IC 16

TITLE 16. HEALTH

IC 16-1

ARTICLE 1. REPEALED

(Repealed by P.L.2-1993, SEC.209.)

IC 16-2

ARTICLE 2. REPEALED

(Repealed by P.L.2-1993, SEC.209.)

IC 16-2.5

ARTICLE 2.5. REPEALED

(Repealed by P.L.2-1993, SEC.209.)

IC 16-3

ARTICLE 3. REPEALED

(Repealed by P.L.2-1993, SEC.209.)

IC 16-4

ARTICLE 4. REPEALED

(Repealed by P.L.2-1993, SEC.209.)

IC 16-5

ARTICLE 5. REPEALED

(Repealed by P.L.2-1993, SEC.209.)

IC 16-6

ARTICLE 6. REPEALED

(Repealed by P.L.2-1993, SEC.209.)

IC 16-6.5

ARTICLE 6.5. REPEALED

(Repealed by P.L.2-1993, SEC.209.)

IC 16-7

ARTICLE 7. REPEALED

(Repealed by P.L.2-1993, SEC.209.)

IC 16-8

ARTICLE 8. REPEALED

(Repealed by P.L.2-1993, SEC.209.)

IC 16-9

ARTICLE 9. REPEALED

(Repealed by P.L.2-1993, SEC.209.)

IC 16-9.5

ARTICLE 9.5. REPEALED

(Repealed by P.L.2-1993, SEC.209.)

IC 16-10

ARTICLE 10. REPEALED

(Repealed by P.L.2-1993, SEC.209.)

IC 16-11

ARTICLE 11. REPEALED

(Repealed by P.L.2-1993, SEC.209.)

IC 16-12

ARTICLE 12. REPEALED

(Repealed by P.L.2-1993, SEC.209.)

IC 16-12.1

ARTICLE 12.1. REPEALED

(Repealed by P.L.2-1993, SEC.209.)

IC 16-12.2

ARTICLE 12.2. REPEALED

(Repealed by P.L.2-1993, SEC.209.)

IC 16-13

ARTICLE 13. REPEALED

(Repealed by P.L.2-1992, SEC.897.)

IC 16-14

ARTICLE 14. REPEALED

(Repealed by P.L.2-1992, SEC.897.)

IC 16-15

ARTICLE 15. REPEALED

(Repealed by P.L.28-1985, SEC.63.)

IC 16-16

ARTICLE 16. REPEALED

(Repealed by P.L.2-1992, SEC.897.)

IC 16-17

ARTICLE 17. REPEALED

(Repealed by P.L.9-1991, SEC.98.)

IC 16-18

ARTICLE 18. GENERAL PROVISIONS AND DEFINITIONS

IC 16-18-1

Chapter 1. General Provisions

IC 16-18-1-1

Application of definitions

Sec. 1. Except as otherwise provided, the definitions in this article apply throughout this title.

As added by P.L.2-1993, SEC.1.

IC 16-18-1-2

References to federal statutes or regulations

Sec. 2. Except as otherwise provided in this title, a reference to a federal statute or regulation in this title is a reference to the statute or regulation as in effect on January 1, 1993.

As added by P.L.2-1993, SEC.1.

IC 16-18-1-3

References to federal statutes or regulations relating to the National Voter Registration Act

Sec. 3. Except as otherwise provided in this title, a reference in this title to a federal statute or regulation relating to the federal National Voter Registration Act of 1993 (52 U.S.C. 20501) is a reference to the statute or regulation as in effect September 1, 2014.

As added by P.L.122-2000, SEC.16. Amended by P.L.81-2005, SEC.33 and P.L.230-2005, SEC.70; P.L.128-2015, SEC.236.

IC 16-18-1-4

Certain ordinances and plans void

Sec. 4. An ordinance or plan adopted under IC 16-13-21-13 (before its repeal) is void.

As added by P.L.220-2011, SEC.306.

IC 16-18-1-5

Preservation of background materials related to P.L.2-1993

Sec. 5. The general assembly may, by concurrent resolution, preserve any of the background materials related to P.L.2-1993.

As added by P.L.220-2011, SEC.307.

IC 16-18-2
Chapter 2. Definitions

IC 16-18-2-0.5
"Abatement"

Sec. 0.5. (a) "Abatement", for purposes of IC 16-41-39.8, means any measure or set of measures designed to permanently eliminate lead-based paint hazards. The term includes the following:

(1) The removal of lead-based paint and lead-contaminated dust.

(2) The permanent enclosure or encapsulation of lead-based paint.

(3) The replacement of lead-painted surfaces or fixtures.

(4) The removal or covering of lead-contaminated soil.

(5) All preparation, cleanup, disposal, and postabatement clearance testing activities associated with subdivisions (1) through (4).

(6) A project for which there is a written contract or other documentation, providing that a person will be conducting activities in or to a residential dwelling or child occupied facility that:

(A) will permanently eliminate lead-based paint hazards; or

(B) are designed to permanently eliminate lead-based paint hazards as described under subdivisions (1) through (5).

(7) A project resulting in the permanent elimination of lead-based paint hazards, conducted by persons certified under 40 CFR 745.226 or persons holding valid licenses issued under IC 13-17-14 (before its repeal) or IC 16-41-39.8, unless the project is described under subsection (b) or (c).

(8) A project resulting in the permanent elimination of lead-based paint hazards, conducted by persons who, through the person's company name or promotional literature, represent, advertise, or hold themselves out to be in the business of performing lead-based paint activities, unless those projects are described under subsection (b) or (c).

(9) A project resulting in the permanent elimination of lead-based paint hazards that is conducted in response to state or local abatement orders.

(b) The term does not include renovation, remodeling, landscaping, or other activities when those activities are not designed to permanently eliminate lead-based paint hazards but are designed to repair, restore, or remodel a structure or dwelling, even though these activities may incidentally result in a reduction or elimination of lead-based paint hazards.

(c) The term does not include interim controls, operations, or maintenance activities or other measures designed to temporarily reduce lead-based paint hazards.

As added by P.L.57-2009, SEC.3. Amended by P.L.1-2010, SEC.67;

P.L.42-2011, SEC.33.

IC 16-18-2-1
"Abortion"

Sec. 1. "Abortion" means the termination of human pregnancy with an intention other than to produce a live birth or to remove a dead fetus. The term includes abortions by surgical procedures and by abortion inducing drugs.

As added by P.L.2-1993, SEC.1. Amended by P.L.136-2013, SEC.1.

IC 16-18-2-1.5
"Abortion clinic"

Sec. 1.5. (a) "Abortion clinic", for purposes of IC 16-19-3-31, IC 16-21-2, IC 16-34-3, and IC 16-41-16, means a health care provider (as defined in section 163(d)(1) of this chapter) that:

(1) performs surgical abortion procedures; or

(2) beginning January 1, 2014, provides an abortion inducing drug for the purpose of inducing an abortion.

(b) The term does not include the following:

(1) A hospital that is licensed as a hospital under IC 16-21-2.

(2) An ambulatory outpatient surgical center that is licensed as an ambulatory outpatient surgical center under IC 16-21-2.

(3) A health care provider that provides, prescribes, administers, or dispenses an abortion inducing drug to fewer than five (5) patients per year for the purposes of inducing an abortion.

As added by P.L.96-2005, SEC.2. Amended by P.L.136-2013, SEC.2; P.L.92-2015, SEC.1; P.L.113-2015, SEC.1; P.L.213-2016, SEC.1.

IC 16-18-2-1.6
"Abortion inducing drug"

Sec. 1.6. "Abortion inducing drug" means a medicine, drug, or substance prescribed or dispensed with the intent of terminating a clinically diagnosable pregnancy with the knowledge that the termination will, with reasonable likelihood, cause the death of the fetus. The term includes the off-label use of a drug known to have abortion inducing properties if the drug is prescribed with the intent of causing an abortion.

As added by P.L.136-2013, SEC.3.

IC 16-18-2-1.8
"Additional forensic services"

Sec. 1.8. "Additional forensic services", for purposes of IC 16-21-8, means the following:

(1) Initial pregnancy and sexually transmitted disease testing related to an alleged sex crime.

(2) Prophylactic medication related to pregnancy, pregnancy testing, or sexually transmitted disease testing. However, this subdivision does not include HIV prophylactic medication that

may be paid at the discretion of the victim services division of the Indiana criminal justice institute.

(3) Alcohol and drug testing.

(4) Syphilis testing up to ninety (90) days after an alleged sex crime.

(5) Pregnancy testing up to thirty (30) days after an alleged sex crime.

(6) Mental health counseling concerning problems directly related to an alleged sex crime.

As added by P.L.121-2006, SEC.20.

IC 16-18-2-2
"Adjustment and incentive support"

Sec. 2. "Adjustment and incentive support", for purposes of IC 16-46-1, has the meaning set forth in IC 16-46-1-2.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-3
"Administrative adjudication, decision, or order"

Sec. 3. "Administrative adjudication, decision, or order", for purposes of IC 16-22-8, has the meaning set forth in IC 16-22-8-1.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-4
"Administrative unit"

Sec. 4. "Administrative unit", for purposes of IC 16-19-6, has the meaning set forth in IC 16-19-6-1.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-5
"Adult"

Sec. 5. "Adult" means an individual who is at least eighteen (18) years of age.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-5.5
"Adult stem cell"

Sec. 5.5. "Adult stem cell" means an undifferentiated cell that:

(1) is found in a differentiated tissue;

(2) is renewable; and

(3) yields specialized cell types with certain limitations of the tissue from which it originated.

As added by P.L.126-2005, SEC.1.

IC 16-18-2-6
Repealed

(As added by P.L.2-1993, SEC.1. Repealed by P.L.205-2003, SEC.44.)

IC 16-18-2-6.5
"Advanced emergency medical technician"

Sec. 6.5. "Advanced emergency medical technician", for purposes of IC 16-31, means an individual who can perform at least one (1) procedure but not all the procedures of a paramedic and who:

(1) has completed a prescribed course in advanced life support;
(2) has been certified by the Indiana emergency medical services commission;
(3) is associated with a single supervising hospital; and
(4) is affiliated with a provider organization.

As added by P.L.77-2012, SEC.4.

IC 16-18-2-7
"Advanced life support"

Sec. 7. (a) "Advanced life support", for purposes of IC 16-31, means care that is given:

(1) at the scene of:
  (A) an accident;
  (B) an act of terrorism (as defined in IC 35-31.5-2-329), if the governor has declared a disaster emergency under IC 10-14-3-12 in response to the act of terrorism; or
  (C) an illness;
(2) during transport; or
(3) at a hospital;

by a paramedic or an advanced emergency medical technician and that is more advanced than the care usually provided by an emergency medical technician.

(b) The term may include any of the following:

(1) Defibrillation.
(2) Endotracheal intubation.
(3) Parenteral injections of appropriate medications.
(4) Electrocardiogram interpretation.
(5) Emergency management of trauma and illness.

As added by P.L.2-1993, SEC.1. Amended by P.L.156-2001, SEC.1; P.L.17-2002, SEC.1; P.L.2-2003, SEC.43; P.L.205-2003, SEC.8; P.L.77-2012, SEC.5; P.L.114-2012, SEC.39; P.L.13-2013, SEC.52.

IC 16-18-2-8
"Advertisement"

Sec. 8. "Advertisement", for purposes of IC 16-42-1 through IC 16-42-4, means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-9

Repealed

(As added by P.L.2-1993, SEC.1. Repealed by P.L.113-2010, SEC.170.)

IC 16-18-2-9.3
"Advisory council"

Sec. 9.3. "Advisory council", for purposes of IC 16-19-17, refers to the palliative care and quality of life advisory council established by IC 16-19-17-3.

As added by P.L.102-2008, SEC.1. Amended by P.L.43-2016, SEC.1.

IC 16-18-2-9.5
"After care"

Sec. 9.5. "After care", for purposes of IC 16-21-12, has the meaning set forth in IC 16-21-12-1.

As added by P.L.137-2015, SEC.1.

IC 16-18-2-10
"Agency"

Sec. 10. "Agency", for purposes of IC 16-23.5, has the meaning set forth in IC 16-23.5-1-2.

As added by P.L.2-1993, SEC.1. Amended by P.L.205-2003, SEC.9; P.L.101-2006, SEC.23; P.L.2-2007, SEC.178; P.L.101-2007, SEC.1; P.L.42-2011, SEC.34; P.L.141-2012, SEC.5.

IC 16-18-2-11
"Agricultural labor camp"

Sec. 11. "Agricultural labor camp", for purposes of IC 16-41-26, has the meaning set forth in IC 16-41-26-1.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-12
"Alcohol and drug abuse records"

Sec. 12. "Alcohol and drug abuse records", for purposes of IC 16-39, means recorded or unrecorded information concerning the diagnosis, treatment, or prognosis of a patient receiving alcohol or drug abuse treatment services.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-13
"Ambulance"

Sec. 13. "Ambulance", for purposes of IC 16-31, means a conveyance on:

(1) land;
(2) sea; or
(3) air;

that is used or is intended to be used for the purpose of responding to emergency life-threatening situations and providing emergency

transportation service.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-14
"Ambulatory outpatient surgical center"

Sec. 14. (a) "Ambulatory outpatient surgical center", for purposes of IC 16-21 and IC 16-38-2, means a public or private institution that meets the following conditions:

(1) Is established, equipped, and operated primarily for the purpose of performing surgical procedures and services.

(2) Is operated under the supervision of at least one (1) licensed physician or under the supervision of the governing board of the hospital if the center is affiliated with a hospital.

(3) Permits a surgical procedure to be performed only by a physician, dentist, or podiatrist who meets the following conditions:

(A) Is qualified by education and training to perform the surgical procedure.

(B) Is legally authorized to perform the procedure.

(C) Is privileged to perform surgical procedures in at least one (1) hospital within the county or an Indiana county adjacent to the county in which the ambulatory outpatient surgical center is located.

(D) Is admitted to the open staff of the ambulatory outpatient surgical center.

(4) Requires that a licensed physician with specialized training or experience in the administration of an anesthetic supervise the administration of the anesthetic to a patient and remain present in the facility during the surgical procedure, except when only a local infiltration anesthetic is administered.

(5) Provides at least one (1) operating room and, if anesthetics other than local infiltration anesthetics are administered, at least one (1) postanesthesia recovery room.

(6) Is equipped to perform diagnostic x-ray and laboratory examinations required in connection with any surgery performed.

(7) Does not provide accommodations for patient stays of longer than twenty-four (24) hours.

(8) Provides full-time services of registered and licensed nurses for the professional care of the patients in the postanesthesia recovery room.

(9) Has available the necessary equipment and trained personnel to handle foreseeable emergencies such as a defibrillator for cardiac arrest, a tracheotomy set for airway obstructions, and a blood bank or other blood supply.

(10) Maintains a written agreement with at least one (1) hospital for immediate acceptance of patients who develop complications or require postoperative confinement.

(11) Provides for the periodic review of the center and the center's operations by a committee of at least three (3) licensed physicians having no financial connections with the center.
(12) Maintains adequate medical records for each patient.
(13) Meets all additional minimum requirements as established by the state department for building and equipment requirements.
(14) Meets the rules and other requirements established by the state department for the health, safety, and welfare of the patients.

(b) The term does not include a birthing center.

As added by P.L.2-1993, SEC.1. Amended by P.L.17-2004, SEC.1; P.L.96-2005, SEC.1.

IC 16-18-2-15
"Anabolic steroid"

Sec. 15. "Anabolic steroid", for purposes of IC 16-42-19, means a material, compound, mixture, or preparation that contains an anabolic steroid that includes any of the following:

Chorionic gonadotropin
Clostebol
Dehydrochlormethyltestosterone
Ethylestrenol
Fluoxymesterone
Mesterolone
Metenolone
Methandienone
Methandro stenolone
Methyltestosterone
Nandrolone decanoate
Nandrolone phenpropionate
Norethandrolone
Oxandrolone
Oxymesterone
Oxymetholone
Stanozolol
Testosterone propionate
Testosterone-like related compounds.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-16
Repealed

(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-17
Repealed

(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-17.2
"Anatomic pathology service"
Sec. 17.2. "Anatomic pathology service", for purposes of IC 16-48-1, has the meaning set forth in IC 16-48-1-1.
As added by P.L.6-2012, SEC.110.

IC 16-18-2-18
"Antibiotic drug"
Sec. 18. "Antibiotic drug", for purposes of IC 16-42-3, has the meaning set forth in IC 16-42-3-1.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-18.5
"Any other disability"
Sec. 18.5. "Any other disability", for purposes of IC 16-34, has the meaning set forth in IC 16-34-4-1.
As added by P.L.213-2016, SEC.2.

IC 16-18-2-19
"Applicant"
Sec. 19. (a) "Applicant", for purposes of IC 16-25, has the meaning set forth in IC 16-25-1.1-2.
(b) "Applicant", for purposes of IC 16-26-2, has the meaning set forth in IC 16-26-2-1.
As added by P.L.2-1993, SEC.1. Amended by P.L.256-1999, SEC.3.

