SENATE BILL No. 446

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-18-2-163; IC 16-36; IC 30-5-5-17; IC 35-52.

Synopsis: Prohibition against euthanasia. Prohibits: (1) mercy killing; (2) lethal injection; and (3) passive withholding or withdrawal of a life prolonging procedure; by a health care provider in certain instances. Prohibits a person from delegating certain prohibited acts to a third party for the purpose of circumventing a prohibition against the act. Prohibits the lowering of a patient's standard of care by a health care provider in certain instances. Provides that a person who knowingly or intentionally exerts undue influence on a patient in order to convince the patient to end the patient's life commits a Level 1 felony. Makes conforming amendments and a technical correction.

Effective: July 1, 2020.

Becker

January 15, 2020, read first time and referred to Committee on Health and Provider Services.
SENATE BILL No. 446

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

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

SECTION 1. IC 16-18-2-163, AS AMENDED BY P.L.2-2019, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 163. (a) "Health care provider", for purposes of IC 16-21 and IC 16-41, means any of the following:

(1) An individual, a partnership, a corporation, a professional corporation, a facility, or an institution licensed or legally authorized by this state to provide health care or professional services as a licensed physician, a psychiatric hospital, a hospital, a health facility, an emergency ambulance service (IC 16-31-3), a dentist, a registered or licensed practical nurse, a midwife, an optometrist, a pharmacist, a podiatrist, a chiropractor, a physical therapist, a respiratory care practitioner, an occupational therapist, a psychologist, a paramedic, an emergency medical technician, an advanced emergency medical technician, an athletic trainer, or a person who is an officer, employee, or agent of the individual, partnership, corporation, professional corporation, facility, or institution acting in the course and scope of the person's
employment.

(2) A college, university, or junior college that provides health care to a student, a faculty member, or an employee, and the governing board or a person who is an officer, employee, or agent of the college, university, or junior college acting in the course and scope of the person's employment.

(3) A blood bank, community mental health center, community intellectual disability center, community health center, or migrant health center.

(4) A home health agency (as defined in IC 16-27-1-2).

(5) A health maintenance organization (as defined in IC 27-13-1-19).

(6) A health care organization whose members, shareholders, or partners are health care providers under subdivision (1).

(7) A corporation, partnership, or professional corporation not otherwise qualified under this subsection that:

(A) provides health care as one (1) of the corporation's, partnership's, or professional corporation's functions;

(B) is organized or registered under state law; and

(C) is determined to be eligible for coverage as a health care provider under IC 34-18 for the corporation's, partnership's, or professional corporation's health care function.

Coverage for a health care provider qualified under this subdivision is limited to the health care provider's health care functions and does not extend to other causes of action.

(b) "Health care provider", for purposes of IC 16-35, has the meaning set forth in subsection (a). However, for purposes of IC 16-35, the term also includes a health facility (as defined in section 167 of this chapter).

(c) "Health care provider", for purposes of IC 16-32-5, IC 16-36-1-13, IC 16-36-4-19, IC 16-36-5, and IC 16-36-6, means an individual licensed or authorized by this state to provide health care or professional services as:

(1) a licensed physician;

(2) a registered nurse;

(3) a licensed practical nurse;

(4) an advanced practice registered nurse;

(5) a certified nurse midwife;

(6) a paramedic;

(7) an emergency medical technician;

(8) an advanced emergency medical technician;

(9) an emergency medical responder, as defined by section 109.8
of this chapter;
(10) a licensed dentist;
(11) a home health aide, as defined by section 174 of this chapter;
or
(12) a licensed physician assistant.
The term includes an individual who is an employee or agent of a health care provider acting in the course and scope of the individual's employment.
(d) "Health care provider", for purposes of section 1.5 of this chapter and IC 16-40-4, means any of the following:
(1) An individual, a partnership, a corporation, a professional corporation, a facility, or an institution licensed or authorized by the state to provide health care or professional services as a licensed physician, a psychiatric hospital, a hospital, a health facility, an emergency ambulance service (IC 16-31-3), an ambulatory outpatient surgical center, a dentist, an optometrist, a pharmacist, a podiatrist, a chiropractor, a psychologist, or a person who is an officer, employee, or agent of the individual, partnership, corporation, professional corporation, facility, or institution acting in the course and scope of the person's employment.
(2) A blood bank, laboratory, community mental health center, community intellectual disability center, community health center, or migrant health center.
(3) A home health agency (as defined in IC 16-27-1-2).
(4) A health maintenance organization (as defined in IC 27-13-1-19).
(5) A health care organization whose members, shareholders, or partners are health care providers under subdivision (1).
(6) A corporation, partnership, or professional corporation not otherwise specified in this subsection that:
(A) provides health care as one (1) of the corporation's, partnership's, or professional corporation's functions;
(B) is organized or registered under state law; and
(C) is determined to be eligible for coverage as a health care provider under IC 34-18 for the corporation's, partnership's, or professional corporation's health care function.
(7) A person that is designated to maintain the records of a person described in subdivisions (1) through (6).
(e) "Health care provider", for purposes of IC 16-45-4, has the meaning set forth in 47 CFR 54.601(a).
FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 13. (a) This chapter does not authorize:

