

SENATE MOTION

MADAM PRESIDENT:

I move that Senate Bill 72 be amended to read as follows:

- 1 Page 5, after line 14, begin a new paragraph and insert:
2 "SECTION 6. IC 25-22.5-1-2, AS AMENDED BY P.L.177-2009,
3 SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2012]: Sec. 2. (a) This article, as it relates to the unlawful or
5 unauthorized practice of medicine or osteopathic medicine, does not
6 apply to any of the following:
7 (1) A student in training in a medical school approved by the
8 board, or while performing duties as an intern or a resident in a
9 hospital under the supervision of the hospital's staff or in a
10 program approved by the medical school.
11 (2) A person who renders service in case of emergency where no
12 fee or other consideration is contemplated, charged, or received.
13 (3) A paramedic (as defined in IC 16-18-2-266), an emergency
14 medical technician-basic advanced (as defined in
15 IC 16-18-2-112.5), an emergency medical technician-intermediate
16 (as defined in IC 16-18-2-112.7), an emergency medical
17 technician (as defined in IC 16-18-2-112), or a person with
18 equivalent certification from another state who renders advanced
19 life support (as defined in IC 16-18-2-7) or basic life support (as
20 defined in IC 16-18-2-33.5):
21 (A) during a disaster emergency declared by the governor
22 under IC 10-14-3-12 in response to an act that the governor in
23 good faith believes to be an act of terrorism (as defined in
24 IC 35-41-1-26.5); and
25 (B) in accordance with the rules adopted by the Indiana
26 emergency medical services commission or the disaster
27 emergency declaration of the governor.
28 (4) Commissioned medical officers or medical service officers of
29 the armed forces of the United States, the United States Public
30 Health Service, and medical officers of the United States

- 1 Department of Veterans Affairs in the discharge of their official
2 duties in Indiana.
- 3 (5) An individual who is not a licensee who resides in another
4 state or country and is authorized to practice medicine or
5 osteopathic medicine there, who is called in for consultation by an
6 individual licensed to practice medicine or osteopathic medicine
7 in Indiana.
- 8 (6) A person administering a domestic or family remedy to a
9 member of the person's family.
- 10 (7) A member of a church practicing the religious tenets of the
11 church if the member does not make a medical diagnosis,
12 prescribe or administer drugs or medicines, perform surgical or
13 physical operations, or assume the title of or profess to be a
14 physician.
- 15 (8) A school corporation and a school employee who acts under
16 IC 34-30-14 (or IC 34-4-16.5-3.5 before its repeal).
- 17 (9) A chiropractor practicing the chiropractor's profession under
18 IC 25-10 or to an employee of a chiropractor acting under the
19 direction and supervision of the chiropractor under IC 25-10-1-13.
- 20 (10) A dental hygienist practicing the dental hygienist's profession
21 under IC 25-13.
- 22 (11) A dentist practicing the dentist's profession under IC 25-14.
- 23 (12) A hearing aid dealer practicing the hearing aid dealer's
24 profession under IC 25-20.
- 25 (13) A nurse practicing the nurse's profession under IC 25-23.
26 However, a certified registered nurse anesthetist (as defined in
27 IC 25-23-1-1.4) may administer anesthesia if the certified
28 registered nurse anesthetist acts under the direction of and in the
29 immediate presence of a physician.
- 30 (14) An optometrist practicing the optometrist's profession under
31 IC 25-24.
- 32 (15) A pharmacist practicing the pharmacist's profession under
33 IC 25-26.
- 34 (16) A physical therapist practicing the physical therapist's
35 profession under IC 25-27.
- 36 (17) A podiatrist practicing the podiatrist's profession under
37 IC 25-29.
- 38 (18) A psychologist practicing the psychologist's profession under
39 IC 25-33.
- 40 (19) A speech-language pathologist or audiologist practicing the
41 pathologist's or audiologist's profession under IC 25-35.6.
- 42 (20) An employee of a physician or group of physicians who
43 performs an act, a duty, or a function that is customarily within
44 the specific area of practice of the employing physician or group
45 of physicians, if the act, duty, or function is performed under the
46 direction and supervision of the employing physician or a