IC 16-18-2-20
"Appropriate facility"
Sec. 20. "Appropriate facility", for purposes of IC 16-36-3, has the meaning set forth in IC 16-36-3-1.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-21
Repealed
(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-22
"Approved postsecondary educational institution"
Sec. 22. "Approved postsecondary educational institution" has the meaning set forth in IC 21-7-13-6(a).
As added by P.L.2-1993, SEC.1. Amended by P.L.2-2007, SEC.179.

IC 16-18-2-23
"Approved laboratory"
Sec. 23. "Approved laboratory", for purposes of IC 16-41-6 and IC 16-41-15, has the meaning set forth in IC 16-41-15-1.
As added by P.L.2-1993, SEC.1. Amended by P.L.237-2003, SEC.3.

IC 16-18-2-24
"Armed forces of the United States"
Sec. 24. "Armed forces of the United States", for purposes of IC 16-33-4, has the meaning set forth in IC 16-33-4-1.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-25
"Artificial insemination"
Sec. 25. "Artificial insemination", for purposes of IC 16-41-14, has the meaning set forth in IC 16-41-14-2.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-26
"Assembly"
Sec. 26. "Assembly", for purposes of IC 16-41-22, has the meaning set forth in IC 16-41-22-2.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-26.5
"Association"
Sec. 26.5. "Association", for purposes of IC 16-39-5-3, has the meaning set forth in IC 16-39-5-3(a).
As added by P.L.231-1999, SEC.10.

IC 16-18-2-27
"ASTM"
Sec. 27. "ASTM" refers to the American Society for Testing and Materials.
As added by P.L.2-1993, SEC.1. Amended by P.L.177-1993, SEC.1.

IC 16-18-2-27.5
"At home care plan"
Sec. 27.5. "At home care plan", for purposes of IC 16-21-12, has the meaning set forth in IC 16-21-12-2.
As added by P.L.137-2015, SEC.2.

IC 16-18-2-28
Repealed
(As added by P.L.2-1993, SEC.1. Repealed by P.L.29-2014, SEC.3.)

IC 16-18-2-28.5
"Attendant care services"
Sec. 28.5. (a) "Attendant care services", for purposes of IC 16-27-1 and IC 16-27-4, means services:
(1) that could be performed by an impaired individual for whom the services are provided if the individual were not impaired; and

(2) that enable the impaired individual:
(A) to live in the individual's home and community rather than in an institution; and
(B) to carry out functions of daily living, self-care, and mobility.
(b) The term includes the following:
(1) Assistance in getting in and out of beds, wheelchairs, and motor vehicles.
(2) Assistance with routine bodily functions, including:
(A) bathing and personal hygiene;
(B) using the toilet;
(C) dressing and grooming; and
(D) feeding, including preparation and cleanup.
(3) The provision of assistance:
(A) through providing reminders or cues to take medication, the opening of preset medication containers, and providing assistance in the handling or ingesting of medications, including controlled substances, prescription drugs, eye drops, herbs, supplements, and over-the-counter medications; and
(B) to an individual who is unable to accomplish the task due to an impairment and who is:
(i) competent and has directed the services; or
(ii) incompetent and has the services directed by a competent individual who may consent to health care for the impaired individual.
As added by P.L.255-2001, SEC.12. Amended by P.L.212-2005, SEC.3; P.L.86-2014, SEC.1.

IC 16-18-2-29
"Attending physician"
Sec. 29. "Attending physician" means the licensed physician who has the primary responsibility for the treatment and care of the patient. For purposes of IC 16-36-5, the term includes a physician licensed in another state.
As added by P.L.2-1993, SEC.1. Amended by P.L.148-1999, SEC.1.

IC 16-18-2-30
"Authority"
Sec. 30. "Authority" refers to the following:
(1) For purposes of IC 16-22-6, the authority created under IC 16-22-6-2.
(2) For purposes of IC 16-22-7, the authority created under IC 16-22-7-5.
(3) For purposes of IC 16-22:
(A) the authority created under IC 16-22-6-2; or
(B) the county building authority provided for in IC 36-9-13.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-30.2
"Autism spectrum disorder"

Sec. 30.2. "Autism spectrum disorder", for purposes of IC 16-32-4, has the meaning set forth in IC 16-32-4-1.
As added by P.L.56-2016, SEC.1.

IC 16-18-2-30.5
"Auto-injector"

Sec. 30.5. "Auto-injector" means a spring loaded needle and syringe:

(1) containing a single dose of medication; and
(2) that automatically releases and injects the medication.

As added by P.L.17-2002, SEC.2.

IC 16-18-2-31
"Autologous donation"

Sec. 31. "Autologous donation", for purposes of IC 16-41-12, has the meaning set forth in IC 16-41-12-1.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-32
"Autopsy"

Sec. 32. "Autopsy", for purposes of IC 16-36-2, has the meaning set forth in IC 16-36-2-1.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-33
"Bank"

Sec. 33. "Bank", for purposes of IC 16-41-12, has the meaning set forth in IC 16-41-12-2.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-33.5
"Basic life support"

Sec. 33.5. (a) "Basic life support", for purposes of IC 16-31, means the following:

(1) Assessment of emergency patients.
(2) Administration of oxygen.
(3) Use of mechanical breathing devices.
(4) Application of anti-shock trousers.
(5) Performance of cardiopulmonary resuscitation.
(6) Application of dressings and bandage materials.
(7) Application of splinting and immobilization devices.
(8) Use of lifting and moving devices to ensure safe transport.
(9) Administration of epinephrine through an auto-injector.
(10) Blood glucose monitoring that is not more invasive than a capillary sampling using a lancet.
(11) Other procedures authorized by the Indiana emergency

medical services commission, including procedures contained in the revised national emergency medical technician basic training curriculum guide.

(b) Except as provided by:

(1) subsection (a)(9) and the training and certification standards established under IC 16-31-2-9(3); and

(2) the training standards established under IC 16-31-2-9(4);

the term does not include invasive medical care techniques or advanced life support.

As added by P.L.186-1995, SEC.1. Amended by P.L.17-2002, SEC.3; P.L.93-2002, SEC.1; P.L.205-2003, SEC.10; P.L.74-2006, SEC.1; P.L.77-2012, SEC.6; P.L.208-2015, SEC.1.

IC 16-18-2-34
"Bed and breakfast establishments"

Sec. 34. "Bed and breakfast establishments", for purposes of IC 16-41-31, has the meaning set forth in IC 16-41-31-1.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-35
"Bedding"

Sec. 35. "Bedding", for purposes of IC 16-41-32, has the meaning set forth in IC 16-41-32-5.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-35.8
"Biological product"

Sec. 35.8. "Biological product", for purposes of IC 16-42-25, has the meaning set forth in IC 16-42-25-1.

As added by P.L.96-2014, SEC.1.

IC 16-18-2-36
"Biologicals"

Sec. 36. "Biologicals", for purposes of IC 16-41-19, has the meaning set forth in IC 16-41-19-1.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-36.2
"Biosimilar"

Sec. 36.2. "Biosimilar", for purposes of IC 16-42-25, has the meaning set forth in IC 16-42-25-2.

As added by P.L.96-2014, SEC.2.

IC 16-18-2-36.5
"Birthing center"

Sec. 36.5. (a) "Birthing center", for purposes of IC 16-21-2 and IC 16-21-11.2, means a freestanding entity that has the sole purpose of delivering a normal or uncomplicated pregnancy.

(b) The term does not include a hospital that is licensed as a hospital under IC 16-21-2.
As added by P.L.96-2005, SEC.3. Amended by P.L.134-2008, SEC.8; P.L.138-2014, SEC.5.

IC 16-18-2-36.9
"Blood"
Sec. 36.9. "Blood", for purposes of IC 16-41-12, has the meaning set forth in IC 16-41-12-2.5.
As added by P.L.213-2013, SEC.1.

IC 16-18-2-37
"Blood center"
Sec. 37. "Blood center", for purposes of IC 16-41-12, has the meaning set forth in IC 16-41-12-3.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-37.5
"Board"
Sec. 37.5. (a) "Board", for purposes of IC 16-22-8, has the meaning set forth in IC 16-22-8-2.1.
(b) "Board", for purposes of IC 16-41-42.2, has the meaning set forth in IC 16-41-42.2-1.
As added by P.L.184-2005, SEC.4. Amended by P.L.234-2007, SEC.44; P.L.3-2008, SEC.103.

IC 16-18-2-37.7
"Board of commissioners"
Sec. 37.7. "Board of commissioners", for purposes of IC 16-23.5, has the meaning set forth in IC 16-23.5-1-3.
As added by P.L.2-2007, SEC.180.

IC 16-18-2-37.8
"Board of trustees"
Sec. 37.8. "Board of trustees", for purposes of IC 16-23.5, has the meaning set forth in IC 16-23.5-1-4.
As added by P.L.2-2007, SEC.181.

IC 16-18-2-38
"Branch locker plant"
Sec. 38. "Branch locker plant" means a location or an establishment in which space in individual lockers is rented to individuals for the storage of food at not more than forty-five (45) degrees Fahrenheit after the food has been prepared for storage at a central plant.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-39

"Brand name"

Sec. 39. "Brand name", for purposes of IC 16-42-22, has the meaning set forth in IC 16-42-22-1.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-40

Repealed

(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-41

"Building"

Sec. 41. (a) "Building", for purposes of IC 16-22 and except as provided in subsection (b), means a building, or an addition, for hospital purposes, and includes the site if a site is acquired, the equipment, heating facilities, sewage disposal facilities, landscaping, walks, drives, parking facilities and other structures, facilities, appurtenances, materials, and supplies that may be necessary to render that building suitable for use and occupancy for hospital purposes.

(b) "Building", for purposes of IC 16-22-2, has the meaning set forth in subsection (a) and includes, in the discretion of the governing board, clinics and offices for physicians.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-42

Repealed

(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-43

Repealed

(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-44

Repealed

(Repealed by P.L.87-1994, SEC.16.)

IC 16-18-2-45

Repealed

(As added by P.L.2-1993, SEC.1. Repealed by P.L.29-2014, SEC.4.)

IC 16-18-2-46

Repealed

(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-47

Repealed

(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-48
Repealed
(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-48.5
"Cardiopulmonary resuscitation or CPR"
Sec. 48.5. "Cardiopulmonary resuscitation" or "CPR", for purposes of IC 16-36-5, has the meaning set forth in IC 16-36-5-1.
As added by P.L.148-1999, SEC.2.

IC 16-18-2-49
"Carrier"
Sec. 49. "Carrier", for purposes of IC 16-41, means a person who has:
(1) tuberculosis in a communicable stage; or
(2) another dangerous communicable disease.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-50
Repealed
(As added by P.L.2-1993, SEC.1. Repealed by P.L.28-2009, SEC.16.)

IC 16-18-2-51
"Center"
Sec. 51. (a) "Center", for purposes of IC 16-19-10, has the meaning set forth in IC 16-19-10-1.
(b) "Center", for purposes of IC 16-33-3, has the meaning set forth in IC 16-33-3-1.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-51.5
"Certified food handler"
Sec. 51.5. "Certified food handler", for purposes of IC 16-42-5.2, has the meaning set forth in IC 16-42-5.2-4.
As added by P.L.266-2001, SEC.1.

IC 16-18-2-52
"Certificate or certification"
Sec. 52. "Certificate" or "certification", for purposes of IC 16-31, means authorization in written form issued by the Indiana emergency medical services commission to a person to furnish, operate, conduct, maintain, advertise, or otherwise engage in providing emergency medical services as a part of a regular course of doing business, either paid or voluntary.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-52.5
"Charity care"; "financially indigent"; "medically indigent"

Sec. 52.5. (a) "Charity care", for purposes of IC 16-21-6 and IC 16-21-9, means the unreimbursed cost to a hospital of providing, funding, or otherwise financially supporting health care services:

(1) to a person classified by the hospital as financially indigent or medically indigent on an inpatient or outpatient basis; and

(2) to financially indigent patients through other nonprofit or public outpatient clinics, hospitals, or health care organizations.

(b) As used in this section, "financially indigent" means an uninsured or underinsured person who is accepted for care with no obligation or a discounted obligation to pay for the services rendered based on the hospital's financial criteria and procedure used to determine if a patient is eligible for charity care. The criteria and procedure must include income levels and means testing indexed to the federal poverty guidelines. A hospital may determine that a person is financially or medically indigent under the hospital's eligibility system after health care services are provided.

(c) As used in this section, "medically indigent" means a person whose medical or hospital bills after payment by third party payors exceed a specified percentage of the patient's annual gross income as determined in accordance with the hospital's eligibility system, and who is financially unable to pay the remaining bill.

As added by P.L.94-1994, SEC.1.

IC 16-18-2-53
"Checklist"

Sec. 53. "Checklist", for purposes of IC 16-20-8, has the meaning set forth in IC 16-20-8-1.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-54
Repealed

(As added by P.L.2-1993, SEC.1. Repealed by P.L.239-1999, SEC.9.)

IC 16-18-2-54.3
"Child"

Sec. 54.3. "Child", for purposes of IC 16-35-8, has the meaning set forth in IC 16-35-8-1.

As added by P.L.1-2010, SEC.68.

IC 16-18-2-54.5
"Childhood hazards"

Sec. 54.5. "Childhood hazards", for purposes of IC 16-41-40, has the meaning set forth in IC 16-41-40-1.5.

As added by P.L.101-1999, SEC.1.

IC 16-18-2-54.7
"Child-occupied facility"

Sec. 54.7. "Child-occupied facility", for purposes of lead-based paint activities and IC 16-41-39.8, means a building or a portion of a building that:

(1) was constructed before 1978;

(2) does not qualify as target housing (as defined in section 346.3 of this chapter); and

(3) is visited regularly by a child who is not more than six (6) years of age under the following circumstances described in clause (A), (B), or (C):

(A) The child visits at least two (2) days a week (Sunday through Saturday) and each of the visits lasts at least three (3) hours.

(B) The child visits at least six (6) hours each week.

(C) The child's combined annual visits during a calendar year total at least sixty (60) hours.

The term includes day care centers, preschools, and kindergarten classrooms.

As added by P.L.57-2009, SEC.4.

IC 16-18-2-55
"Children"

Sec. 55. "Children", for purposes of IC 16-35-2, has the meaning set forth in IC 16-35-2-1.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-55.5
"Chronic disease"

Sec. 55.5. "Chronic disease", for purposes of IC 16-38-6, has the meaning set forth in IC 16-38-6-1.

As added by P.L.212-2003, SEC.2.

IC 16-18-2-56
"City health department"

Sec. 56. "City health department", for purposes of IC 16-20-4, has the meaning set forth in IC 16-20-4-2.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-56.2
"Clearance examination"

Sec. 56.2. "Clearance examination", for purposes of IC 16-41-39.4, means an activity conducted by a clearance examiner who is licensed under IC 16-41-39.8 to establish proper completion of interim controls (as defined in 24 CFR 35.110).

As added by P.L.102-2008, SEC.2. Amended by P.L.57-2009, SEC.5.

IC 16-18-2-56.3

"Client"

Sec. 56.3. "Client", for purposes of IC 16-27-4, has the meaning set forth in IC 16-27-4-1.

As added by P.L.212-2005, SEC.4.

IC 16-18-2-56.5

"Cloning"

Sec. 56.5. (a) "Cloning" means the use of asexual reproduction to create or grow a human embryo from a single cell or cells of a genetically identical human.

(b) The term does not include:

(1) a treatment or procedure to enhance human reproductive capability through the manipulation of human oocytes or embryos, including the following:

(A) In vitro fertilization.

(B) Gamete intrafallopian transfer.

(C) Zygote intrafallopian transfer; or

(2) the following types of stem cell research:

(A) Adult stem cell.

(B) Fetal stem cell, as long as the biological parent has given written consent for the use of the fetal stem cells.

(C) Embryonic stem cells from lines that are permissible for use under applicable federal law.

As added by P.L.126-2005, SEC.2.

IC 16-18-2-57

"Cold storage"

Sec. 57. "Cold storage", for purposes of IC 16-42, means the storage of foods for at least thirty (30) days and at a temperature of not more than forty-five (45) degrees Fahrenheit.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-58

"Cold storage warehouse"

Sec. 58. (a) "Cold storage warehouse", for purposes of IC 16-42, means a structure, a part of a structure, or a fixture that meets the following conditions:

(1) Uses refrigerating machinery or ice for the purpose of refrigeration.

(2) Is used for cold storage of foods.

(b) The term does not include the following:

(1) A locker plant or a branch locker plant.

(2) Refrigerated storage facilities operated by a farmer and used exclusively for the storage of raw, unprocessed fruits or vegetables produced by the farmer on the farmer's farm.

