

HOUSE BILL No. 1266

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-18; IC 27-2-30; IC 34-30-2.1.

Synopsis: Freedom of conscience in health care. Provides that a health care provider, health care entity, and a health carrier may not be required to provide or refer an individual for a health care service that violates the conscience of the health care provider, health care entity, or health carrier. Establishes an exception for a health carrier. Specifies that a health care provider, health care entity, or a health carrier may not be subject to discrimination and certain other acts and liability for declining to provide the health care service. Establishes a civil action for a violation of these provisions. Provides that a person who prevails in a civil action is entitled to certain relief.

Effective: July 1, 2024.

Miller D

January 9, 2024, read first time and referred to Committee on Public Health.



Second Regular Session of the 123rd General Assembly (2024)

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 2023 Regular Session of the General Assembly.

HOUSE BILL No. 1266

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

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

1 SECTION 1. IC 16-18-2-68.8 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2024]: **Sec. 68.8. "Conscience", for purposes**
4 **of IC 16-18-5, has the meaning set forth in IC 16-18-5-1.**

5 SECTION 2. IC 16-18-2-160.5, AS AMENDED BY P.L.3-2008,
6 SECTION 107, IS AMENDED TO READ AS FOLLOWS
7 [EFFECTIVE JULY 1, 2024]: Sec. 160.5. **(a) "Health care entity",**
8 **for purposes of IC 16-18-5, has the meaning set forth in**
9 **IC 16-18-5-2.**

10 **(b) "Health care entity",** for purposes of IC 16-41-42.1, has the
11 meaning set forth in IC 16-41-42.1-1.

12 SECTION 3. IC 16-18-2-163, AS AMENDED BY
13 P.L.179-2022(ss), SECTION 4, IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 163. (a) Except as
15 provided in subsection (c), "health care provider", for purposes of
16 IC 16-21 and IC 16-41, means any of the following:

17 (1) An individual, a partnership, a corporation, a professional



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

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

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

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

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

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

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

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

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

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

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

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

42 (c) "Health care provider", for purposes of IC 16-32-5, IC 16-36-5,



1 IC 16-36-6, and IC 16-41-10 means an individual licensed or
 2 authorized by this state to provide health care or professional services
 3 as:

- 4 (1) a licensed physician;
 5 (2) a registered nurse;
 6 (3) a licensed practical nurse;
 7 (4) an advanced practice registered nurse;
 8 (5) a certified nurse midwife;
 9 (6) a paramedic;
 10 (7) an emergency medical technician;
 11 (8) an advanced emergency medical technician;
 12 (9) an emergency medical responder, as defined by section 109.8
 13 of this chapter;
 14 (10) a licensed dentist;
 15 (11) a home health aide, as defined by section 174 of this chapter;
 16 or
 17 (12) a licensed physician assistant.

18 The term includes an individual who is an employee or agent of a
 19 health care provider acting in the course and scope of the individual's
 20 employment.

21 (d) "Health care provider", for purposes of IC 16-36-7, has the
 22 meaning set forth in IC 16-36-7-12.

23 (e) "Health care provider", for purposes of IC 16-40-4, means any
 24 of the following:

- 25 (1) An individual, a partnership, a corporation, a professional
 26 corporation, a facility, or an institution licensed or authorized by
 27 the state to provide health care or professional services as a
 28 licensed physician, a psychiatric hospital, a hospital, a health
 29 facility, an emergency ambulance service (IC 16-31-3), an
 30 ambulatory outpatient surgical center, a dentist, an optometrist, a
 31 pharmacist, a podiatrist, a chiropractor, a psychologist, or a
 32 person who is an officer, employee, or agent of the individual,
 33 partnership, corporation, professional corporation, facility, or
 34 institution acting in the course and scope of the person's
 35 employment.
 36 (2) A blood bank, laboratory, community mental health center,
 37 community intellectual disability center, community health
 38 center, or migrant health center.
 39 (3) A home health agency (as defined in IC 16-27-1-2).
 40 (4) A health maintenance organization (as defined in
 41 IC 27-13-1-19).
 42 (5) A health care organization whose members, shareholders, or



1 partners are health care providers under subdivision (1).

2 (6) A corporation, partnership, or professional corporation not
3 otherwise specified in this subsection that:

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

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

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

10 (7) A person that is designated to maintain the records of a person
11 described in subdivisions (1) through (6).

12 (f) "Health care provider", for purposes of IC 16-45-4, has the
13 meaning set forth in 47 CFR 54.601(a).