(1) euthanasia;
(2) mercy killing;
(3) lethal injection; or
(4) any affirmative or deliberate act or omission to end life, including the withholding or withdrawing of life prolonging procedures by a health care provider, unless the withholding or withdrawal of a life prolonging procedure has been consented to by the patient or the patient's parent or guardian in compliance with this chapter.

(b) A patient may not delegate a prohibited act under this section to a third party for the purpose of circumventing the prohibition against the act.

(c) Nothing in this chapter shall be construed to abrogate or lower:
(1) a health care provider's standard of care; or
(2) any applicable requirement concerning informed consent for health care under this chapter.

(d) A person who knowingly or intentionally exerts undue influence on a patient in order to convince or encourage the patient to end the patient's life commits a Level 1 felony.

SECTION 3. IC 16-36-4-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 19. (a) This chapter does not authorize:

(1) euthanasia;
(2) mercy killing;
(3) lethal injection; or
(4) any affirmative or deliberate act or omission to end life, other than to permit the natural process of dying, including the withholding or withdrawing of life prolonging procedures under this chapter by a health care provider, unless the withholding or withdrawal of a life prolonging procedure is:
(A) requested by a competent adult who has authorized the withholding or withdrawal of a life prolonging procedure by executing a living will declaration in compliance with this chapter; or
(B) mandated by:
(i) a court order; or
(ii) the decision of a court appointed guardian.

(b) A patient may not delegate a prohibited act under this section to a third party for the purpose of circumventing the
prohibition against the act.

(c) Nothing in this chapter shall be construed to abrogate or lower:

(1) a health care provider's standard of care; or

(2) any applicable requirement concerning the creation, execution, cancellation, or destruction of a living will declaration described in this chapter.

(d) A person who knowingly or intentionally exerts undue influence on a patient in order to convince or encourage the patient to end the patient's life commits a Level 1 felony.

SECTION 4. IC 16-36-4-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 20. The act of withholding or withdrawing life prolonging procedures, when done under:

(1) a living will declaration made under this chapter; or

(2) a court order or decision of a court appointed guardian; or

(3) a good faith medical decision by the attending physician that the patient has a terminal condition;

is not an intervening force and does not affect the chain of proximate cause between the conduct of any person that placed the patient in a terminal condition and the patient's death.

SECTION 5. IC 16-36-5-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 25. (a) This chapter does not authorize:

(1) euthanasia;

(2) mercy killing;

(3) lethal injection; or

(4) any affirmative or deliberate act or omission to end life, other than to permit the natural process of dying including the withholding or withdrawing of life prolonging procedures by a health care provider, unless the withholding or withdrawal of a life prolonging procedure is authorized by:

(A) a DNR order; or

(B) an out of hospital DNR order;

that has been created and executed in compliance with this chapter.

(b) A patient may not delegate a prohibited act under this section to a third party for the purpose of circumventing the prohibition against the act.

(c) Nothing in this chapter shall be construed to abrogate or lower:

(1) a health care provider's standard of care; or
(2) any applicable requirement concerning the creation or
execution of:

(A) a DNR order; or
(B) an out of hospital DNR declaration or order.

(d) A person who knowingly or intentionally exerts undue
influence on a patient in order to convince or encourage the patient
to end the patient's life commits a Level 1 felony.

SECTION 6. IC 16-36-5-26 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 26. The act of
withholding or withdrawing CPR, when done under:

(1) an out of hospital DNR declaration and order issued under this
chapter; or

(2) a court order or decision of a court appointed guardian; or

(3) a good faith medical decision by the attending physician that
the patient has a terminal illness;

is not an intervening force and does not affect the chain of proximate
cause between the conduct of a person that placed the patient in a
terminal condition and the patient's death.