(3) Cold storage equipment used to store perishable foods or food products in conjunction with a dairy operation or a retail grocery.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-59
"Color"

Sec. 59. "Color", for purposes of IC 16-42-1 through IC 16-42-4, includes black, white, and intermediate grays.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-60
"Color additive"

Sec. 60. (a) "Color additive", for purposes of IC 16-42-1 through IC 16-42-4, means a material that:

(1) is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source; or
(2) when added or applied to a food, drug, or cosmetic or to the human body is capable (alone or through reaction with other substances) of imparting color.

The term does not include any material that has been exempted under the Federal Act.

(b) Subsection (a) does not apply to a pesticide chemical, soil or plant nutrient, or otherwise, affecting, directly or indirectly, the growth or other natural physiological process of produce of the soil and thereby affecting the produce's color, either before or after harvest.

As added by P.L.2-1993, SEC.1. Amended by P.L.137-1996, SEC.58.

IC 16-18-2-61
Repealed

(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-62
"Commission"

Sec. 62. (a) "Commission", for purposes of IC 16-19-6, refers to the commission for special institutions.

(b) "Commission", for purposes of IC 16-31, refers to the Indiana emergency medical services commission.

(c) "Commission", for purposes of IC 16-46-11.1, has the meaning set forth in IC 16-46-11.1-1.

As added by P.L.2-1993, SEC.1. Amended by P.L.61-2004, SEC.1.

IC 16-18-2-63
Repealed

(Repealed by P.L.87-1994, SEC.16.)

IC 16-18-2-64
"Communicable disease"

Sec. 64. "Communicable disease", for purposes of IC 16-41, has the meaning prescribed by the state department under IC 16-41-2.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-64.4
"Community"
Sec. 64.4. "Community", for purposes of IC 16-21-6 and IC 16-21-9, means the primary geographic area encompassing at least the entire county in which the hospital is located and patient categories for which the hospital provides health care services.
As added by P.L.94-1994, SEC.2.

IC 16-18-2-64.5
"Community benefits"
Sec. 64.5. "Community benefits", for purposes of IC 16-21-9, has the meaning set forth in IC 16-21-9-1.
As added by P.L.94-1994, SEC.3.

IC 16-18-2-65
"Community health services"
Sec. 65. "Community health services", for purposes of IC 16-46-1, has the meaning set forth in IC 16-46-1-3.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-66
"Community or migrant health center"
Sec. 66. "Community or migrant health center", for purposes of IC 16-46-5, has the meaning set forth in IC 16-46-5-1.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-66.5
"Competent witness"
Sec. 66.5. "Competent witness", for purposes of IC 16-36-5, has the meaning set forth in IC 16-36-5-2.
As added by P.L.148-1999, SEC.3.

IC 16-18-2-66.7
"Component"
Sec. 66.7. "Component", for purposes of IC 16-41-39.8, has the meaning set forth in 24 CFR 35.110, as in effect July 1, 2002.
As added by P.L.57-2009, SEC.6.

IC 16-18-2-67
"Comprehensive care bed"
Sec. 67. (a) "Comprehensive care bed", for purposes of IC 16-28-2.5, has the meaning set forth in IC 16-28-2.5-2.
(b) "Comprehensive care bed", for purposes of IC 16-29-2, has the meaning set forth in IC 16-29-2-1.

As added by P.L.2-1993, SEC.1. Amended by P.L.97-2004, SEC.63; P.L.229-2011, SEC.155; P.L.257-2015, SEC.1.

IC 16-18-2-67.1
"Comprehensive care health facility"

Sec. 67.1. "Comprehensive care health facility", for purposes of IC 16-28-2.5, has the meaning set forth in IC 16-28-2.5-3.
As added by P.L.257-2015, SEC.2.

IC 16-18-2-67.5
"Comprehensive plan"

Sec. 67.5. "Comprehensive plan", for purposes of IC 16-23.5, has the meaning set forth in IC 16-23.5-1-5.
As added by P.L.2-2007, SEC.182.

IC 16-18-2-68
"Confirmatory test"

Sec. 68. "Confirmatory test", for purposes of IC 16-41-12 and IC 16-41-14, has the meaning set forth in IC 16-41-12-4.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-69
"Consent"

Sec. 69. (a) "Consent", for purposes of IC 16-34, means a written agreement to submit to an abortion:

(1) after the consenting party has had a full explanation of the abortion procedure to be performed, including disclosures and information required by IC 16-34-2-1.1; and

(2) as evidenced by the signature of the consenting party on a consent form prescribed by the state department of health.

(b) "Consent", for purposes of IC 16-36-6, has the meaning set forth in IC 16-36-6-1.
As added by P.L.2-1993, SEC.1. Amended by P.L.187-1995, SEC.1; P.L.164-2013, SEC.1.

IC 16-18-2-69.2
"Consumer product"

Sec. 69.2. "Consumer product", for purposes of IC 16-41-39.4, means an item or a component of an item that is produced or distributed for:

(1) sale to a consumer for use; or

(2) the personal use, consumption, or enjoyment of a consumer.
As added by P.L.102-2008, SEC.3.

IC 16-18-2-69.3
"Continuing care retirement community"

Sec. 69.3. "Continuing care retirement community", for purposes of IC 16-28-15, has the meaning set forth in IC 16-28-15-2.

As added by P.L.229-2011, SEC.156.

IC 16-18-2-69.4
"Contractual allowances"

Sec. 69.4. "Contractual allowances", for purposes of IC 16-21-6, has the meaning set forth in IC 16-21-6-0.1.
As added by P.L.94-1994, SEC.4.

IC 16-18-2-69.5
"Contributions"

Sec. 69.5. "Contributions", for purposes of IC 16-21-6 and IC 16-21-9, means the dollar value of cash donations and the fair market value at the time of donation of in kind donations to the hospital from individuals, organizations, or other entities. The term does not include the value of a donation designated or otherwise restricted by the donor for purposes other than charity care.
As added by P.L.94-1994, SEC.5.

IC 16-18-2-70
"Construct, erect, or build"

Sec. 70. "Construct", "erect", or "build", for purposes of IC 16-22, includes the renovation or rebuilding of an existing structure.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-70.1
"Construction project"

Sec. 70.1. "Construction project" has the meaning set forth in IC 16-21-2-11.5(a).
As added by P.L.67-2005, SEC.1.

IC 16-18-2-71
Repealed

(Repealed by P.L.144-1996, SEC.15.)

IC 16-18-2-72
"Consumer commodity"

Sec. 72. (a) "Consumer commodity", for purposes of IC 16-42-1 through IC 16-42-4, except as otherwise specifically provided by this section, means any food, drug, device, or cosmetic as those terms are defined by this article or in rules adopted under IC 16-42-1.

(b) The term does not include any of the following:

(1) Tobacco or a tobacco product.

(2) A commodity subject to packaging or labeling requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136) or the provisions of the eighth paragraph under the heading "Bureau of Animal Industry" of the Act of March 4, 1913 (37 Stat. 832-833; 21 U.S.C. 151-157) commonly known as the Virus-Serum Toxin Act.

(3) A drug subject to IC 16-42-3-6(a)(2), IC 16-42-3-4(12), or Section 503(b)(1) or 506 of the Federal Act.

(4) A beverage subject to or complying with packaging or labeling requirements imposed under the Federal Alcohol Administration Act (27 U.S.C. et seq.).

(5) A commodity subject to the Federal Seed Act (7 U.S.C. 1551-1610).

As added by P.L.2-1993, SEC.1.

IC 16-18-2-73
Repealed

(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-74
"Contaminated sharp"

Sec. 74. "Contaminated sharp", for purposes of IC 16-41-16, has the meaning set forth in IC 16-41-16-2.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-75
"Contaminated with filth"

Sec. 75. "Contaminated with filth", for purposes of IC 16-42-1 through IC 16-42-4, applies to a food, drug, device, or cosmetic not securely protected from dust, dirt, and as far as necessary by all reasonable means, from all foreign or injurious contaminations.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-76
"Contracting county"

Sec. 76. "Contracting county", for purposes of IC 16-24-2, has the meaning set forth in IC 16-24-2-2.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-77
"Contributing county"

Sec. 77. "Contributing county", for purposes of IC 16-22-6, has the meaning set forth in IC 16-22-6-27.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-78
"Controlled premises"

Sec. 78. "Controlled premises", for purposes of IC 16-42-20-2, has the meaning set forth in IC 16-42-20-2(a).

As added by P.L.2-1993, SEC.1.

IC 16-18-2-79
"Controlled substance"

Sec. 79. "Controlled substance", for purposes of IC 16-42-21, has

the meaning set forth in IC 16-42-21-1.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-80
"Corporation"
Sec. 80. "Corporation", for purposes of IC 16-22-8, IC 16-42-5, and IC 16-42-5.2, means the health and hospital corporation created under IC 16-22-8.
As added by P.L.2-1993, SEC.1. Amended by P.L.266-2001, SEC.2.

IC 16-18-2-81
Repealed
(Repealed by P.L.87-1994, SEC.16.)

IC 16-18-2-82
"Cosmetic"
Sec. 82. (a) "Cosmetic", for purposes of IC 16-42-1 through IC 16-42-4, means:
(1) articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body for cleansing, beautifying, promoting attractiveness, or altering the appearance; and
(2) articles intended for use as a component of any of those articles.
(b) The term does not include soap.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-82.8
"Cost of receivership"
Sec. 82.8. "Cost of receivership", for purposes of IC 16-28-8, has the meaning set forth in IC 16-28-8-0.5.
As added by P.L.29-2002, SEC.1.

IC 16-18-2-83
"Cost of construction"
Sec. 83. "Cost of construction", for purposes of IC 16-45, means the amount found by the Surgeon General of the United States to be necessary for the construction of a project.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-84
"Council"
Sec. 84. "Council", for purposes of IC 16-46-6, refers to the interagency state council on black and minority health.
As added by P.L.2-1993, SEC.1. Amended by P.L.12-2004, SEC.1; P.L.156-2011, SEC.6; P.L.197-2011, SEC.54; P.L.141-2014, SEC.1.

IC 16-18-2-85

"Counterfeit drug"

Sec. 85. "Counterfeit drug", for purposes of IC 16-42-1 through IC 16-42-4, means a drug:

(1) that, without authorization:

(A) bears;

(B) is labeled with; or

(C) is in a container that bears;

the trademark, trade name, or other identifying mark, imprint, or device, or any likeness of a drug manufacturer, processor, packer, or distributor other than the person or persons who in fact manufactured, processed, packed, or distributed the drug; and

(2) that falsely purports or is represented:

(A) to be the product of; or

(B) to have been packed or distributed by;

the other drug manufacturer, processor, packer, or distributor.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-86

"County"

Sec. 86. "County", for the purposes of IC 16-22, means a county that owns and operates a county hospital.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-86.5

"County council"

Sec. 86.5. "County council", for purposes of IC 16-23.5, has the meaning set forth in IC 16-23.5-1-6.

As added by P.L.2-2007, SEC.183.

IC 16-18-2-87

"County health fund"

Sec. 87. "County health fund", for purposes of IC 16-46-1, has the meaning set forth in IC 16-46-1-4.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-88

"County of residence of the child"

Sec. 88. "County of residence of the child", for purposes of IC 16-33-4, has the meaning set forth in IC 16-33-4-2.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-88.5

"Crime of domestic or sexual violence"

Sec. 88.5. "Crime of domestic or sexual violence" means a sex offense (as defined in IC 11-8-8-5.2) or a crime of domestic violence (as defined in IC 35-31.5-2-78). The term includes a delinquent act that would be a sex offense or a crime of domestic violence if

committed by an adult.
As added by P.L.156-2014, SEC.4.

IC 16-18-2-89
"Customer"
Sec. 89. "Customer", for purposes of IC 16-42-22, has the meaning set forth in IC 16-42-22-3.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-90
Repealed
(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-91
"Dangerous communicable disease"
Sec. 91. "Dangerous communicable disease", for purposes of IC 16-41, means a communicable disease that is classified by the state department as dangerous under IC 16-41-2-1.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-91.3
"Data aggregation"
Sec. 91.3. "Data aggregation" has the meaning set forth in IC 16-39-5-3(b).
As added by P.L.44-2002, SEC.1.

IC 16-18-2-92
"Dead body"
Sec. 92. "Dead body", for purposes of IC 16-37-3, has the meaning set forth in IC 16-37-3-1.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-92.4
"Declarant"
Sec. 92.4. (a) "Declarant", for purposes of IC 16-36-5, has the meaning set forth in IC 16-36-5-3.
(b) "Declarant", for purposes of IC 16-36-6, has the meaning set forth in IC 16-36-6-2.
As added by P.L.148-1999, SEC.4. Amended by P.L.164-2013, SEC.2.

IC 16-18-2-92.6
"Department"
Sec. 92.6. (a) "Department", for purposes of IC 16-31-8.5, has the meaning set forth in IC 16-31-8.5-1.
(b) "Department", for purposes of IC 16-47-1, has the meaning set forth in IC 16-47-1-1.
As added by P.L.50-2004, SEC.2. Amended by P.L.101-2006,

SEC.24.

IC 16-18-2-93
"Designated health official"

Sec. 93. "Designated health official", for purposes of IC 16-41, means:

(1) the state health commissioner;
(2) an assistant state health commissioner; or
(3) a person designated by the state health commissioner or assistant state health commissioner to implement IC 16-41 in a specific situation.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-94
"Device"

Sec. 94. "Device", for purposes of IC 16-42-1 through IC 16-42-4 except for IC 16-42-1-7, IC 16-42-1-16(7), IC 16-42-2-3(7), IC 16-42-3-4(3), and IC 16-42-4-3(3), means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended:

(1) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or
(2) to affect the structure or any function of the body of man or other animals.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-95
"Directed donation"

Sec. 95. "Directed donation", for purposes of IC 16-41-12, has the meaning set forth in IC 16-41-12-5.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-96
"Director"

Sec. 96. (a) "Director", for purposes of IC 16-19-13, refers to the director of the office of women's health established by IC 16-19-13-2.

(b) "Director", for purposes of IC 16-19-14, refers to the director of the office of minority health established by IC 16-19-14-4.

(c) "Director", for purposes of IC 16-27, means the individual acting under the authority of and assigned the responsibility by the state health commissioner to implement IC 16-27.

(d) "Director", for purposes of IC 16-28, IC 16-29, and IC 16-30, means the individual acting under the authority of and assigned the responsibility by the state health commissioner to implement IC 16-28, IC 16-29, and IC 16-30.

(e) "Director", for purposes of IC 16-31, refers to the executive director of the department of homeland security established by

IC 10-19-2-1.

(f) "Director", for purposes of IC 16-35-2, refers to the director of the program for children with special health care needs.

As added by P.L.2-1993, SEC.1. Amended by P.L.52-1999, SEC.1; P.L.2-2003, SEC.44; P.L.12-2004, SEC.2; P.L.22-2005, SEC.18; P.L.38-2010, SEC.1.

IC 16-18-2-96.3
"Discharge"

Sec. 96.3. "Discharge", for purposes of IC 16-21-12, has the meaning set forth in IC 16-21-12-3.

As added by P.L.137-2015, SEC.3.

IC 16-18-2-96.5
"Distributed for use"

Sec. 96.5. "Distributed for use", for purposes of IC 16-41-12, has the meaning set forth in IC 16-41-12-5.5.

As added by P.L.213-2013, SEC.2.

IC 16-18-2-97
"Division"

Sec. 97. "Division" means the following:

(1) For purposes of IC 16-21-8, the meaning set forth in IC 16-21-8-0.2.

(2) For purposes of IC 16-22-8, the meaning set forth in IC 16-22-8-3.

(3) For purposes of IC 16-27, a group of individuals under the supervision of the director within the state department assigned the responsibility of implementing IC 16-27.

(4) For purposes of IC 16-28, a group of individuals under the supervision of the director within the state department assigned the responsibility of implementing IC 16-28.

(5) For purposes of IC 16-41-40, the division of family resources established by IC 12-13-1-1.

As added by P.L.2-1993, SEC.1. Amended by P.L.51-1998, SEC.1; P.L.12-2004, SEC.3; P.L.90-2005, SEC.1; P.L.41-2007, SEC.3; P.L.3-2008, SEC.104; P.L.161-2014, SEC.2.

IC 16-18-2-98
"Division director and director of a division"

Sec. 98. "Division director" and "director of a division", for purposes of IC 16-22-8, has the meaning set forth in IC 16-22-8-4.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-99
"DNA test"

Sec. 99. "DNA test", for purposes of IC 16-37-2-10, has the meaning set forth in IC 16-37-2-10(a).

As added by P.L.2-1993, SEC.1.

IC 16-18-2-99.3
"DNR"

Sec. 99.3. "DNR", for purposes of IC 16-36-5, has the meaning set forth in IC 16-36-5-4.
As added by P.L.148-1999, SEC.5.

IC 16-18-2-99.5
"Donations"

Sec. 99.5. "Donations", for purposes of IC 16-21-6 and IC 16-21-9, means the unreimbursed costs of providing cash and in kind services and gifts, including facilities, equipment, personnel, and programs, to other nonprofit or public outpatient clinics, hospitals, or health care organizations.
As added by P.L.94-1994, SEC.6.