1 physician of the employing group within whose area of practice
 2 the act, duty, or function falls. An employee may not make a
 3 diagnosis or prescribe a treatment and must report the results of
 4 an examination of a patient conducted by the employee to the
 5 employing physician or the physician of the employing group
 6 under whose supervision the employee is working. An employee
 7 may not administer medication without the specific order of the
 8 employing physician or a physician of the employing group.
 9 Unless an employee is licensed or registered to independently
 10 practice in a profession described in subdivisions (9) through
 11 (18), nothing in this subsection grants the employee independent
 12 practitioner status or the authority to perform patient services in
 13 an independent practice in a profession.

14 (21) A hospital licensed under IC 16-21 or IC 12-25.

15 (22) A health care organization whose members, shareholders, or
 16 partners are individuals, partnerships, corporations, facilities, or
 17 institutions licensed or legally authorized by this state to provide
 18 health care or professional services as:

- 19 (A) a physician;
- 20 (B) a psychiatric hospital;
- 21 (C) a hospital;
- 22 (D) a health maintenance organization or limited service
- 23 health maintenance organization;
- 24 (E) a health facility;
- 25 (F) a dentist;
- 26 (G) a registered or licensed practical nurse;
- 27 (H) a midwife;
- 28 (I) an optometrist;
- 29 (J) a podiatrist;
- 30 (K) a chiropractor;
- 31 (L) a physical therapist; or
- 32 (M) a psychologist.

33 (23) A physician assistant practicing the physician assistant
 34 profession under IC 25-27.5.

35 (24) A physician providing medical treatment under
 36 IC 25-22.5-1-2.1.

37 (25) An attendant who provides attendant care services (as
 38 defined in IC 16-18-2-28.5).

39 (26) A personal services attendant providing authorized attendant
 40 care services under IC 12-10-17.1.

41 **(27) A member of the general assembly during the member's**
 42 **term of office.**

43 (b) A person described in subsection (a)(9) through (a)(18) is not
 44 excluded from the application of this article if:

- 45 (1) the person performs an act that an Indiana statute does not
- 46 authorize the person to perform; and

- 1 (2) the act qualifies in whole or in part as the practice of medicine
2 or osteopathic medicine.
- 3 (c) An employment or other contractual relationship between an
4 entity described in subsection (a)(21) through (a)(22) and a licensed
5 physician does not constitute the unlawful practice of medicine under
6 this article if the entity does not direct or control independent medical
7 acts, decisions, or judgment of the licensed physician. However, if the
8 direction or control is done by the entity under IC 34-30-15 (or
9 IC 34-4-12.6 before its repeal), the entity is excluded from the
10 application of this article as it relates to the unlawful practice of
11 medicine or osteopathic medicine.
- 12 (d) This subsection does not apply to a prescription or drug order for
13 a legend drug that is filled or refilled in a pharmacy owned or operated
14 by a hospital licensed under IC 16-21. A physician licensed in Indiana
15 who permits or authorizes a person to fill or refill a prescription or drug
16 order for a legend drug except as authorized in IC 16-42-19-11 through
17 IC 16-42-19-19 is subject to disciplinary action under IC 25-1-9. A
18 person who violates this subsection commits the unlawful practice of
19 medicine under this chapter.
- 20 (e) A person described in subsection (a)(8) shall not be authorized
21 to dispense contraceptives or birth control devices.
- 22 SECTION 7. IC 25-22.5-2-7, AS AMENDED BY P.L.225-2007,
23 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
24 JULY 1, 2012]: Sec. 7. (a) The board shall do the following:
- 25 (1) Adopt rules and forms necessary to implement this article that
26 concern, but are not limited to, the following areas:
- 27 (A) Qualification by education, residence, citizenship,
28 training, and character for admission to an examination for
29 licensure or by endorsement for licensure.
- 30 (B) The examination for licensure.
- 31 (C) The license or permit.
- 32 (D) Fees for examination, permit, licensure, and registration.
- 33 (E) Reinstatement of licenses and permits.
- 34 (F) Payment of costs in disciplinary proceedings conducted by
35 the board.
- 36 (2) Administer oaths in matters relating to the discharge of its
37 official duties.
- 38 (3) Enforce this article and assign to the personnel of the agency
39 duties as may be necessary in the discharge of the board's duty.
- 40 (4) Maintain, through the agency, full and complete records of all
41 applicants for licensure or permit and of all licenses and permits
42 issued.
- 43 (5) Make available, upon request, the complete schedule of
44 minimum requirements for licensure or permit.
- 45 (6) Issue, at the board's discretion, a temporary permit to an
46 applicant for the interim from the date of application until the