SECTION 7. IC 16-36-6-17, AS ADDED BY P.L.164-2013,
SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2020]: Sec. 17. (a) This chapter may not be construed to
modify or alter any applicable laws, ethics, standards, or protocols for
the practice of medicine or nursing, including section 19 of this chapter
concerning euthanasia.

(b) A POST form may not be construed to compel or authorize a
health care provider or health care facility to administer medical
treatment that is medically inappropriate or prohibited by state or
federal law.

(c) Nothing in this chapter shall be construed to abrogate or
lower:

(1) a health care provider's standard of care; or

(2) any applicable requirement concerning a POST form.

SECTION 8. IC 16-36-6-19, AS ADDED BY P.L.164-2013,
SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2020]: Sec. 19. (a) This chapter does not authorize:

(1) euthanasia;

(2) mercy killing;

(3) lethal injection; or

(4) any affirmative or deliberate act or omission to end life, other
than to permit the natural process of dying, including the
withholding or withdrawing of life prolonging procedures by
a health care provider, unless the withholding or withdrawal
of a life prolonging procedure is required by the terms of a valid POST form that has been created and executed in compliance with this chapter.

(b) A patient may not delegate a prohibited act under this section to a third party for the purpose of circumventing the prohibition against the act.

(c) A person who knowingly or intentionally exerts undue influence on a patient in order to convince or encourage the patient to end the patient’s life commits a Level 1 felony.

SECTION 9. IC 30-5-5-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 17. (a) If the attorney in fact has the authority to consent to or refuse health care under section 16(2) of this chapter, the attorney in fact may be empowered to ask in the name of the principal for health care to be withdrawn or withheld when it is not beneficial or when any benefit is outweighed by the demands of the treatment and death may result. To empower the attorney in fact to act under this section, the following language must be included in an appointment under IC 16-36-1 in substantially the same form set forth below:

I authorize my health care representative to make decisions in my best interest concerning withdrawal or withholding of health care. If at any time based on my previously expressed preferences and the diagnosis and prognosis my health care representative is satisfied that certain health care is not or would not be beneficial or that such health care is or would be excessively burdensome, then my health care representative may express my will that such health care be withheld or withdrawn and may consent on my behalf that any or all health care be discontinued or not instituted, even if death may result.

My health care representative must try to discuss this decision with me. However, if I am unable to communicate, my health care representative may make such a decision for me, after consultation with my physician or physicians and other relevant health care givers. To the extent appropriate, my health care representative may also discuss this decision with my family and others to the extent they are available.

(b) Nothing in this section may be construed to authorize:

(1) euthanasia;
(2) mercy killing;
(3) lethal injection; or
(4) any other affirmative or deliberate act or omission to end life, including the withholding or withdrawing of life
prolonging procedures, unless the withholding or withdrawal
of life prolonging procedures has been:
(A) authorized under section 16(b)(2) of this chapter; and
(B) memorialized as described in subsection (a).
(c) A patient may not delegate a prohibited act under this
section to a third party for the purpose of circumventing the
prohibition against the act.
(d) Nothing in this section shall be construed to abrogate or
lower:
(1) a health care provider’s standard of care; or
(2) any applicable requirement concerning informed consent
for health care under this chapter.
(e) A person who knowingly or intentionally exerts undue
influence on a patient in order to convince or encourage the patient
to end the patient’s life commits a Level 1 felony.

SECTION 10. IC 35-52-16-23.5 IS ADDED TO THE INDIANA
CODE AS A NEW SECTION TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2020]: Sec. 23.5. IC 16-36-1-13 defines a
crime concerning medical consent.

SECTION 11. IC 35-52-16-25.3 IS ADDED TO THE INDIANA
CODE AS A NEW SECTION TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2020]: Sec. 25.3. IC 16-36-4-19 defines a
crime concerning living wills and life prolonging procedures.

SECTION 12. IC 35-52-16-25.5 IS ADDED TO THE INDIANA
CODE AS A NEW SECTION TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2020]: Sec. 25.5. IC 16-36-5-25 defines a
crime concerning do not resuscitate orders and declarations.

SECTION 13. IC 35-52-16-27.5 IS ADDED TO THE INDIANA
CODE AS A NEW SECTION TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2020]: Sec. 27.5. IC 16-36-6-19 defines a
crime concerning physician order for scope of treatment (POST)
forms.

SECTION 14. IC 35-52-30-4 IS ADDED TO THE INDIANA
CODE AS A NEW SECTION TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2020]: Sec. 4. IC 30-5-5-17 defines a crime
concerning powers of attorney.