IC 16-18-2-100
"Donor insemination"

Sec. 100. "Donor insemination", for purposes of IC 16-41-14, has the meaning set forth in IC 16-41-14-3.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-100.5
"Down syndrome"

Sec. 100.5. "Down syndrome", for purposes of IC 16-34, has the meaning set forth in IC 16-34-4-2.
As added by P.L.213-2016, SEC.3.

IC 16-18-2-101
"Drug"

Sec. 101. (a) "Drug", for purposes of IC 16-42-1 through IC 16-42-4, means the following:

(1) Articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them.

(2) Articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals.

(3) Articles other than food intended to affect the structure or any function of the body of man or other animals.

(4) Articles intended for use as a component of any article specified in subdivision (1), (2), or (3).

The term does not include devices or their components, parts, or accessories.

(b) "Drug", for purposes of IC 16-42-19, has the meaning set forth in IC 16-42-19-2.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-102
"Drug order"
Sec. 102. "Drug order", for purposes of IC 16-42-19, has the meaning set forth in IC 16-42-19-3.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-103
"Drug sample"
Sec. 103. "Drug sample", for purposes of IC 16-42-21, has the meaning set forth in IC 16-42-21-2.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-104
"Dwelling"
Sec. 104. "Dwelling" includes any part of any building or the building's premises used as a place of residence or habitation or for sleeping by a person.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-104.5
"Education related costs"
Sec. 104.5. "Education related costs", for purposes of IC 16-21-6, has the meaning set forth in IC 16-21-6-0.2.
As added by P.L.94-1994, SEC.7.

IC 16-18-2-105
"Effective treatment"
Sec. 105. "Effective treatment", for purposes of IC 16-41-16, has the meaning set forth in IC 16-41-16-3.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-105.5
"Eggs"
Sec. 105.5. "Eggs", for purposes of IC 16-42-11, has the meaning set forth in IC 16-42-11-1.1.
As added by P.L.28-2009, SEC.1.

IC 16-18-2-106
"Electronic products"
Sec. 106. "Electronic products", for purposes of IC 16-41-35, has the meaning set forth in IC 16-41-35-5.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-106.3
"Electronic signature"
Sec. 106.3. For purposes of IC 16-42-3 and IC 16-42-22, "electronic signature" means an electronic sound, symbol, or process:
(1) attached to or logically associated with an electronically

transmitted prescription or order; and

(2) executed or adopted by a person;

with the intent to sign the electronically transmitted prescription or order.

As added by P.L.204-2005, SEC.1.

IC 16-18-2-106.4

"Electronically transmitted and electronic transmission"

Sec. 106.4. For purposes of IC 16-42-3, IC 16-42-19, and IC 16-42-22, "electronically transmitted" or "electronic transmission" means the transmission of a prescription in electronic form. The term does not include transmission of a prescription by facsimile.

As added by P.L.204-2005, SEC.2.

IC 16-18-2-106.5

"Eligible medical condition"

Sec. 106.5. "Eligible medical condition" means a condition for which an individual is eligible for assistance under IC 16-35-2.

As added by P.L.79-1999, SEC.1.

IC 16-18-2-106.6

"Elevated blood lead level"

Sec. 106.6. "Elevated blood lead level", for purposes of IC 16-41-39.8, means a blood lead level of at least ten (10) micrograms of lead per deciliter of whole blood.

As added by P.L.57-2009, SEC.7.

IC 16-18-2-107

"Emergency ambulance services"

Sec. 107. "Emergency ambulance services", for purposes of IC 16-31, means the transportation of emergency patients by ambulance and the administration of basic life support to emergency patients before or during the transportation.

As added by P.L.2-1993, SEC.1. Amended by P.L.186-1995, SEC.2.

IC 16-18-2-108

Repealed

(Repealed by P.L.186-1995, SEC.19.)

IC 16-18-2-109

Repealed

(Repealed by P.L.186-1995, SEC.19.)

IC 16-18-2-109.1

"Emergency medical dispatch agency"

Sec. 109.1. "Emergency medical dispatch agency", for purposes of IC 16-31-3.5, has the meaning set forth in IC 16-35-3.5-1.

As added by P.L.205-2003, SEC.11.

IC 16-18-2-109.3
"Emergency medical dispatcher"

Sec. 109.3. "Emergency medical dispatcher", for purposes of IC 16-31-3.5, has the meaning set forth in IC 16-35-3.5-1.

As added by P.L.205-2003, SEC.12.

IC 16-18-2-109.5
"Emergency medical dispatching"

Sec. 109.5. "Emergency medical dispatching", for purposes of IC 16-31-3.5, has the meaning set forth in IC 16-35-3.5-1.

As added by P.L.205-2003, SEC.13.

IC 16-18-2-109.8
"Emergency medical responder"

Sec. 109.8. "Emergency medical responder", for purposes of IC 16-31, means an individual who is:

(1) certified under IC 16-31 and who meets the Indiana emergency medical services commission's standards for emergency medical responder certification; and

(2) the first individual to respond to an incident requiring emergency medical services.

As added by P.L.77-2012, SEC.7.

IC 16-18-2-110
"Emergency medical services"

Sec. 110. "Emergency medical services", for purposes of IC 16-31, means the provision of emergency ambulance services or other services, including extrication and rescue services, utilized in serving an individual's need for immediate medical care in order to prevent loss of life or aggravation of physiological or psychological illness or injury.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-111
"Emergency medical service facility"

Sec. 111. "Emergency medical service facility", for purposes of IC 16-31 and IC 16-41, means those facilities that are licensed and operated under IC 16-21-2 and that are equipped, prepared, and staffed to provide medical care for emergency patients.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-111.3
"Emergency medical services provider"

Sec. 111.3. (a) "Emergency medical services provider", for purposes of IC 16-35-9, has the meaning set forth in IC 16-35-9-1.

(b) This section expires July 1, 2016.

As added by P.L.61-2015, SEC.2.

IC 16-18-2-112
"Emergency medical technician"

Sec. 112. "Emergency medical technician", for purposes of IC 16-31, means an individual who is certified under this article to provide basic life support at the scene of an accident, illness, or during transport.

As added by P.L.2-1993, SEC.1. Amended by P.L.186-1995, SEC.3.

IC 16-18-2-112.5
Repealed

(As added by P.L.205-2003, SEC.14. Repealed by P.L.77-2012, SEC.8.)

IC 16-18-2-112.7
Repealed

(As added by P.L.205-2003, SEC.15. Repealed by P.L.77-2012, SEC.9.)

IC 16-18-2-113
"Emergency patient"

Sec. 113. (a) "Emergency patient", for purposes of IC 16-31, means an individual who:

(1) is acutely ill, injured, incapacitated, or helpless; and
(2) requires emergency medical services.

(b) The term includes an individual who:

(1) requires transportation on a litter or cot; or
(2) is transported in a vehicle certified as an ambulance under IC 16-31-3.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-114
"Employer"

Sec. 114. "Employer", for purposes of IC 16-41-11, has the meaning set forth in IC 16-41-11-1.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-114.5
"Encapsulant"

Sec. 114.5. "Encapsulant", for purposes of IC 16-41-39.8, means a substance that forms a barrier between lead-based paint and the environment using a liquid applied coating, with or without reinforcement materials, or an adhesively bonded covering material.

As added by P.L.57-2009, SEC.8.

IC 16-18-2-114.6
"Encapsulation"

Sec. 114.6. "Encapsulation", for purposes of IC 16-41-39.8, means the application of an encapsulant.

As added by P.L.57-2009, SEC.9.

IC 16-18-2-115
"Enriched"

Sec. 115. "Enriched", as applied to flour, for purposes of IC 16-42-10, has the meaning set forth in IC 16-42-10-1.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-115.5
"Entity"

Sec. 115.5. "Entity", for purposes of IC 16-41-43, has the meaning set forth in IC 16-41-43-2.
As added by P.L.59-2015, SEC.1.

IC 16-18-2-116
"Environmental commissioner"

Sec. 116. "Environmental commissioner", for purposes of IC 16-41, refers to the commissioner of the department of environmental management appointed under IC 13-13-2-1.
As added by P.L.2-1993, SEC.1. Amended by P.L.1-1996, SEC.71.

IC 16-18-2-116.2
"Environmental investigation"

Sec. 116.2. "Environmental investigation" means an identification and evaluation of lead hazards from nonstructural sources in a child's environment. The term includes the following:

(1) Presentation of results of the identification and evaluation, including recommendations for reducing or eliminating exposure.
(2) Education of the child's family concerning:
(A) lead hazards found; and
(B) temporary and permanent measures to protect the child from further exposure.

As added by P.L.102-2008, SEC.4.

IC 16-18-2-116.4
"Environmental rules board"

Sec. 116.4. "Environmental rules board", for purposes of IC 16-41, refers to the board established by IC 13-13-8-3.
As added by P.L.113-2014, SEC.100.

IC 16-18-2-117
"Established name"

Sec. 117. "Established name", for purposes of IC 16-42-3, has the meaning set forth in IC 16-42-3-2.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-117.5

"Evidence"

Sec. 117.5. "Evidence", for purposes of IC 16-21-8, has the meaning set forth in IC 16-21-8-0.2.

As added by P.L.161-2014, SEC.3.

IC 16-18-2-118

Repealed

(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-119

"Executive"

Sec. 119. "Executive" has the meaning set forth in IC 36-1-2-5.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-120

"Executive board"

Sec. 120. (a) "Executive board", except as provided in subsection (b), refers to the executive board of the state department of health.

(b) "Executive board", for purposes of IC 16-23.5, has the meaning set forth in IC 16-23.5-1-7.

As added by P.L.2-1993, SEC.1. Amended by P.L.2-2007, SEC.184.

IC 16-18-2-121

"Executive director"

Sec. 121. (a) "Executive director", for purposes of IC 16-22, except as provided in subsection (b), means the chief administrative officer, president, or other individual appointed under IC 16-22-3-8.

(b) "Executive director", for purposes of IC 16-22-8 and IC 16-41-7.5, means the executive director of the health and hospital corporation appointed under IC 16-22-8-27.

As added by P.L.2-1993, SEC.1. Amended by P.L.208-2015, SEC.2.

IC 16-18-2-121.3

"Expanded criminal history check"

Sec. 121.3. "Expanded criminal history check", for purposes of IC 16-27-2, has the meaning set forth in IC 16-27-2-0.5.

As added by P.L.42-2011, SEC.35.

IC 16-18-2-121.5

"Extended length of stay"

Sec. 121.5. "Extended length of stay" means a length of stay in an acute care hospital inpatient unit that exceeds one (1) standard deviation of the hospital wide average length of stay.

As added by P.L.162-1999, SEC.1.

IC 16-18-2-122

"Facility"

Sec. 122. (a) "Facility", for purposes of IC 16-35-9, has the

meaning set forth in IC 16-35-9-2. This subsection expires July 1, 2016.

(b) "Facility", for purposes of IC 16-41-11, has the meaning set forth in IC 16-41-11-2.

As added by P.L.2-1993, SEC.1. Amended by P.L.61-2015, SEC.3.

IC 16-18-2-123
Repealed

(As added by P.L.2-1993, SEC.1. Repealed by P.L.256-1999, SEC.19.)

IC 16-18-2-124
"Federal act"

Sec. 124. "Federal act", for purposes of IC 16-42-1 through IC 16-42-4, refers to the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.; 52 Stat. 1040 et seq.) and amendments to that statute.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-125
Repealed

(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-126
"Federal Food, Drug, and Cosmetic Act"

Sec. 126. "Federal Food, Drug, and Cosmetic Act" means 21 U.S.C. 301 et seq.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-127
"Federal Meat Inspection Act"

Sec. 127. "Federal Meat Inspection Act" means 21 U.S.C. 601 et seq.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-128
"Federal Poultry Products Inspection Act"

Sec. 128. "Federal Poultry Products Inspection Act" means 21 U.S.C. 451 et seq.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-128.3
"Fertilization"

Sec. 128.3. "Fertilization", for purposes of IC 16-34, means the fusion of a human spermatozoon with a human ovum.

As added by P.L.193-2011, SEC.2.

IC 16-18-2-128.5

"Fetal stem cell"

Sec. 128.5. (a) "Fetal stem cell" means any of the following types of stem cells taken from a fetus that was either miscarried or stillborn from any of the following sources:

(1) Placenta.
(2) Umbilical cord.
(3) Amniotic fluid.
(4) Fetal tissue.

(b) The term does not include any cells that are taken as the result of an abortion.

As added by P.L.126-2005, SEC.3. Amended by P.L.91-2012, SEC.1.

IC 16-18-2-128.7
"Fetus"

Sec. 128.7. "Fetus", for purposes of IC 16-34 and IC 16-41-16, means an unborn child, irrespective of gestational age or the duration of the pregnancy.

As added by P.L.113-2015, SEC.2. Amended by P.L.213-2016, SEC.4.

IC 16-18-2-129
"Filling material"

Sec. 129. "Filling material", for purposes of IC 16-41-32, has the meaning set forth in IC 16-41-32-6.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-130
"Financial institution"

Sec. 130. "Financial institution", for purposes of IC 16-22-3-20, has the meaning set forth in IC 16-22-3-20(a).

As added by P.L.2-1993, SEC.1.

IC 16-18-2-131
Repealed

(As added by P.L.2-1993, SEC.1. Amended by P.L.186-1995, SEC.4. Repealed by P.L.77-2012, SEC.10.)

IC 16-18-2-132
"Fiscal body"

Sec. 132. "Fiscal body", except as provided in subsection (b), has the meaning set forth in IC 36-1-2-6.

As added by P.L.2-1993, SEC.1. Amended by P.L.72-2001, SEC.1.

IC 16-18-2-133
Repealed

(Repealed by P.L.87-1994, SEC.16.)

IC 16-18-2-134

"Flour"

Sec. 134. "Flour", for purposes of IC 16-42-10, has the meaning set forth in IC 16-42-10-2.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-135

"Food"

Sec. 135. (a) "Food", for purposes of IC 16-42-1 through IC 16-42-4 and IC 16-42-18, means the following:

(1) Articles used for food, drink, confectionery, or condiment for humans.

(2) Chewing gum.

(3) Articles used for components of any of these articles.

(b) "Food", for purposes of IC 16-42-5 and IC 16-42-5.2, means the following:

(1) All articles used for food, drink, confectionery, or condiment whether simple, mixed, or compound.

(2) All substances or ingredients used in the preparation of the items described in subdivision (1).

As added by P.L.2-1993, SEC.1. Amended by P.L.266-2001, SEC.3.

IC 16-18-2-136

"Food additive"

Sec. 136. (a) "Food additive", for purposes of IC 16-42-1 through IC 16-42-4, means any substance the intended use of which results or may be reasonably expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food (including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food, and including any source or radiation intended for any such use) if the substance is not generally recognized among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures (or, in the case of a substance used in a food before January 1, 1958, through either scientific procedures or experience based on common use in food) to be safe under the conditions of the substance's intended use.

(b) The term does not include any of the following:

(1) A pesticide chemical in or on a raw agricultural commodity.

(2) A pesticide chemical to the extent that the chemical is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity.

(3) A color additive.

(4) Any substance used in accordance with a sanction or approval granted before the enactment of the Food Additives Amendment of 1958, under the Federal Act; the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), or the Meat Inspection Act of March 4, 1907 (34 Stat. 1260), as amended

and extended (21 U.S.C. 71 et seq.).

As added by P.L.2-1993, SEC.1. Amended by P.L.137-1996, SEC.59.

IC 16-18-2-137

"Food establishment"

Sec. 137. (a) "Food establishment", for purposes of IC 16-42-5 and IC 16-42-5.2, means any building, room, basement, vehicle of transportation, cellar, or open or enclosed area occupied or used for handling food.

(b) The term does not include the following:

(1) A dwelling where food is prepared on the premises by the occupants, free of charge, for their consumption or for consumption by their guests.

(2) A gathering of individuals at a venue of an organization that is organized for educational purposes in a nonpublic educational setting or for religious purposes, if:

(A) the individuals separately or jointly provide or prepare, free of charge, and consume their own food or that of others attending the gathering; and

(B) the gathering is for a purpose of the organization.

Gatherings for the purpose of the organization include funerals, wedding receptions, christenings, bar or bat mitzvahs, baptisms, communions, and other events or celebrations sponsored by the organization.

(3) A vehicle used to transport food solely for distribution to the needy, either free of charge or for a nominal donation.

(4) A private gathering of individuals who separately or jointly provide or prepare and consume their own food or that of others attending the gathering, regardless of whether the gathering is held on public or private property.

(5) Except for food prepared by a for-profit entity, a venue of the sale of food prepared for an organization:

(A) that is organized for:

(i) religious purposes; or

(ii) educational purposes in a nonpublic educational setting;

(B) that is exempt from taxation under Section 501 of the Internal Revenue Code; and

(C) that offers the food for sale to the final consumer at an event held for the benefit of the organization;

unless the food is being provided in a restaurant or a cafeteria with an extensive menu of prepared foods.