14 **(g) "Health care provider", for purposes of IC 16-18-5, has the
15 meaning set forth in IC 16-18-5-3.**

16 SECTION 4. IC 16-18-2-163.7 IS ADDED TO THE INDIANA
17 CODE AS A NEW SECTION TO READ AS FOLLOWS
18 [EFFECTIVE JULY 1, 2024]: **Sec. 163.7. "Health care service", for
19 purposes of IC 16-18-5, has the meaning set forth in IC 16-18-5-4.**

20 SECTION 5. IC 16-18-5 IS ADDED TO THE INDIANA CODE AS
21 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
22 1, 2024]:

23 **Chapter 5. Health Care Freedom of Conscience**

24 **Sec. 1. As used in this chapter, "conscience" means religious,
25 moral, or ethical beliefs or principles.**

26 **Sec. 2. As used in this chapter, "health care entity" means an
27 entity, a partnership, a corporation, a professional corporation, a
28 facility, or an institution licensed or legally authorized by this state
29 to provide a health care service.**

30 **Sec. 3. (a) As used in this chapter, "health care provider" means
31 an individual licensed or authorized by this state to provide health
32 care services.**

33 **(b) The term includes an individual who is an employee or agent
34 of a health care provider acting in the course and scope of the
35 individual's employment.**

36 **Sec. 4. As used in this chapter, "health care service" means any
37 health care related service, treatment, or procedure to maintain,
38 diagnose, or treat an individual's physical or mental condition.**

39 **Sec. 5. (a) A health care provider may not be required to:**

40 **(1) perform;**

41 **(2) provide;**

42 **(3) participate in; or**



1 **(4) refer an individual for;**
 2 **a health care service that violates the health care provider's**
 3 **conscience.**

4 **(b) A health care provider may not be subject to any of the**
 5 **following for declining to perform, provide, participate in, or refer**
 6 **an individual for a health care service described in subsection (a):**

7 **(1) Discrimination, including denial of, revocation of, or**
 8 **disqualification for:**

9 **(A) licensure, staff privileges, board certification, or career**
 10 **specialty;**

11 **(B) a grant, contract, or other program; or**

12 **(C) a residency or other training opportunity.**

13 **(2) Adverse employment action, including termination of**
 14 **employment, transfer, demotion, reassignment to a different**
 15 **shift, or loss or reduction of wages or benefits.**

16 **(3) Adverse administrative action.**

17 **(4) Disciplinary or retaliatory action.**

18 **(5) Criminal, administrative, or civil liability.**

19 **Sec. 6. (a) A health care entity may not be required to perform,**
 20 **provide, participate in, or refer an individual for a health care**
 21 **service that violates the health care entity's conscience, as**
 22 **determined by the entity's existing or proposed:**

23 **(1) guidelines;**

24 **(2) mission statement;**

25 **(3) constitution;**

26 **(4) bylaws;**

27 **(5) articles of incorporation;**

28 **(6) regulations; or**

29 **(7) other documents.**

30 **(b) A health care entity that:**

31 **(1) declines to perform, provide, or participate in a health**
 32 **care service described in subsection (a);**

33 **(2) discloses to the patient, in writing, that the health care**
 34 **entity reserves the right to decline to perform, provide, or**
 35 **participate in a health care service that violates the health**
 36 **care entity's conscience; and**

37 **(3) obtains written consent from the patient before the patient**
 38 **is admitted to the health care entity's facility;**

39 **may not be criminally prosecuted or held administratively or**
 40 **civily liable for refusing to perform, provide, participate in, or**
 41 **refer the patient for the health care service.**

42 **(c) A health care entity or a prospective health care entity may**



1 not be subject to any of the following for declining to perform,
 2 provide, participate in, or refer an individual for a health care
 3 service described in subsection (a):

4 (1) Discrimination.

5 (2) Denial of, revocation of, or disqualification for:

6 (A) licensure;

7 (B) staff privileges;

8 (C) a grant; or

9 (D) any form of aid, assistance, benefit, or privilege.

10 (3) Denial of authorization to establish, expand, improve,
 11 acquire, affiliate, or merge with the health care entity.

12 Sec. 7. (a) A person injured by a violation of this chapter may
 13 bring an action against the person who violated this chapter.

14 (b) It is not a defense in an action under this chapter that a
 15 violation was necessary to prevent additional burden or expense on
 16 a health care provider, a health care entity, an individual, or a
 17 patient.

18 (c) A person whose rights have been violated by a violation of
 19 this chapter may assert the violation or impending violation as a
 20 claim or defense in a judicial, administrative, or other proceeding.

21 Sec. 8. A prevailing plaintiff in an action brought under section
 22 7 of this chapter is entitled to the following:

23 (1) Injunctive relief.

24 (2) The greater of:

25 (A) an amount not to exceed three (3) times the actual
 26 damages sustained; or

27 (B) liquidated damages of five thousand dollars (\$5,000).

28 (3) Court costs and reasonable attorney's fees.

29 (4) Any other appropriate relief determined by the court.

30 SECTION 6. IC 27-2-30 IS ADDED TO THE INDIANA CODE AS
 31 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 32 1, 2024]:

33 **Chapter 30. Health Care Freedom of Conscience**

34 Sec. 1. This chapter applies to a policy or a contract issued,
 35 entered into, delivered, amended, or renewed by a health carrier
 36 after June 30, 2024.