1 next regular meeting of the board.

2 (7) Issue an unlimited license, a limited license, or a temporary
3 medical permit, depending upon the qualifications of the
4 applicant, to any applicant who successfully fulfills all of the
5 requirements of this article.

6 **(8) Issue an unlimited license to practice medicine to each
7 member of the general assembly.**

8 ~~(8)~~ **(9)** Adopt rules establishing standards for the competent
9 practice of medicine, osteopathic medicine, or any other form of
10 practice regulated by a limited license or permit issued under this
11 article.

12 ~~(9)~~ **(10)** Adopt rules regarding the appropriate prescribing of
13 Schedule III or Schedule IV controlled substances for the purpose
14 of weight reduction or to control obesity.

15 ~~(10)~~ **(11)** Adopt rules establishing standards for office based
16 procedures that require moderate sedation, deep sedation, or
17 general anesthesia.

18 (b) The board may adopt rules that establish:

19 (1) certification requirements for child death pathologists;

20 (2) an annual training program for child death pathologists under
21 IC 16-35-7-3(b)(2); and

22 (3) a process to certify a qualified child death pathologist.

23 SECTION 8. IC 25-22.5-3-1 IS AMENDED TO READ AS
24 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) **Except as
25 provided in subsection (j)**, the minimum requirements for all
26 applicants for an unlimited license to practice medicine or osteopathic
27 medicine in Indiana must include but are not limited to the
28 requirements prescribed by this section.

29 (b) The applicant must not have a conviction for a crime that has a
30 direct bearing on the applicant's ability to practice competently.

31 (c) The applicant shall possess the degree of doctor of medicine or
32 doctor of osteopathy or its equivalent from a medical school which was
33 approved by the board as of the time the degree was conferred.

34 (d) The applicant shall have successfully passed the examination for
35 licensure or shall have satisfied the requirements for licensure by
36 endorsement as prescribed by the board.

37 (e) The applicant shall be physically and mentally capable of, and
38 professionally competent to, safely engage in the practice of medicine
39 or osteopathic medicine as determined by the board and shall submit:

40 (1) to an examination; or

41 (2) additional evidence to the board;

42 if considered necessary by the board to determine such capability. In
43 making that determination, the board may consider any malpractice
44 settlements or judgments against the applicant.

45 (f) The applicant shall not have had disciplinary action taken against
46 the applicant or the applicant's license by the board or by the licensing

1 agency of any other state or jurisdiction by reasons of the applicant's
2 inability to safely practice medicine or osteopathic medicine and those
3 reasons are still valid in the opinion of the board.

4 (g) The applicant shall have submitted a complete transcript of his
5 educational records, grades, and diploma from his medical school with
6 an English translation thereof.

7 (h) The applicant shall, at the board's discretion, make a personal
8 appearance before it.

9 (i) The applicant shall have completed one (1) year of postgraduate
10 training in a hospital or institution located in the United States, its
11 possessions, or Canada that meets standards set by the board under
12 IC 25-22.5-2-7.

13 **(j) A member of the general assembly during the member's term**
14 **of office shall be granted an unlimited license under this article**
15 **without being required to meet the requirements in this article."**

16 Renumber all SECTIONS consecutively.
(Reference is to SB 72 as printed January 27, 2012.)

Senator SIMPSON