(6) Except for food prepared by a for-profit entity, an Indiana nonprofit organization that:

(A) is organized for civic, fraternal, veterans, or charitable purposes;

(B) is exempt from taxation under Section 501 of the Internal Revenue Code; and

(C) offers food for sale to the final consumer at an event held for the benefit of the organization;

if the events conducted by the organization take place for not more than fifteen (15) days in a calendar year.

(7) An individual vendor of a farmer's market or roadside stand if the individual meets the requirements of IC 16-42-5-29.

(8) The holder of a farm winery permit under IC 7.1-3-12-5 or a brewer's permit under IC 7.1-3-2-7(5) if the requirements of IC 16-42-5-30 are met.

As added by P.L.2-1993, SEC.1. Amended by P.L.266-2001, SEC.4; P.L.100-2007, SEC.1; P.L.3-2008, SEC.105; P.L.1-2009, SEC.115; P.L.86-2009, SEC.1; P.L.144-2015, SEC.5.

IC 16-18-2-138
"Food handling"

Sec. 138. "Food handling", for purposes of IC 16-42-5 and IC 16-42-5.2, means producing, processing, handling, preparing, manufacturing, packing, storing, selling, distributing, or transporting of food.

As added by P.L.2-1993, SEC.1. Amended by P.L.266-2001, SEC.5.

IC 16-18-2-138.2
"Food handling machinery"

Sec. 138.2. "Food handling machinery", for purposes of IC 16-42-5, has the meaning set forth in IC 16-42-5-2.3.

As added by P.L.266-2001, SEC.6.

IC 16-18-2-138.3
"Food handler"

Sec. 138.3. "Food handler", for purposes of IC 16-42-5.2, has the meaning set forth in IC 16-42-5.2-5.

As added by P.L.266-2001, SEC.7.

IC 16-18-2-138.5
"Food instrument"

Sec. 138.5. "Food instrument", for purposes of IC 16-35-1.5, has the meaning set forth in IC 16-35-1.5-1.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-139
"Food service establishment"

Sec. 139. "Food service establishment", for purposes of IC 16-31-9, has the meaning set forth in IC 16-31-9-1.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-139.5
"Forensic medical exam"

Sec. 139.5. "Forensic medical exam", for purposes of IC 16-21-8,

means the following:

(1) Appropriate procedures for acquiring evidence that may be used in a criminal proceeding against a person charged with a sex crime.

(2) Suturing and care of wounds that stem directly from the sex crime, including anesthesia and prescribed medication.

As added by P.L.121-2006, SEC.21.

IC 16-18-2-140
"Foundation support"

Sec. 140. "Foundation support", for purposes of IC 16-46-1, has the meaning set forth in IC 16-46-1-5.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-141
Repealed

(As added by P.L.2-1993, SEC.1. Repealed by P.L.28-2009, SEC.16.)

IC 16-18-2-142
Repealed

(Repealed by P.L.144-1996, SEC.15.)

IC 16-18-2-143
"Fund"

Sec. 143. (a) "Fund", for purposes of IC 16-26-2, has the meaning set forth in IC 16-26-2-2.

(b) "Fund", for purposes of IC 16-31-8.5, has the meaning set forth in IC 16-31-8.5-2.

(c) "Fund", for purposes of IC 16-41-39.4, refers to the childhood lead poisoning prevention fund established by IC 16-41-39.4-3.1.

(d) "Fund", for purposes of IC 16-41-39.8, refers to the lead trust fund established by IC 16-41-39.8-7.

(e) "Fund", for purposes of IC 16-46-5, has the meaning set forth in IC 16-46-5-3.

(f) "Fund", for purposes of IC 16-46-12, has the meaning set forth in IC 16-46-12-1.

(g) "Fund", for purposes of IC 16-41-42.2, has the meaning set forth in IC 16-41-42.2-2.

(h) "Fund", for purposes of IC 16-35-8, has the meaning set forth in IC 16-35-8-2.

As added by P.L.2-1993, SEC.1. Amended by P.L.14-2000, SEC.43; P.L.81-2002, SEC.1; P.L.205-2003, SEC.16; P.L.234-2007, SEC.45; P.L.3-2008, SEC.106; P.L.102-2008, SEC.5; P.L.57-2009, SEC.10; P.L.1-2010, SEC.69.

IC 16-18-2-143.5
"Game animal"

Sec. 143.5. "Game animal" means an animal, the product of which is food, that is not:

(1) regulated under IC 15-17-5;

(2) except for aquatic birds and mammals, an aquatic animal, including fish, crustaceans, mollusks, alligators, frogs, aquatic turtles, jellyfish, sea cucumbers, and sea urchins;

(3) the roe from any aquatic animal described in subdivision (2); or

(4) possessed or raised in violation of a state or federal law.

As added by P.L.80-2016, SEC.2.

IC 16-18-2-144
"Gasoline"

Sec. 144. "Gasoline", for purposes of IC 16-44-2, has the meaning set forth in IC 16-44-2-1.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-145
"General hospital"

Sec. 145. "General hospital", for the purposes of IC 16-22-9, has the meaning set forth in IC 16-22-9-2.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-146
"General hospital services"

Sec. 146. "General hospital services", for purposes of IC 16-22-9 has the meaning set forth in IC 16-22-9-3.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-147
Repealed

(As added by P.L.2-1993, SEC.1. Repealed by P.L.29-2014, SEC.5.)

IC 16-18-2-148
"Generically equivalent drug product"

Sec. 148. "Generically equivalent drug product", for purposes of IC 16-42-22, has the meaning set forth in IC 16-42-22-4.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-148.5
"Gift"

Sec. 148.5. "Gift", for purposes of IC 16-23.5, has the meaning set forth in IC 16-23.5-1-8.

As added by P.L.2-2007, SEC.185.

IC 16-18-2-149
"Governing board"

Sec. 149. "Governing board" means the board of trustees, governing board, board of directors, or other body responsible for governing a hospital.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-150
"Governing body"
Sec. 150. (a) "Governing body", for purposes of IC 16-22-7, has the meaning set forth in IC 16-22-7-2.
(b) "Governing body", for purposes of IC 16-41-22, has the meaning set forth in IC 16-41-22-3.
As added by P.L.2-1993, SEC.1. Amended by P.L.152-2005, SEC.1; P.L.156-2011, SEC.7; P.L.197-2011, SEC.55.

IC 16-18-2-150.4
"Government sponsored indigent health care"
Sec. 150.4. "Government sponsored indigent health care", for purposes of IC 16-21-9, has the meaning set forth in IC 16-21-9-2.
As added by P.L.94-1994, SEC.8.

IC 16-18-2-151
"Governmental unit"
Sec. 151. "Governmental unit", for purposes of IC 16-28 and IC 16-29, means an agency, a bureau, or a commission.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-152
Repealed
(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-153
Repealed
(Repealed by P.L.144-1996, SEC.15.)

IC 16-18-2-153.5
"Nurse aide"
Sec. 153.5. "Nurse aide", for purposes of IC 16-28-13, has the meaning set forth in IC 16-28-13-1.
As added by P.L.152-1995, SEC.15.

IC 16-18-2-154
"Gross patient revenue"
Sec. 154. "Gross patient revenue", for purposes of IC 16-21-6, has the meaning set forth in IC 16-21-6-1.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-155
"Guest"

Sec. 155. "Guest", for purposes of IC 16-41-31, has the meaning set forth in IC 16-41-31-2.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-156
"Guest room"
Sec. 156. "Guest room", for purposes of IC 16-41-31, has the meaning set forth in IC 16-41-31-3.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-157
"Hair dye"
Sec. 157. "Hair dye", for purposes of IC 16-42-4, has the meaning set forth in IC 16-42-4-1.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-158
Repealed
(Repealed by P.L.23-1993, SEC.165.)

IC 16-18-2-159
Repealed
(Repealed by P.L.87-1994, SEC.16.)

IC 16-18-2-159.1
"Health benefit plan"
Sec. 159.1. "Health benefit plan", for purposes of IC 16-47-1, has the meaning set forth in IC 16-47-1-2.
As added by P.L.50-2004, SEC.3.

IC 16-18-2-160
"Health care"
Sec. 160. "Health care", for purposes of IC 16-36-1, has the meaning set forth in IC 16-36-1-1.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-160.5
"Health care entity"
Sec. 160.5. "Health care entity", for purposes of IC 16-41-42.1, has the meaning set forth in IC 16-41-42.1-1.
As added by P.L.193-2007, SEC.1. Amended by P.L.3-2008, SEC.107.

IC 16-18-2-161
"Health care facility"
Sec. 161. (a) "Health care facility" includes:
(1) hospitals licensed under IC 16-21-2, private mental health institutions licensed under IC 12-25, and tuberculosis hospitals

established under IC 16-11-1 (before its repeal);

(2) health facilities licensed under IC 16-28; and

(3) rehabilitation facilities and kidney disease treatment centers.

(b) "Health care facility", for purposes of IC 16-21-11 and IC 16-34-3, has the meaning set forth in IC 16-21-11-1.

(c) "Health care facility", for purposes of IC 16-28-13, has the meaning set forth in IC 16-28-13-0.5.

As added by P.L.2-1993, SEC.1. Amended by P.L.108-1999, SEC.1; P.L.101-2007, SEC.2; P.L.42-2011, SEC.36; P.L.127-2014, SEC.1; P.L.113-2015, SEC.3.

IC 16-18-2-161.5
"Health care interpreter"

Sec. 161.5. "Health care interpreter", for purposes of IC 16-46-11.1, has the meaning set forth in IC 16-46-11.1-2.

As added by P.L.61-2004, SEC.2.

IC 16-18-2-162
"Health care professional"

Sec. 162. (a) "Health care professional", for purposes of IC 16-27-1 and IC 16-27-4, has the meaning set forth in IC 16-27-1-1.

(b) "Health care professional", for purposes of IC 16-27-2, has the meaning set forth in IC 16-27-2-1.

As added by P.L.2-1993, SEC.1. Amended by P.L.212-2005, SEC.5.

IC 16-18-2-163
"Health care provider"

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 16-36-5 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 nurse;

(5) a certified nurse midwife;

(6) a paramedic;

(7) an emergency medical technician;

(8) an advanced emergency medical technician; or

(9) an emergency medical responder, as defined by section 109.8 of this chapter.

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).

As added by P.L.2-1993, SEC.1. Amended by P.L.26-1994, SEC.7; P.L.188-1995, SEC.1; P.L.1-1998, SEC.116; P.L.148-1999, SEC.6; P.L.205-2003, SEC.17; P.L.95-2005, SEC.1; P.L.108-2007, SEC.2; P.L.77-2012, SEC.11; P.L.164-2013, SEC.3; P.L.232-2013, SEC.1; P.L.139-2014, SEC.1; P.L.92-2015, SEC.2; P.L.117-2015, SEC.31.

IC 16-18-2-163.3
"Health care quality indicator data"

Sec. 163.3. "Health care quality indicator data", for purposes of IC 16-40-4, has the meaning set forth in IC 16-40-4-1.

As added by P.L.95-2005, SEC.2.

IC 16-18-2-163.4
"Health care representative"

Sec. 163.4. "Health care representative", for purposes of IC 16-21-12, has the meaning set forth in IC 16-21-12-4.

As added by P.L.137-2015, SEC.4.

IC 16-18-2-163.5
"Health care translator"

Sec. 163.5. "Health care translator", for purposes of IC 16-46-11.1, has the meaning set forth in IC 16-46-11.1-3.

As added by P.L.61-2004, SEC.3.

IC 16-18-2-164
Repealed
(Repealed by P.L.144-1996, SEC.15.)

IC 16-18-2-164.6
"Health coverage provider"
Sec. 164.6. "Health coverage provider", for purposes of IC 16-40-4, has the meaning set forth in IC 16-40-4-2.
As added by P.L.95-2005, SEC.3.

IC 16-18-2-165
"Health data"
Sec. 165. "Health data", for purposes of IC 16-19-10, has the meaning set forth in IC 16-19-10-2.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-166
"Health directive"
Sec. 166. "Health directive", for purposes of IC 16-41, means:
(1) a written statement; or
(2) in an emergency, an oral statement followed by a written statement within seventy-two (72) hours;
to a carrier issued by a designated health official under IC 16-41.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-167
"Health facility"
Sec. 167. (a) "Health facility":
(1) except for purposes of IC 16-28-15, means a building, a structure, an institution, or other place for the reception, accommodation, board, care, or treatment extending beyond a continuous twenty-four (24) hour period in a week of more than four (4) individuals who need or desire such services because of physical or mental illness, infirmity, or impairment; and
(2) for purposes of IC 16-28-15, has the meaning set forth in IC 16-28-15-3.
(b) The term does not include the premises used for the reception, accommodation, board, care, or treatment in a household or family, for compensation, of a person related by blood to the head of the household or family (or to the spouse of the head of the household or family) within the degree of consanguinity of first cousins.
(c) The term does not include any of the following:
(1) Hotels, motels, or mobile homes when used as such.
(2) Hospitals or mental hospitals, except for that part of a hospital that provides long term care services and functions as a health facility, in which case that part of the hospital is licensed under IC 16-21-2, but in all other respects is subject to IC 16-28.

(3) Hospices that furnish inpatient care and are licensed under IC 16-25-3.
(4) Institutions operated by the federal government.
(5) Foster family homes or day care centers.
(6) Schools for individuals who are deaf or blind.
(7) Day schools for individuals with an intellectual disability.
(8) Day care centers.
(9) Children's homes and child placement agencies.
(10) Offices of practitioners of the healing arts.
(11) Any institution in which health care services and private duty nursing services are provided that is listed and certified by the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc.
(12) Industrial clinics providing only emergency medical services or first aid for employees.
(13) A residential facility (as defined in IC 12-7-2-165).
(14) Maternity homes.
(15) Offices of Christian Science practitioners.

As added by P.L.2-1993, SEC.1. Amended by P.L.61-1993, SEC.62; P.L.111-1996, SEC.2; P.L.58-2000, SEC.1; P.L.99-2007, SEC.153; P.L.229-2011, SEC.157; P.L.117-2015, SEC.32.

IC 16-18-2-168
"Health records"

Sec. 168. (a) "Health records", for purposes of IC 16-39, means written, electronic, or printed information possessed or maintained by a provider concerning any diagnosis, treatment, or prognosis of the patient, including such information possessed or maintained on microfiche, microfilm, or in a digital format. The term includes mental health records and alcohol and drug abuse records.

(b) For purposes of IC 16-39-5-3(e), the term includes information that describes services provided to a patient and a provider's charges for services provided to a patient.

(c) The term does not include information concerning emergency ambulance services described in IC 16-31-2-11(d).

As added by P.L.2-1993, SEC.1. Amended by P.L.231-1999, SEC.11; P.L.127-2001, SEC.1; P.L.44-2002, SEC.2; P.L.255-2003, SEC.45.

IC 16-18-2-169
"Hemophilia"

Sec. 169. "Hemophilia", for purposes of IC 16-41-18, has the meaning set forth in IC 16-41-18-2.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-170
"High risk activity"

Sec. 170. "High risk activity", for purposes of IC 16-41-7, has the meaning set forth in IC 16-41-7-1(b).

As added by P.L.2-1993, SEC.1.

IC 16-18-2-171
"HIV"

Sec. 171. "HIV" refers to the human immunodeficiency virus.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-172
"Home"

Sec. 172. "Home", for purposes of IC 16-33-4, has the meaning set forth in IC 16-33-4-3.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-173
"Home health agency"

Sec. 173. (a) "Home health agency", for purposes of IC 16-27-1, has the meaning set forth in IC 16-27-1-2.

(b) "Home health agency", for purposes of IC 16-27-2, has the meaning set forth in IC 16-27-2-2.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-174
"Home health aide"

Sec. 174. (a) "Home health aide", for purposes of IC 16-27-1 and IC 12-27-1.5, means an individual who provides home health aide services.

(b) The term does not include the following:

(1) A health care professional.

(2) A volunteer who provides home health aide services without compensation.

(3) An immediate member of the patient's family.
As added by P.L.2-1993, SEC.1. Amended by P.L.110-1999, SEC.1.

IC 16-18-2-175
"Home health aide services"

Sec. 175. "Home health aide services", for purposes of IC 16-27-1, has the meaning set forth in IC 16-27-1-4.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-176
"Home health services"

Sec. 176. "Home health services", for purposes of IC 16-27-1, has the meaning set forth in IC 16-27-1-5.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-177
Repealed

(As added by P.L.2-1993, SEC.1. Repealed by P.L.256-1999,

SEC.19.)

IC 16-18-2-177.1
"Hospice"

Sec. 177.1. "Hospice", for purposes of IC 16-25, has the meaning set forth in IC 16-25-1.1-3.
As added by P.L.256-1999, SEC.4.

IC 16-18-2-177.2
"Hospice program"

Sec. 177.2. "Hospice program", for purposes of IC 16-25, has the meaning set forth in IC 16-25-1.1-4.
As added by P.L.256-1999, SEC.5.

