

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.



Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

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:

1 SECTION 1. IC 16-18-2-163, AS AMENDED BY P.L.2-2019,
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2020]: Sec. 163. (a) "Health care provider", for purposes of
4 IC 16-21 and IC 16-41, means any of the following:
5 (1) An individual, a partnership, a corporation, a professional
6 corporation, a facility, or an institution licensed or legally
7 authorized by this state to provide health care or professional
8 services as a licensed physician, a psychiatric hospital, a hospital,
9 a health facility, an emergency ambulance service (IC 16-31-3),
10 a dentist, a registered or licensed practical nurse, a midwife, an
11 optometrist, a pharmacist, a podiatrist, a chiropractor, a physical
12 therapist, a respiratory care practitioner, an occupational therapist,
13 a psychologist, a paramedic, an emergency medical technician, an
14 advanced emergency medical technician, an athletic trainer, or a
15 person who is an officer, employee, or agent of the individual,
16 partnership, corporation, professional corporation, facility, or
17 institution acting in the course and scope of the person's



- 1 employment.
- 2 (2) A college, university, or junior college that provides health
3 care to a student, a faculty member, or an employee, and the
4 governing board or a person who is an officer, employee, or agent
5 of the college, university, or junior college acting in the course
6 and scope of the person's employment.
- 7 (3) A blood bank, community mental health center, community
8 intellectual disability center, community health center, or migrant
9 health center.
- 10 (4) A home health agency (as defined in IC 16-27-1-2).
- 11 (5) A health maintenance organization (as defined in
12 IC 27-13-1-19).
- 13 (6) A health care organization whose members, shareholders, or
14 partners are health care providers under subdivision (1).
- 15 (7) A corporation, partnership, or professional corporation not
16 otherwise qualified under this subsection that:
- 17 (A) provides health care as one (1) of the corporation's,
18 partnership's, or professional corporation's functions;
- 19 (B) is organized or registered under state law; and
- 20 (C) is determined to be eligible for coverage as a health care
21 provider under IC 34-18 for the corporation's, partnership's, or
22 professional corporation's health care function.
- 23 Coverage for a health care provider qualified under this subdivision is
24 limited to the health care provider's health care functions and does not
25 extend to other causes of action.
- 26 (b) "Health care provider", for purposes of IC 16-35, has the
27 meaning set forth in subsection (a). However, for purposes of IC 16-35,
28 the term also includes a health facility (as defined in section 167 of this
29 chapter).
- 30 (c) "Health care provider", for purposes of IC 16-32-5,
31 **IC 16-36-1-13, IC 16-36-4-19**, IC 16-36-5, and IC 16-36-6, means an
32 individual licensed or authorized by this state to provide health care or
33 professional services as:
- 34 (1) a licensed physician;
- 35 (2) a registered nurse;
- 36 (3) a licensed practical nurse;
- 37 (4) an advanced practice registered nurse;
- 38 (5) a certified nurse midwife;
- 39 (6) a paramedic;
- 40 (7) an emergency medical technician;
- 41 (8) an advanced emergency medical technician;
- 42 (9) an emergency medical responder, as defined by section 109.8



- 1 of this chapter;
 2 (10) a licensed dentist;
 3 (11) a home health aide, as defined by section 174 of this chapter;
 4 or
 5 (12) a licensed physician assistant.

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

9 (d) "Health care provider", for purposes of section 1.5 of this
 10 chapter and IC 16-40-4, means any of the following:

11 (1) An individual, a partnership, a corporation, a professional
 12 corporation, a facility, or an institution licensed or authorized by
 13 the state to provide health care or professional services as a
 14 licensed physician, a psychiatric hospital, a hospital, a health
 15 facility, an emergency ambulance service (IC 16-31-3), an
 16 ambulatory outpatient surgical center, a dentist, an optometrist, a
 17 pharmacist, a podiatrist, a chiropractor, a psychologist, or a
 18 person who is an officer, employee, or agent of the individual,
 19 partnership, corporation, professional corporation, facility, or
 20 institution acting in the course and scope of the person's
 21 employment.

22 (2) A blood bank, laboratory, community mental health center,
 23 community intellectual disability center, community health
 24 center, or migrant health center.

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

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

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

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

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

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

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

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

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

42 SECTION 2. IC 16-36-1-13 IS AMENDED TO READ AS



1 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 13. (a) This chapter
2 does not authorize:

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

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

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

- 17 (1) a health care provider's standard of care; or
18 (2) any applicable requirement concerning informed consent
19 for health care under this chapter.

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

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

- 26 (1) euthanasia;
27 (2) mercy killing;
28 (3) lethal injection; or
29 (4) any affirmative or deliberate act or omission to end life, ~~other~~
30 ~~than to permit the natural process of dying;~~ including the
31 withholding or withdrawing of life prolonging procedures under
32 this chapter by a health care provider, unless the withholding
33 or withdrawal of a life prolonging procedure is:

34 (A) requested by a competent adult who has authorized the
35 withholding or withdrawal of a life prolonging procedure
36 by executing a living will declaration in compliance with
37 this chapter; or

38 (B) mandated by:

- 39 (i) a court order; or
40 (ii) the decision of a court appointed guardian.

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



1 prohibition against the act.

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

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

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

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

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

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

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

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

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

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

25 (1) euthanasia;

26 (2) mercy killing;

27 (3) lethal injection; or

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

33 (A) a DNR order; or

34 (B) an out of hospital DNR order;

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

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

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

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



1 **(2) any applicable requirement concerning the creation or**
 2 **execution of:**

3 **(A) a DNR order; or**

4 **(B) an out of hospital DNR declaration or order.**

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

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

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

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

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

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

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

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

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

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

32 **(2) any applicable requirement concerning a POST form.**

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

36 **(1) euthanasia;**

37 **(2) mercy killing;**

38 **(3) lethal injection; or**

39 **(4) any affirmative or deliberate act or omission to end life, other**
 40 **than to permit the natural process of dying; including the**
 41 **withholding or withdrawing of life prolonging procedures by**
 42 **a health care provider, unless the withholding or withdrawal**



1 of a life prolonging procedure is required by the terms of a
2 valid POST form that has been created and executed in
3 compliance with this chapter.

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

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

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

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

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

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

- 38 **(1) euthanasia;**
39 **(2) mercy killing;**
40 **(3) lethal injection; or**
41 **(4) any other affirmative or deliberate act or omission to end**
42 **life, including the withholding or withdrawing of life**



1 **prolonging procedures, unless the withholding or withdrawal**
 2 **of life prolonging procedures has been:**

- 3 **(A) authorized under section 16(b)(2) of this chapter; and**
 4 **(B) memorialized as described in subsection (a).**

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

8 **(d) Nothing in this section shall be construed to abrogate or**
 9 **lower:**

- 10 **(1) a health care provider's standard of care; or**
 11 **(2) any applicable requirement concerning informed consent**
 12 **for health care under this chapter.**

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

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

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

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

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

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

