by the NCCPA.
 - (C) The physician assistant's state license number.
- (2) Comply with all applicable state and federal laws concerning prescriptions for legend drugs and medical devices.

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

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

- (1) Obtain an Indiana controlled substance registration and a federal Drug Enforcement Administration registration.
- (2) Enter the following on each prescription form that the

1 physician assistant uses to prescribe a controlled substance:

2 (A) The signature of the physician assistant.

3 (B) The initials indicating the credentials awarded to the
4 physician assistant by the NCCPA.

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

6 (D) The physician assistant's federal Drug Enforcement
7 Administration (DEA) number.

8 (3) Comply with all applicable state and federal laws concerning
9 prescriptions for controlled substances.

10 (f) A supervising physician may only delegate to a physician
11 assistant the authority to prescribe controlled substances:

12 (1) that may be prescribed within the scope of practice of the
13 licensed supervising physician or the physician designee;

14 (2) in an amount that does not exceed

15 ~~(A) a seven (7) thirty (30) day supply; for treatment of a~~
16 ~~single acute episode of a condition or injury; or~~

17 ~~(B) if a controlled substance cannot be dispensed in an amount~~
18 ~~that is small enough to meet the requirement of clause (A); the~~
19 ~~smallest dispensable amount; and~~

20 (3) in accordance with the limitations set forth in section 4(c) of
21 this chapter.

22 SECTION 32. IC 25-27.5-6-1 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) Supervision by
24 the supervising physician or the physician designee must be continuous
25 but does not require the physical presence of the supervising physician
26 at the time and the place that the services are rendered.

27 (b) A supervising physician or physician designee shall review all
28 patient encounters not later than ~~twenty-four (24) seventy-two (72)~~
29 hours after the physician assistant has seen the patient.

30 **(c) The supervising physician or physician designee shall review**
31 **within seventy-two (72) hours of the patient encounter not less than**
32 **the following percentages of the patient charts:**

33 **(1) For the first year of employment of the physician assistant,**
34 **one hundred percent (100%).**

35 **(2) For the second year of employment of the physician**
36 **assistant, fifty percent (50%).**

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

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

43 SECTION 33. IC 25-27.5-6-4, AS AMENDED BY P.L.177-2009,
44 SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
45 JULY 1, 2011]: Sec. 4. (a) A physician supervising a physician
46 assistant must do the following:

- 1 (1) Be licensed under IC 25-22.5.
- 2 (2) Register with the board the physician's intent to supervise a
3 physician assistant.
- 4 (3) Submit a statement to the board that the physician will
5 exercise supervision over the physician assistant in accordance
6 with rules adopted by the board and retain professional and legal
7 responsibility for the care rendered by the physician assistant.
- 8 (4) Not have a disciplinary action restriction that limits the
9 physician's ability to supervise a physician assistant.
- 10 **(5) Maintain a written agreement with the physician assistant**
11 **that states the physician will:**
- 12 (A) exercise supervision over the physician assistant in
13 accordance with any rules adopted by the board; and
- 14 (B) retain responsibility for the care rendered by the
15 physician assistant.
- 16 **The agreement must be signed by the physician and physician**
17 **assistant, updated annually, and made available to the board**
18 **upon request.**
- 19 (b) Except as provided in this section, this chapter may not be
20 construed to limit the employment arrangement with a supervising
21 physician under this chapter.
- 22 SECTION 34. IC 34-30-2-158 IS ADDED TO THE INDIANA
23 CODE AS A NEW SECTION TO READ AS FOLLOWS
24 [EFFECTIVE JULY 1, 2011]: **Sec. 158. IC 25-2.1-9-5 (Concerning**
25 **immunity of an entity administering a quality review (before July**
26 **1, 2012) or peer review (after June 30, 2012) program and**
27 **members of a quality review committee (before July 1, 2012) or**
28 **peer review committee (after June 30, 2012)).**
- 29 SECTION 35. IC 34-46-2-17 IS AMENDED TO READ AS
30 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 17. IC 25-2.1-5-8
31 (Concerning proceedings, records, and work papers of a quality review
32 committee that conducts a quality review of an accounting firm **before**
33 **July 1, 2012, or a peer review committee that conducts a peer**
34 **review of an accounting firm after June 30, 2012).**".
- 35 Page 11, after line 8, begin a new paragraph and insert:
- 36 "SECTION 37. IC 35-48-3-9, AS AMENDED BY P.L.204-2005,
37 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
38 JULY 1, 2011]: Sec. 9. (a) Except for dosages medically required for
39 a period of not more than forty-eight (48) hours that are dispensed by
40 or on the direction of a practitioner or medication dispensed directly by
41 a practitioner, other than a pharmacy, to an ultimate user, no controlled
42 substance in schedule II may be dispensed without the written **or**
43 **electronic** prescription of a practitioner.
- 44 (b) In emergency situations, as defined by rule of the board,
45 schedule II drugs may be dispensed upon oral prescription of a
46 practitioner, reduced promptly to writing and filed by the pharmacy.

1 Prescriptions shall be retained in conformity with the requirements of
2 section 7 of this chapter. No prescription for a schedule II substance
3 may be refilled.

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

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

19 Renumber all SECTIONS consecutively.

(Reference is to ESB 363 as printed April 12, 2011.)

Representative Davisson