IC 16-18-2-177.3
"Hospice program patient"

Sec. 177.3. "Hospice program patient", for purposes of IC 16-25, has the meaning set forth in IC 16-25-1.1-5.
As added by P.L.256-1999, SEC.6.

IC 16-18-2-177.4
"Hospice services"

Sec. 177.4. "Hospice services", for purposes of IC 16-25, has the meaning set forth in IC 16-25-1.1-6.
As added by P.L.256-1999, SEC.7.

IC 16-18-2-178
Repealed

(As added by P.L.2-1993, SEC.1. Repealed by P.L.256-1999, SEC.19.)

IC 16-18-2-179
"Hospital"

Sec. 179. (a) "Hospital", except as provided in subsections (b) through (g), means a hospital that is licensed under IC 16-21-2.

(b) "Hospital", for purposes of IC 16-21, means an institution, a place, a building, or an agency that holds out to the general public that it is operated for hospital purposes and that it provides care, accommodations, facilities, and equipment, in connection with the services of a physician, to individuals who may need medical or surgical services. The term does not include the following:

(1) Freestanding health facilities.

(2) Hospitals or institutions specifically intended to diagnose, care, and treat the following:

(A) Individuals with a mental illness (as defined in IC 12-7-2-117.6).

(B) Individuals with developmental disabilities (as defined in IC 12-7-2-61).

(3) Offices of physicians where patients are not regularly kept as bed patients.

(4) Convalescent homes, boarding homes, or homes for the aged.

(c) "Hospital", for purposes of IC 16-22-8, has the meaning set forth in IC 16-22-8-5.

(d) "Hospital", for purposes of IC 16-23.5, has the meaning set forth in IC 16-23.5-1-9.

(e) "Hospital" or "tuberculosis hospital", for purposes of IC 16-24, means an institution or a facility for the treatment of individuals with tuberculosis.

(f) "Hospital", for purposes of IC 16-34, means a hospital (as defined in subsection (b)) that:

(1) is required to be licensed under IC 16-21-2; or

(2) is operated by an agency of the United States.

(g) "Hospital", for purposes of IC 16-41-12, has the meaning set forth in IC 16-41-12-6.

As added by P.L.2-1993, SEC.1. Amended by P.L.144-1996, SEC.1; P.L.162-1999, SEC.3; P.L.2-2007, SEC.186; P.L.99-2007, SEC.154.

IC 16-18-2-180
"Hospital based health facility"

Sec. 180. "Hospital based health facility", for purposes of IC 16-21 and IC 16-28, means that part of a hospital that provides long term care services and functions as a health facility.

As added by P.L.2-1993, SEC.1. Amended by P.L.152-1995, SEC.16.

IC 16-18-2-181
"Hospital fund or hospital funds"

Sec. 181. "Hospital fund" or "hospital funds" means money, securities, real or personal property or interests, collected or received by or paid over, transferred, or conveyed to the hospital or the county for hospital purposes or hospital buildings.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-182
"Hospital purposes"

Sec. 182. "Hospital purposes" means providing inpatient or outpatient diagnostic and treatment facilities and services generally recognized as hospital services to the public, under the direction and supervision of the patient's attending physician, including, at the discretion of the governing board, the following:

(1) Extended care facilities.

(2) The provision of services to other health care entities.

(3) Other health care services and facilities, including the provision of acute care in hospital inpatient units to patients with extended lengths of stay.

As added by P.L.2-1993, SEC.1. Amended by P.L.162-1999, SEC.4.

IC 16-18-2-183
Repealed
(Repealed by P.L.87-1994, SEC.16.)

IC 16-18-2-183.2
"Human cells, tissues, or cellular or tissue-based products"
Sec. 183.2. "Human cells, tissues, or cellular or tissue-based products" or "HCT/Ps", for purposes of IC 16-41-12, has the meaning set forth in IC 16-41-12-6.5.
As added by P.L.213-2013, SEC.3.

IC 16-18-2-183.5
"Human embryo"
Sec. 183.5. "Human embryo" means a human egg cell with a full genetic composition capable of differentiating and maturing into a complete human being.
As added by P.L.126-2005, SEC.4.

IC 16-18-2-184
Repealed
(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-185
"ICF/IID"
Sec. 185. "ICF/IID", for purposes of IC 16-29-4, has the meaning set forth in IC 16-29-4-2.
As added by P.L.2-1993, SEC.1. Amended by P.L.35-2016, SEC.80.

IC 16-18-2-186
"Immediate container"
Sec. 186. "Immediate container", for purposes of IC 16-42-1 through IC 16-42-4, does not include package liners.
As added by P.L.2-1993, SEC.1. Amended by P.L.87-1994, SEC.4; P.L.137-1996, SEC.60.

IC 16-18-2-187
"Inclusive"
Sec. 187. "Inclusive", for purposes of IC 16-46-1, has the meaning set forth in IC 16-46-1-6.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-187.2
"Incremental fee"
Sec. 187.2. "Incremental fee", for purposes of IC 16-21-10, means a part of the hospital assessment fee designated for the use of funding the healthy Indiana plan.
As added by P.L.213-2015, SEC.138. Amended by P.L.30-2016, SEC.36.

IC 16-18-2-187.5
"Indiana birth registration system"

Sec. 187.5. "Indiana birth registration system" or "IBRS", for purposes of IC 16-37, means the electronic system of recording births established under IC 16-37-1-3.1.
As added by P.L.61-2009, SEC.1.

IC 16-18-2-187.6
"Indiana death registration system"

Sec. 187.6. "Indiana death registration system" or "IDRS", for purposes of IC 16-37, means the electronic system of recording deaths established under IC 16-37-1-3.1.
As added by P.L.61-2009, SEC.2.

IC 16-18-2-188
Repealed

(Repealed by P.L.144-1996, SEC.15.)

IC 16-18-2-188.1
"Indiana University hospitals"

Sec. 188.1. "Indiana University hospitals", for purposes of IC 16-23.5, has the meaning set forth in IC 16-23.5-1-10.
As added by P.L.2-2007, SEC.187.

IC 16-18-2-189
"Infectious waste"

Sec. 189. "Infectious waste", for purposes of IC 16-41-16, has the meaning set forth in IC 16-41-16-4.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-190
"Informed consent"

Sec. 190. "Informed consent", for purposes of IC 16-41-6, has the meaning set forth in IC 16-41-6-2.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-191
Repealed

(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-191.2
"Interchangeable"

Sec. 191.2. "Interchangeable", for purposes of IC 16-42-25, has the meaning set forth in IC 16-42-25-3.
As added by P.L.96-2014, SEC.3.

IC 16-18-2-191.5
"Interdisciplinary team"

Sec. 191.5. "Interdisciplinary team", for purposes of IC 16-25, has the meaning set forth in IC 16-25-1.1-7.
As added by P.L.256-1999, SEC.8.

IC 16-18-2-192
"Intrastate commerce"
Sec. 192. (a) "Intrastate commerce", for purposes of IC 16-42-1 through IC 16-42-4, means any and all commerce within Indiana and subject to the jurisdiction of the state.
(b) The term includes the operation of a business or service establishment.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-193
"Invasive medical care"
Sec. 193. "Invasive medical care", for purposes of IC 16-31, does not include the administration of a nonvisualized airway.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-193.5
"Investigational drug"
Sec. 193.5. "Investigational drug, biological product, or device", for purposes of IC 16-42-26, has the meaning set forth in IC 16-42-26-2.
As added by P.L.2-2015, SEC.1.

IC 16-18-2-194
"Investigational or new drug"
Sec. 194. "Investigational or new drug", for purposes of IC 16-42-19, has the meaning set forth in IC 16-42-19-4.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-194.5
"Isolation"
Sec. 194.5. "Isolation", for purposes of IC 16-41-9, means the physical separation, including confinement or restriction, of an individual or a group of individuals from the general public if the individual or group is infected with a dangerous communicable disease (as described in IC 16-18-2-91 and 410 IAC 1-2.3-47), in order to prevent or limit the transmission of the disease to an uninfected individual.
As added by P.L.138-2006, SEC.1.

IC 16-18-2-195
Repealed
(Repealed by P.L.87-1994, SEC.16.)

IC 16-18-2-196

"Kerosene"

Sec. 196. "Kerosene", for purposes of IC 16-44-2, has the meaning set forth in IC 16-44-2-2.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-197

"Label"

Sec. 197. "Label", for purposes of IC 16-42-1 through IC 16-42-4, means a display of written, printed, or graphic matter upon the immediate container of an article.

As added by P.L.2-1993, SEC.1. Amended by P.L.87-1994, SEC.5; P.L.137-1996, SEC.61.

IC 16-18-2-198

"Labeling"

Sec. 198. "Labeling", for purposes of IC 16-42-1 through IC 16-42-4, means all labels and other written, printed, or graphic matter:

(1) upon any article or any of the containers or wrappers; or

(2) accompanying the article.

As added by P.L.2-1993, SEC.1. Amended by P.L.137-1996, SEC.62.

IC 16-18-2-198.3

"Lay caregiver"

Sec. 198.3. "Lay caregiver", for purposes of IC 16-21-12, has the meaning set forth in IC 16-21-12-5.

As added by P.L.137-2015, SEC.5.

IC 16-18-2-198.5

"Lead-based paint"

Sec. 198.5. "Lead-based paint", for purposes of IC 16-41-39.8, means paint or another surface coating that contains lead in an amount equal to or more than one (1) milligram per square centimeter, or in the amount of more than one-half percent (0.5%) by weight.

As added by P.L.57-2009, SEC.11.

IC 16-18-2-198.7

"Lead-based paint activities"

Sec. 198.7. (a) "Lead-based paint activities", for purposes of IC 16-41-39.4 and IC 16-41-39.8, means the inspection risk assessment and abatement of lead-based paint in target housing and child occupied facilities.

(b) The term includes project design and supervision.

As added by P.L.102-2008, SEC.6. Amended by P.L.57-2009, SEC.12.

IC 16-18-2-199

"Legend drug"

Sec. 199. "Legend drug", for purposes of IC 16-42, means a drug that is:

(1) subject to 21 U.S.C. 353(b)(1);

(2) listed in the Prescription Drug Product List as:

(A) published in United States Department of Health and Human Services Approved Drug Products with Therapeutic Equivalence Evaluations, Tenth Edition, (1990); and

(B) revised in United State Department of Health and Human Services, Approved Drug Products with Therapeutic Equivalence Evaluations, Cumulative Supplement to the Tenth Edition, Number 10 (1990); or

(3) insulin.

As added by P.L.2-1993, SEC.1. Amended by P.L.131-2014, SEC.6.

IC 16-18-2-200

"Legislative body"

Sec. 200. "Legislative body" has the meaning set forth in IC 36-1-2-9.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-201

"Lessee county"

Sec. 201. "Lessee county", for purposes of IC 16-22-6-27, has the meaning set forth in IC 16-22-6-27(b).

As added by P.L.2-1993, SEC.1.

IC 16-18-2-201.5

"Lethal fetal anomaly"

Sec. 201.5. "Lethal fetal anomaly", for purposes of IC 16-25-4.5 and IC 16-34, has the meaning set forth in IC 16-25-4.5-2.

As added by P.L.213-2016, SEC.5.

IC 16-18-2-202

"Licensed physician"

Sec. 202. "Licensed physician" means an individual who holds an unlimited license to practice medicine in Indiana under IC 25-22.5.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-203

"Life prolonging procedure"

Sec. 203. (a) "Life prolonging procedure", for purposes of IC 16-36-4, has the meaning set forth in IC 16-36-4-1.

(b) "Life prolonging procedure", for purposes of IC 16-36-6, has the meaning set forth in IC 16-36-6-3.

As added by P.L.2-1993, SEC.1. Amended by P.L.164-2013, SEC.4.

IC 16-18-2-204

"Life prolonging procedures will declarant"

Sec. 204. "Life prolonging procedures will declarant", for purposes of IC 16-36-4, has the meaning set forth in IC 16-36-4-2.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-204.5
Repealed

(As added by P.L.177-2009, SEC.2. Repealed by P.L.51-2016, SEC.2.)

IC 16-18-2-205
"Live birth or birth"

Sec. 205. "Live birth" or "birth", for purposes of IC 16-37, means the birth of a child who shows evidence of life after the child is entirely outside of the mother.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-206
Repealed

(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-207
Repealed

(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-208
"Living will declarant"

Sec. 208. "Living will declarant", for purposes of IC 16-36-4, has the meaning set forth in IC 16-36-4-3.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-209
"Local board"

Sec. 209. "Local board", for purposes of IC 16-41-27, has the meaning set forth in IC 16-41-27-3.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-210
"Local board of health"

Sec. 210. (a) "Local board of health", for purposes of IC 16-22-8, means a local board of health referred to in IC 16-20.

(b) "Local board of health", for purposes of IC 16-46-1, has the meaning set forth in IC 16-46-1-7.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-211
"Local health department"

Sec. 211. (a) "Local health department", except as provided in

subsection (b), means a department organized by a county or city executive with a board, a health officer, and an operational staff to provide health services to a county, city, or multiple county unit.

(b) "Local health department", for purposes of IC 16-41-7.5, has the meaning set forth in IC 16-41-7.5-1.

As added by P.L.2-1993, SEC.1. Amended by P.L.208-2015, SEC.3.

IC 16-18-2-212
"Local health officer"

Sec. 212. "Local health officer", for purposes of IC 16-22 and IC 16-37, means a local health officer as referred to in IC 16-20.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-213
"Locker"

Sec. 213. "Locker", for purposes of IC 16-42, means the individual sections or compartments of a capacity of not more than twenty-five (25) cubic feet in the locker room of a locker plant or branch locker plant.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-214
"Locker plant"

Sec. 214. "Locker plant", for purposes of IC 16-42, means a location or an establishment in which space in individual lockers is rented to individuals for the storage of food at not more than forty-five (45) degrees Fahrenheit and that has at least one (1) of the following facilities:

(1) A chill room.
(2) Sharp freezing facilities.
(3) Facilities for cutting, preparing, wrapping, and packaging meats and meat products, fruits, and vegetables.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-214.7
"Low income"

Sec. 214.7. "Low income", for purposes of IC 16-41-39.4, means having not more than eighty percent (80%) of the median income level of households in a particular county as determined annually by the federal Department of Housing and Urban Development.

As added by P.L.102-2008, SEC.7.

IC 16-18-2-215
"Manufacture"

Sec. 215. "Manufacture", for purposes of IC 16-41-32, has the meaning set forth in IC 16-41-32-7.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-215.5
"Manufactured home"

Sec. 215.5. "Manufactured home", for purposes of IC 16-41-27, has the meaning set forth in IC 22-12-1-16.

As added by P.L.87-2005, SEC.2.

IC 16-18-2-216
"Manufacturer"

Sec. 216. (a) "Manufacturer", for purposes of IC 16-42-19 and IC 16-42-21, means a person who by compounding, cultivating, harvesting, mixing, or other process produces or prepares legend drugs. The term includes a person who:

(1) prepares legend drugs in dosage forms by mixing, compounding, encapsulating, entableting, or other process; or
(2) packages or repackages legend drugs.

(b) The term does not include pharmacists or practitioners (as defined in section 288(a) and 288(c) of this chapter) in the practice of their profession.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-217
Repealed

(As added by P.L.2-1993, SEC.1. Repealed by P.L.72-2001, SEC.11.)

IC 16-18-2-218
"Maternal and child health clinic"

Sec. 218. "Maternal and child health clinic", for purposes of IC 16-46-5, has the meaning set forth in IC 16-46-5-5.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-219
"Maternity home"

Sec. 219. (a) "Maternity home", for purposes of IC 16-26, means a public or private facility that provides food and temporary residence to at least one (1) pregnant woman during the pregnancy and not more than one hundred eighty (180) days after childbirth.

(b) The term does not include a hospital licensed under IC 16-21-2.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-220
"Maternity home operator"

Sec. 220. "Maternity home operator", for purposes of IC 16-26, means a person that:

(1) owns a maternity home;
(2) is not more closely related to the pregnant woman or expected child than second cousins;

(3) is not related to the pregnant woman or expected child as a stepparent, stepbrother, or stepsister; and

(4) is not the guardian or custodian of the pregnant woman.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-221
Repealed

(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-222
Repealed

(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-223
"Mechanical device"

Sec. 223. "Mechanical device", for purposes of IC 16-42-19-23, has the meaning set forth in IC 16-42-19-23(a).

As added by P.L.2-1993, SEC.1.

IC 16-18-2-223.4
"Medical center"

Sec. 223.4. "Medical center", for purposes of IC 16-23.5, has the meaning set forth in IC 16-23.5-1-11.

As added by P.L.2-2007, SEC.188.

IC 16-18-2-223.5
"Medical emergency"

Sec. 223.5. "Medical emergency", for purposes of IC 16-34, means a condition that, on the basis of the attending physician's good faith clinical judgment, complicates the medical condition of a pregnant woman so that it necessitates the immediate termination of her pregnancy to avert her death or for which a delay would create serious risk of substantial and irreversible impairment of a major bodily function.