37 Sec. 2. As used in this chapter, "conscience" means religious,
 38 moral, or ethical beliefs or principles.

39 Sec. 3. As used in this chapter, "health care service" means any
 40 health care related service, treatment, or procedure to maintain,
 41 diagnose, or treat an individual's physical or mental condition. The
 42 term includes a patient referral for a health care service.



1 **Sec. 4. (a) As used in this chapter, "health carrier" means an**
 2 **entity:**

3 **(1) that is subject to IC 27 and the administrative rules**
 4 **adopted under IC 27; and**

5 **(2) that enters into a contract to:**

6 **(A) provide health care services;**

7 **(B) deliver health care services;**

8 **(C) arrange for health care services; or**

9 **(D) pay for or reimburse any of the costs of health care**
 10 **services.**

11 **(b) The term includes the following:**

12 **(1) An insurer, as defined in IC 27-1-2-3(x), that issues a**
 13 **policy of accident and sickness insurance, as defined in**
 14 **IC 27-8-5-1(a).**

15 **(2) A health maintenance organization, as defined in**
 16 **IC 27-13-1-19.**

17 **(3) An administrator (as defined in IC 27-1-25-1(a)) that is**
 18 **licensed under IC 27-1-25.**

19 **(4) A state employee health plan offered under IC 5-10-8.**

20 **(5) A short term insurance plan (as defined by IC 27-8-5.9-3).**

21 **(6) Any other entity that provides a plan of health insurance,**
 22 **health benefits, or health care services.**

23 **(c) The term does not include:**

24 **(1) an insurer that issues a policy of accident and sickness**
 25 **insurance;**

26 **(2) a limited service health maintenance organization (as**
 27 **defined in IC 27-13-34-4); or**

28 **(3) an administrator;**

29 **that only provides coverage for, or processes claims for, dental or**
 30 **vision care services.**

31 **Sec. 5. (a) Except as required by federal law, but**
 32 **notwithstanding any other provision of this title, a health carrier**
 33 **may not be required to provide, deliver, arrange for, pay for,**
 34 **reimburse any of the costs of, or refer an individual for a health**
 35 **care service that violates the health carrier's conscience, as**
 36 **determined by the health carrier's existing or proposed:**

37 **(1) guidelines;**

38 **(2) mission statement;**

39 **(3) constitution;**

40 **(4) bylaws;**

41 **(5) articles of incorporation;**

42 **(6) regulations; or**



1 (7) other documents.

2 (b) A health carrier that declines to provide, deliver, arrange
3 for, pay for, reimburse any of the costs of, or refer an individual
4 for a health care service described in subsection (a) may not be
5 held civilly or criminally liable for declining to provide, deliver,
6 arrange for, pay for, or reimburse any of the costs of a health care
7 service.

8 Sec. 6. A health carrier or prospective health carrier may not be
9 subject to any of the following for declining to provide, deliver,
10 arrange for, pay for, reimburse any of the costs of, or refer an
11 individual for a health care service that violates the conscience of
12 the health carrier or prospective health carrier:

13 (1) Discrimination.

14 (2) Denial of, revocation of, or disqualification for:

15 (A) licensure;

16 (B) a grant; or

17 (C) any form of aid, assistance, benefit, or privilege.

18 (3) Denial of authorization to establish, expand, improve,
19 acquire, affiliate, or merge with the health carrier.

20 (4) Criminal or civil liability.

21 Sec. 7. (a) A person injured by a violation of this chapter may
22 bring an action against the person who violated this chapter.

23 (b) It is not a defense in an action under this chapter that a
24 violation was necessary to prevent additional burden or expense on
25 a health care provider, a health care entity, an individual, or a
26 patient.

27 (c) A person whose rights have been violated by a violation of
28 this chapter may assert the violation or impending violation as a
29 claim or defense in a judicial, administrative, or other proceeding.

30 Sec. 8. A prevailing plaintiff in an action brought under section
31 7 of this chapter is entitled to the following:

32 (1) Injunctive relief.

33 (2) The greater of:

34 (A) an amount not to exceed three (3) times the actual
35 damages sustained; or

36 (B) liquidated damages of five thousand dollars (\$5,000).

37 (3) Court costs and reasonable attorney's fees.

38 (4) Any other appropriate relief determined by the court.

39 SECTION 7. IC 34-30-2.1-195.5 IS ADDED TO THE INDIANA
40 CODE AS A NEW SECTION TO READ AS FOLLOWS
41 [EFFECTIVE JULY 1, 2024]: Sec. 195.5. IC 16-18-5-5 (Concerning
42 a health care provider or a health care entity that declines to



1 **provide a health care service that violates the conscience of the**
2 **health care provider or health care entity).**

3 SECTION 8. IC 34-30-2.1-420.5 IS ADDED TO THE INDIANA
4 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
5 [EFFECTIVE JULY 1, 2024]: **Sec. 420.5. IC 27-2-30-6 (Concerning**
6 **a health carrier that declines to provide a health care service that**
7 **violates the conscience of the health carrier or prospective health**
8 **carrier).**