As added by P.L.187-1995, SEC.2.

IC 16-18-2-223.6
"Medical director"

Sec. 223.6. "Medical director", for purposes of IC 16-31-3.5, has the meaning set forth in IC 16-35-3.5-1.

As added by P.L.205-2003, SEC.18.

IC 16-18-2-223.7
"Medically contraindicated"

Sec. 223.7. "Medically contraindicated", for purposes of IC 16-28-14 and IC 16-28-14.5, means that a vaccine would be detrimental to an individual's health because of a medical condition of the individual.

As added by P.L.97-1999, SEC.1. Amended by P.L.29-2009, SEC.1.

IC 16-18-2-224
Repealed
(Repealed by P.L.144-1996, SEC.15.)

IC 16-18-2-225
"Member of the armed forces"
Sec. 225. "Member of the armed forces", for purposes of IC 16-33-4, has the meaning set forth in IC 16-33-4-4.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-225.8
"Mental health provider"
Sec. 225.8. "Mental health provider", for purposes of IC 16-36-1.5, has the meaning set forth in IC 16-36-1.5-2.
As added by P.L.145-1996, SEC.1. Amended by P.L.34-2001, SEC.6.

IC 16-18-2-226
"Mental health records"
Sec. 226. "Mental health records", for purposes of IC 16-39, means recorded or unrecorded information concerning the diagnosis, treatment, or prognosis of a patient receiving mental health services or developmental disability training. The term does not include alcohol and drug abuse records.
As added by P.L.2-1993, SEC.1. Amended by P.L.4-1997, SEC.2.

IC 16-18-2-227
"Migratory temporary increase in population"
Sec. 227. "Migratory temporary increase in population", for purposes of IC 16-46-1, has the meaning set forth in IC 16-46-1-8.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-228
Repealed
(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-229
Repealed
(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-230
Repealed
(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-230.5
"Military service applicant"
Sec. 230.5. "Military service applicant", for purposes of

IC 16-31-11, has the meaning set forth in IC 16-31-11-1.
As added by P.L.16-2013, SEC.1; P.L.115-2013, SEC.1.

IC 16-18-2-231
Repealed
(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-232
Repealed
(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-233
Repealed
(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-234
Repealed
(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-235
"Minor"
Sec. 235. "Minor", for purposes of IC 16-36, means an individual who is less than eighteen (18) years of age.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-236
"Minority"
Sec. 236. (a) "Minority", for purposes of IC 16-19-14, has the meaning set forth in IC 16-19-14-2.
(b) "Minority", for purposes of IC 16-46-6, has the meaning set forth in IC 16-46-6-2.
As added by P.L.2-1993, SEC.1. Amended by P.L.38-2010, SEC.2.

IC 16-18-2-237
Repealed
(Repealed by P.L.87-1994, SEC.16.)

IC 16-18-2-237.1
"Miscarried fetus"
Sec. 237.1. "Miscarried fetus", for purposes of IC 16-21-11 and IC 16-41-16, has the meaning set forth in IC 16-21-11-2.
As added by P.L.127-2014, SEC.2. Amended by P.L.213-2016, SEC.6.

IC 16-18-2-237.5
"Mobile camp"
Sec. 237.5. "Mobile camp", for purposes of IC 16-19-3, has the meaning set forth in IC 16-19-3-0.5.

As added by P.L.83-2007, SEC.4.

IC 16-18-2-238
"Mobile home"
Sec. 238. "Mobile home", for purposes of IC 16-41-27, has meaning set forth in IC 16-41-27-4.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-238.5
"Mobile home community"
Sec. 238.5. "Mobile home community", for purposes of IC 16-41-27, has the meaning set forth in IC 16-41-27-5.
As added by P.L.87-2005, SEC.3.

IC 16-18-2-239
Repealed
(Repealed by P.L.87-1994, SEC.16.)

IC 16-18-2-240
Repealed
(Repealed by P.L.87-1994, SEC.16.)

IC 16-18-2-240.5
Repealed
(As added by P.L.196-2005, SEC.2. Repealed by P.L.42-2011, SEC.87.)

IC 16-18-2-241
"Motor fuel"
Sec. 241. "Motor fuel", for purposes of IC 16-44-3, has the meaning set forth in IC 16-44-3-2.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-242
"Motor fuel outlet"
Sec. 242. "Motor fuel outlet", for purposes of IC 16-44-3, has the meaning set forth in IC 16-44-3-3.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-242.9
"MTBE"
Sec. 242.9. "MTBE", for purposes of IC 16-44-2, has the meaning set forth in IC 16-44-2-2.4.
As added by P.L.26-2002, SEC.1.

IC 16-18-2-243
"Municipal corporation"
Sec. 243. "Municipal corporation", for purposes of IC 16-35-1,

has the meaning set forth in IC 16-35-1-1.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-244
"Narrative report"
Sec. 244. "Narrative report", for purposes of IC 16-20-8, has the meaning set forth in IC 16-20-8-2.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-244.5
"National criminal history background check"
Sec. 244.5. "National criminal history background check", for purposes of IC 16-27-2, has the meaning set forth in IC 16-27-2-2.1.
As added by P.L.197-2007, SEC.4.

IC 16-18-2-244.8
"Neonatal abstinence syndrome" and "NAS"
Sec. 244.8. "Neonatal abstinence syndrome" and "NAS", for purposes of IC 16-19-16, refer to the various adverse effects that occur in a newborn infant who was exposed to addictive illegal or prescription drugs while in the mother's womb.
As added by P.L.110-2014, SEC.1.

IC 16-18-2-245
"Net operating revenue"
Sec. 245. "Net operating revenue", for purposes of IC 16-22-7, has the meaning set forth in IC 16-22-7-3.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-246
"Net patient revenue"
Sec. 246. "Net patient revenue", for purposes of IC 16-21-6, has the meaning set forth in IC 16-21-6-2.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-247
"Net revenues"
Sec. 247. "Net revenues", for purposes of IC 16-22-6, means the revenues of the hospital remaining after provisions for reasonable expenses of operation, repair, replacements, and maintenance of the hospital.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-248
"New"
Sec. 248. "New", for purposes of IC 16-41-32, has the meaning set forth in IC 16-41-32-8.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-248.2
"Newborn"

Sec. 248.2. (a) "Newborn", for purposes of IC 16-35-9, has the meaning set forth in IC 16-35-9-3.

(b) This section expires July 1, 2016.

As added by P.L.61-2015, SEC.4.

IC 16-18-2-248.3
"Newborn safety incubator"

Sec. 248.3. (a) "Newborn safety incubator", for purposes of IC 16-35-9, has the meaning set forth in IC 16-35-9-4.

(b) This section expires July 1, 2016.

As added by P.L.61-2015, SEC.5.

IC 16-18-2-249
"New drug"

Sec. 249. "New drug", for purposes of IC 16-42-1 through IC 16-42-4, means:

(1) any drug whose composition is such that the drug is not generally recognized among experts, who are qualified by scientific training and experience to evaluate the safety of drugs, as safe for use under the conditions prescribed, recommended, or suggested in the labeling of the drug; or

(2) any drug whose composition is such that the drug, as a result of investigations to determine the safety for use under such conditions, has become so recognized, but which has not, otherwise than in investigations, been used to a material extent or for a material time under such conditions.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-250
"Noncompliant behavior"

Sec. 250. "Noncompliant behavior", for purposes of IC 16-41, means behavior of a carrier that is not in compliance with a health directive.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-251
"Nonprofit hospital"

Sec. 251. "Nonprofit hospital", for purposes of IC 16-21-9, has the meaning set forth in IC 16-21-9-3.

As added by P.L.2-1993, SEC.1. Amended by P.L.94-1994, SEC.9; P.L.144-1996, SEC.2.

IC 16-18-2-252
"Nonprofit hospital corporation"

Sec. 252. "Nonprofit hospital corporation" means a corporation that:

(1) is organized and doing business under IC 23-17;
(2) is authorized by the corporation's charter to and does own and operate a hospital;
(3) is licensed under IC 16-21; and
(4) operates the hospital as a charitable or benevolent institution making the hospital's services available to persons unable to pay to the extent of the hospital's financial ability to do so.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-253
Repealed

(Repealed by P.L.144-1996, SEC.15.)

IC 16-18-2-253.5
"Nontransporting emergency medical services vehicle"

Sec. 253.5. "Nontransporting emergency medical services vehicle", for purposes of IC 16-31-3, has the meaning set forth in IC 16-31-3-0.5.

As added by P.L.186-1995, SEC.5.

IC 16-18-2-253.7
"Nursing facility"

Sec. 253.7. "Nursing facility", for purposes of IC 16-28-15, has the meaning set forth in IC 16-28-15-4.

As added by P.L.229-2011, SEC.158.

IC 16-18-2-254
"Oath"

Sec. 254. "Oath" includes affirmation.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-254.2
"Objective scientific information"

Sec. 254.2. "Objective scientific information", for purposes of IC 16-34, means data that have been reasonably derived from scientific literature and verified or supported by research in compliance with scientific methods.

As added by P.L.193-2011, SEC.3.

IC 16-18-2-254.5
"Office"

Sec. 254.5. (a) "Office", for purposes of IC 16-19-13, refers to the office of women's health established by IC 16-19-13-2.

(b) "Office", for purposes of IC 16-19-14, refers to the office of minority health established by IC 16-19-14-4.

(c) "Office", for purposes of IC 16-28-15, has the meaning set forth in IC 16-28-15-5.

As added by P.L.52-1999, SEC.2. Amended by P.L.38-2010, SEC.3;

P.L.229-2011, SEC.159.

IC 16-18-2-255
Repealed
(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-256
"Official compendium"
Sec. 256. "Official compendium", for purposes of IC 16-42-1 through IC 16-42-4, means the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, official National Formulary, or any supplement to any of the publications.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-257
Repealed
(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-258
Repealed
(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-259
Repealed
(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-260
Repealed
(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-261
Repealed
(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-262
Repealed
(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-263
Repealed
(Repealed by P.L.87-1994, SEC.16.)

IC 16-18-2-263.5
"Onsite residential sewage discharging disposal system"
Sec. 263.5. "Onsite residential sewage discharging disposal system", for purposes of IC 16-19-3, means a sewage disposal system that:

(1) is located on a site with and serves a one (1) or two (2)

family residence; and
(2) discharges effluent offsite.
As added by P.L.172-2002, SEC.5.

IC 16-18-2-263.9
"Overdose intervention drug"
Sec. 263.9. "Overdose intervention drug", for purposes of IC 16-31 and IC 16-42-27, means naloxone or any other drug that:
(1) is an opioid, opiate, or morphine antagonist; and
(2) prevents or reverses the effects of:
(A) opioids;
(B) opiates; or
(C) morphine;
including respiratory depression, sedation, and hypotension.
As added by P.L.156-2014, SEC.5. Amended by P.L.32-2015, SEC.1.

IC 16-18-2-264
"Operator"
Sec. 264. "Operator", for purposes of IC 16-41-31, has the meaning set forth in IC 16-41-31-4.
As added by P.L.2-1993, SEC.1. Amended by P.L.144-1996, SEC.4; P.L.104-2003, SEC.2.

IC 16-18-2-264.5
"Other unlicensed employee"
Sec. 264.5. "Other unlicensed employee", for purposes of IC 16-28-13, has the meaning set forth in IC 16-28-13-2.
As added by P.L.152-1995, SEC.17.

IC 16-18-2-264.7
"Out of hospital"
Sec. 264.7. "Out of hospital", for purposes of IC 16-36-5, has the meaning set forth in IC 16-36-5-5.
As added by P.L.148-1999, SEC.7.

IC 16-18-2-264.8
"Out of hospital DNR declaration and order"
Sec. 264.8. "Out of hospital DNR declaration and order", for purposes of IC 16-36-5, has the meaning set forth in IC 16-36-5-6.
As added by P.L.148-1999, SEC.8.

IC 16-18-2-264.9
"Out of hospital DNR identification device"
Sec. 264.9. "Out of hospital DNR identification device", for purposes of IC 16-36-5, has the meaning set forth in IC 16-36-5-7.
As added by P.L.148-1999, SEC.9.

IC 16-18-2-265

"Package"

Sec. 265. (a) "Package", for purposes of IC 16-42-1 through IC 16-42-4, means a container or wrapping in which a consumer commodity is enclosed for use in the delivery or display of the consumer commodity to retail purchasers.

(b) The term does not include the following:

(1) Shipping containers or wrappings used solely for the transportation of any consumer commodity in bulk or in quantity to manufacturers, packers, or processors or to wholesale or retail distributors of consumer commodities.

(2) Shipping containers or outer wrappings used by retailers to ship or deliver any commodity to retail customers if the containers and wrappings bear no printed matter pertaining to any particular commodity.

As added by P.L.2-1993, SEC.1. Amended by P.L.137-1996, SEC.63.

IC 16-18-2-265.5

"Palliative care"

Sec. 265.5. "Palliative care", for purposes of IC 16-19-17, has the meaning set forth in IC 16-19-17-2.

As added by P.L.43-2016, SEC.2.

IC 16-18-2-266

"Paramedic"

Sec. 266. "Paramedic", for purposes of IC 16-31, means an individual who:

(1) is:

(A) affiliated with a certified paramedic organization;

(B) employed by a sponsoring hospital approved by the commission; or

(C) employed by a supervising hospital with a contract for inservice education with a sponsoring hospital approved by the commission;

(2) has completed a prescribed course in advanced life support; and

(3) has been licensed by the Indiana emergency medical services commission.

As added by P.L.2-1993, SEC.1. Amended by P.L.77-2012, SEC.12.

IC 16-18-2-266.5

"Parent personal services agency"

Sec. 266.5. "Parent personal services agency", for purposes of IC 16-27-4, has the meaning set forth in IC 16-27-4-2.

As added by P.L.212-2005, SEC.6.

IC 16-18-2-267

"Parental consent"

Sec. 267. "Parental consent", for purposes of IC 16-34, means the

written consent of the parent or legal guardian of an unemancipated pregnant woman less than eighteen (18) years of age to the performance of an abortion on the minor pregnant woman.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-267.5
"Partial birth abortion"
Sec. 267.5. "Partial birth abortion" means an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery.
As added by P.L.145-1997, SEC.1.

IC 16-18-2-268
"Partnership responsibility"
Sec. 268. "Partnership responsibility", for purposes of IC 16-46-1, has the meaning set forth in IC 16-46-1-9.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-269
Repealed
(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-270
Repealed
(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-271
"Pathological waste"
Sec. 271. "Pathological waste", for purposes of IC 16-41-16, has the meaning set forth in IC 16-41-16-5.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-272
"Patient"
Sec. 272. (a) "Patient", for purposes of IC 16-27-1, has the meaning set forth in IC 16-27-1-6.
(b) "Patient", for the purposes of IC 16-28 and IC 16-29, means an individual who has been accepted and assured care by a health facility.
(c) "Patient", for purposes of IC 16-36-1.5, has the meaning set forth in IC 16-36-1.5-3.
(d) "Patient", for purposes of IC 16-39, means an individual who has received health care services from a provider for the examination, treatment, diagnosis, or prevention of a physical or mental condition.
As added by P.L.2-1993, SEC.1. Amended by P.L.145-1996, SEC.2.

IC 16-18-2-273

Repealed

(As added by P.L.2-1993, SEC.1. Repealed by P.L.87-2005, SEC.40.)

IC 16-18-2-273.5
"Perinatal hospice"

Sec. 273.5. "Perinatal hospice", for purposes of IC 16-25-4.5 and IC 16-34, has the meaning set forth in IC 16-25-4.5-3.

As added by P.L.213-2016, SEC.7.

IC 16-18-2-274
"Person"

Sec. 274. (a) "Person" means, except as provided in subsections (b), (c), and (d), an individual, a firm, a partnership, an association, a fiduciary, an executor or administrator, a governmental entity, or a corporation.

(b) "Person", for purposes of IC 16-25, has the meaning set forth in IC 16-25-1.1-8.

(c) "Person", for purposes of IC 16-31, means an individual, a partnership, a corporation, an association, a joint stock association, or a governmental entity other than an agency or instrumentality of the United States.

(d) "Person", for purposes of IC 16-42-10, has the meaning set forth in IC 16-42-10-3.

As added by P.L.2-1993, SEC.1. Amended by P.L.256-1999, SEC.9.

IC 16-18-2-275
"Person at risk"

Sec. 275. (a) "Person at risk", for purposes of IC 16-41-7-4, has the meaning set forth in IC 16-41-7-4(a).

(b) "Person at risk", for purposes of IC 16-41-7-1 and IC 16-41-7-3, has the meaning set forth in IC 16-41-7-1(c).

As added by P.L.2-1993, SEC.1.

IC 16-18-2-276
"Person in attendance at birth"

Sec. 276. "Person in attendance at birth", for purposes of IC 16-37-1 and IC 16-37-2, has the meaning set forth in IC 16-37-2-1.

As added by P.L.2-1993, SEC.1. Amended by P.L.61-2009, SEC.3.

IC 16-18-2-277
"Person in charge of interment"

Sec. 277. (a) "Person in charge of interment", for purposes of IC 16-21-11, has the meaning set forth in IC 16-21-11-3.

(b) "Person in charge of interment", for purposes of IC 16-37-1 and IC 16-37-3, has the meaning set forth in IC 16-37-3-2.

As added by P.L.2-1993, SEC.1. Amended by P.L.61-2009, SEC.4;

P.L.127-2014, SEC.3.

IC 16-18-2-277.5
"Person with a disability"

Sec. 277.5. "Person with a disability", for purposes of IC 16-32, IC 16-33, and IC 16-40-1, means an individual who, by reason of physical, mental, or emotional defect or infirmity (whether congenital or acquired by accident, injury, or disease) is or may subsequently be totally or partially prevented from achieving the fullest attainable physical, social, economic, mental, and vocational participation in the normal process of living.
As added by P.L.23-1993, SEC.58.

IC 16-18-2-277.6
"Personal representative"

Sec. 277.6. "Personal representative", for purposes of IC 16-27-4, has the meaning set forth in IC 16-27-4-3.
As added by P.L.212-2005, SEC.7.

IC 16-18-2-277.7
"Personal services"

Sec. 277.7. "Personal services", for purposes of IC 16-27-2 and IC 16-27-4, has the meaning set forth in IC 16-27-4-4.
As added by P.L.212-2005, SEC.8.

IC 16-18-2-277.8
"Personal services agency"

Sec. 277.8. "Personal services agency", for purposes of IC 16-27-4, has the meaning set forth in IC 16-27-4-5.
As added by P.L.212-2005, SEC.9.

IC 16-18-2-278
"Pest"

Sec. 278. "Pest", for purposes of IC 16-41-33, has the meaning set forth in IC 16-41-33-1.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-279
"Pesticide chemical"

Sec. 279. "Pesticide chemical", for purposes of IC 16-42-1 through IC 16-42-4, means a substance:

(1) that alone, in chemical combination, or in formulation with at least one (1) other substance is an "economic poison" within the meaning of the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 135-135K); and

(2) that is used in the production, storage, or transportation of raw agricultural commodities.

As added by P.L.2-1993, SEC.1. Amended by P.L.137-1996, SEC.64.

IC 16-18-2-280
"Petroleum products"

Sec. 280. "Petroleum products", for purposes of IC 16-44-2, has the meaning set forth in IC 16-44-2-3.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-281
"Pharmacist"

Sec. 281. "Pharmacist" means a person licensed by law to practice pharmacy in Indiana.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-281.5
"Phase out period"

Sec. 281.5. "Phase out period", for purposes of IC 16-21-10, has the meaning set forth in IC 16-21-10-5.3.

As added by P.L.213-2015, SEC.139.

IC 16-18-2-282
"Physician"

Sec. 282. (a) "Physician", except as provided in subsections (b) and (c), means a licensed physician (as defined in section 202 of this chapter).

(b) "Physician", for purposes of IC 16-41-12, has the meaning set forth in IC 16-41-12-7.

(c) "Physician", for purposes of IC 16-37-1-3.1 and IC 16-37-3-5, means an individual who:

(1) was the physician last in attendance (as defined in section 282.2 of this chapter); or

(2) is licensed under IC 25-22.5.

(d) "Physician", for purposes of IC 16-48-1, is subject to IC 16-48-1-2.

As added by P.L.2-1993, SEC.1. Amended by P.L.156-2011, SEC.8; P.L.6-2012, SEC.111.

IC 16-18-2-282.2
"Physician last in attendance"

Sec. 282.2. (a) "Physician last in attendance" means the individual who pronounced the time of death for a deceased individual.

(b) For purposes of IC 16-37-3, the term includes an individual who holds any medical license issued under IC 25-22.5.

As added by P.L.156-2011, SEC.9.

IC 16-18-2-283
Repealed

(Repealed by P.L.144-1996, SEC.15.)

IC 16-18-2-284

Repealed
(Repealed by P.L.87-1994, SEC.16.)

IC 16-18-2-285
Repealed
(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-286
Repealed
(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-287
Repealed
(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-287.2
"POST form"
Sec. 287.2. "POST form", for purposes of IC 16-36-6, has the meaning set forth in IC 16-36-6-4.
As added by P.L.164-2013, SEC.5.

IC 16-18-2-287.5
"Postfertilization age"
Sec. 287.5. "Postfertilization age", for purposes of IC 16-34, means the age of the fetus calculated from the date of the fertilization of the ovum.
As added by P.L.193-2011, SEC.4.

IC 16-18-2-287.6
"Postnatal donation"
Sec. 287.6. "Postnatal donation", for purposes of IC 16-21-11.2, has the meaning set forth in IC 16-21-11.2-1.
As added by P.L.138-2014, SEC.6.

IC 16-18-2-287.7
"Post-organ transplant program"
Sec. 287.7. "Post-organ transplant program", for purposes of IC 16-41-19.5, has the meaning set forth in IC 16-41-19.5-1.
As added by P.L.27-1999, SEC.1.

IC 16-18-2-287.8
"Potentially hazardous food product"
Sec. 287.8. (a) "Potentially hazardous food product", for purposes of IC 16-42-5-29, means a food that is natural or synthetic and requires temperature control because it is in a form capable of supporting any of the following:

(1) The rapid and progressive growth of infectious or toxigenic microorganisms.

(2) The growth and toxin production of Clostridium botulinum.
(3) In raw shell eggs, the growth of Salmonella enteritidis.
(b) The term includes the following:
(1) A food of animal origin that is raw or heat treated.
(2) A food of plant origin that is heat treated or consists of raw seed sprouts.
(3) Cut melons.
(4) Garlic-in-oil mixtures that are not modified in a way that results in mixtures that do not support growth described in subsection (a).
As added by P.L.86-2009, SEC.2.

IC 16-18-2-287.9
"Potential diagnosis"
Sec. 287.9. "Potential diagnosis", for purposes of IC 16-34, has the meaning set forth in IC 16-34-4-3.
As added by P.L.213-2016, SEC.8.

IC 16-18-2-288
"Practitioner"
Sec. 288. (a) "Practitioner", for purposes of IC 16-42-19, has the meaning set forth in IC 16-42-19-5.
(b) "Practitioner", for purposes of IC 16-41-14, has the meaning set forth in IC 16-41-14-4.
(c) "Practitioner", for purposes of IC 16-42-21, has the meaning set forth in IC 16-42-21-3.
(d) "Practitioner", for purposes of IC 16-42-22 and IC 16-42-25, has the meaning set forth in IC 16-42-22-4.5.
As added by P.L.2-1993, SEC.1. Amended by P.L.96-2014, SEC.4.

IC 16-18-2-289
"Precursor"
Sec. 289. "Precursor", for purposes of IC 16-42-19, has the meaning set forth in IC 16-42-19-6.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-290
"Pregnant woman"
Sec. 290. "Pregnant woman", for purposes of IC 16-26, means an individual of any age who:
(1) has been a resident of Indiana continuously for at least sixty (60) days before her pregnancy;
(2) has verified her pregnancy and intends to carry her pregnancy to term or has given birth to a child; and
(3) is in need of assistance and temporary residence.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-290.5

Repealed

(As added by P.L.255-1996, SEC.11. Repealed by P.L.237-2003, SEC.18.)

IC 16-18-2-291
Repealed

(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-291.5
"Prescriber"

Sec. 291.5. "Prescriber", for purposes of IC 16-42-27, has the meaning set forth in IC 16-42-27-1.
As added by P.L.32-2015, SEC.2.

IC 16-18-2-292
"Prescription"

Sec. 292. "Prescription", for purposes of IC 16-42-19, has the meaning set forth in IC 16-42-19-7.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-292.5
"Primary caregiver"

Sec. 292.5. "Primary caregiver", for purposes of IC 16-39-4-2, has the meaning set forth in IC 16-39-4-2(a).
As added by P.L.189-1995, SEC.1.

IC 16-18-2-292.7
"Primary prevention"

Sec. 292.7. "Primary prevention", for purposes of IC 16-41-39.4, means the removal or remediation, including the use of interim controls, of lead hazards before lead poisoning of an individual occurs.
As added by P.L.102-2008, SEC.8.

IC 16-18-2-293
"Principal display panel"

Sec. 293. "Principal display panel", for purposes of IC 16-42-1 through IC 16-42-4, means that part of a label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-293.5
"Probable gestational age of the fetus"

Sec. 293.5. "Probable gestational age of the fetus", for purposes of IC 16-34, means what, in the judgment of the attending physician, will with reasonable probability be the gestational age of the fetus at the time an abortion is planned to be performed.

As added by P.L.187-1995, SEC.3.

IC 16-18-2-294
Repealed

(As added by P.L.2-1993, SEC.1. Repealed by P.L.29-2014, SEC.6.)

IC 16-18-2-294.5
"Program"

Sec. 294.5. (a) "Program", for purposes of IC 16-40-4, has the meaning set forth in IC 16-40-4-3.

(b) "Program", for purposes of IC 16-41-7.5, has the meaning set forth in IC 16-41-7.5-2.

(c) "Program", for purposes of IC 16-47-1, has the meaning set forth in IC 16-47-1-3.

As added by P.L.50-2004, SEC.4. Amended by P.L.95-2005, SEC.4; P.L.208-2015, SEC.4.

IC 16-18-2-295
"Provider"

Sec. 295. (a) "Provider", for purposes of IC 16-21-8, has the meaning set forth in IC 16-21-8-0.2.

(b) "Provider", for purposes of IC 16-38-5, IC 16-39 (except for IC 16-39-7), and IC 16-41-1 through IC 16-41-9, means any of the following:

(1) An individual (other than an individual who is an employee or a contractor of a hospital, a facility, or an agency described in subdivision (2) or (3)) who is licensed, registered, or certified as a health care professional, including the following:

(A) A physician.
(B) A psychotherapist.
(C) A dentist.
(D) A registered nurse.
(E) A licensed practical nurse.
(F) An optometrist.
(G) A podiatrist.
(H) A chiropractor.
(I) A physical therapist.
(J) A psychologist.
(K) An audiologist.
(L) A speech-language pathologist.
(M) A dietitian.
(N) An occupational therapist.
(O) A respiratory therapist.
(P) A pharmacist.
(Q) A sexual assault nurse examiner.

(2) A hospital or facility licensed under IC 16-21-2 or IC 12-25 or described in IC 12-24-1 or IC 12-29.

(3) A health facility licensed under IC 16-28-2.
(4) A home health agency licensed under IC 16-27-1.
(5) An employer of a certified emergency medical technician, a certified advanced emergency medical technician, or a licensed paramedic.
(6) The state department or a local health department or an employee, agent, designee, or contractor of the state department or local health department.

(c) "Provider", for purposes of IC 16-39-7-1, has the meaning set forth in IC 16-39-7-1(a).

(d) "Provider", for purposes of IC 16-48-1, has the meaning set forth in IC 16-48-1-3.

As added by P.L.2-1993, SEC.1. Amended by P.L.188-1995, SEC.2; P.L.20-1998, SEC.1; P.L.231-1999, SEC.12; P.L.256-1999, SEC.10; P.L.205-2003, SEC.19; P.L.90-2005, SEC.2; P.L.41-2007, SEC.4; P.L.6-2012, SEC.112; P.L.77-2012, SEC.13; P.L.141-2012, SEC.6; P.L.161-2014, SEC.4.

IC 16-18-2-296
"Provider organization"

Sec. 296. "Provider organization", for purposes of IC 16-31, means an ambulance service provider or other emergency care organization certified by the Indiana emergency medical services commission to provide emergency medical services.

As added by P.L.2-1993, SEC.1. Amended by P.L.186-1995, SEC.6.

IC 16-18-2-296.3
"Psychiatric advance directive"

Sec. 296.3. "Psychiatric advance directive", for purposes of IC 16-36-1.5 and IC 16-36-1.7, has the meaning set forth in IC 16-36-1.7-1.

As added by P.L.16-2004, SEC.1.

IC 16-18-2-297
"Public accommodation"

Sec. 297. "Public accommodation", for purposes of IC 16-32-3-2, has the meaning set forth in IC 16-32-3-2(a).

As added by P.L.2-1993, SEC.1.

IC 16-18-2-298
Repealed

(As added by P.L.2-1993, SEC.1. Repealed by P.L.156-2011, SEC.41.)

IC 16-18-2-298.5
"Public health authority"

Sec. 298.5. (a) "Public health authority", for purposes of IC 16-22-8 and IC 16-41-9, means:

(1) the state health commissioner of the state department;
(2) a deputy or an assistant state health commissioner appointed by the state health commissioner, or an agent expressly authorized by the state health commissioner;
(3) the local health officer; or
(4) a health and hospital corporation established under IC 16-22-8-6.

(b) "Public health authority", for purposes of IC 16-42-27, means any of the following who is a licensed prescriber:
(1) A deputy or assistant state health commissioner appointed by the state health commissioner to act as a public health authority.
(2) An agent employed by the state department that is expressly authorized by the state health commissioner to act as a public health authority.

As added by P.L.138-2006, SEC.2. Amended by P.L.6-2016, SEC.1.

IC 16-18-2-299
Repealed

(Repealed by P.L.144-1996, SEC.15.)

IC 16-18-2-300
Repealed

(Repealed by P.L.144-1996, SEC.15.)

IC 16-18-2-301
"Publish"; "published"; "cause to be published"

Sec. 301. "Publish" or "published" or "cause to be published", for purposes of IC 16-22, means publication of notice in an appropriate publication in accordance with IC 5-3-1, unless otherwise specified.
As added by P.L.2-1993, SEC.1. Amended by P.L.147-2016, SEC.7.

IC 16-18-2-301.7
"Qualified entity"

Sec. 301.7. "Qualified entity", for purposes of IC 16-41-7.5, has the meaning set forth in IC 16-41-7.5-3.
As added by P.L.208-2015, SEC.5.

IC 16-18-2-302
"Qualified patient"

Sec. 302. (a) "Qualified patient", for purposes of IC 16-36-4, has the meaning set forth in IC 16-36-4-4.

(b) "Qualified patient", for purposes of IC 16-42-26, has the meaning set forth in IC 16-42-26-3.
As added by P.L.2-1993, SEC.1. Amended by P.L.2-2015, SEC.2.

IC 16-18-2-302.3
"Qualified person"

Sec. 302.3. (a) "Qualified person", for purposes of IC 16-36-5, has the meaning set forth in IC 16-36-5-8.

(b) "Qualified person", for purposes of IC 16-36-6, has the meaning set forth in IC 16-36-6-5.

As added by P.L.148-1999, SEC.10. Amended by P.L.164-2013, SEC.6.

IC 16-18-2-302.4
"Qualified service provider"

Sec. 302.4. (a) "Qualified service provider", for purposes of IC 16-35-9, has the meaning set forth in IC 16-35-9-5.

(b) This section expires July 1, 2016.

As added by P.L.61-2015, SEC.6.

IC 16-18-2-302.6
"Quarantine"

Sec. 302.6. "Quarantine", for purposes of IC 16-41-9, means the physical separation, including confinement or restriction of movement, of an individual or a group of individuals who have been exposed to a dangerous communicable disease (as described in IC 16-18-2-91 and 410 IAC 1-2.3-47), during the disease's period of communicability, in order to prevent or limit the transmission of the disease to an uninfected individual.

As added by P.L.138-2006, SEC.3.

IC 16-18-2-303
"Radiation"

Sec. 303. "Radiation", for purposes of IC 16-41-35, has the meaning set forth in IC 16-41-35-8.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-304
"Radiation machine"

Sec. 304. "Radiation machine", for purposes of IC 16-41-35, has the meaning set forth in IC 16-41-35-9.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-305
Repealed

(Repealed by P.L.87-1994, SEC.16.)

IC 16-18-2-306
"Radioactive material"

Sec. 306. "Radioactive material", for purposes of IC 16-41-35, has the meaning set forth in IC 16-41-35-10.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-306.5

"Radon gas"

Sec. 306.5. "Radon gas", for purposes of IC 16-41-38, has the meaning set forth in IC 16-41-38-1.

As added by P.L.1-1996, SEC.72.

IC 16-18-2-307

Repealed

(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-307.5

Repealed

(As added by P.L.280-2001, SEC.12. Repealed by P.L.126-2006, SEC.4.)

IC 16-18-2-308

"Real property or land"

Sec. 308. "Real property" or "land" means improved or unimproved real estate or land and all of the fixtures, buildings, and improvements upon the real property or land.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-309

Repealed

(Repealed by P.L.87-1994, SEC.16.)

IC 16-18-2-310

Repealed

(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-311

"Record"

Sec. 311. "Record", for purposes of IC 16-21, means a health, medical, or business record, including records generated or stored electronically.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-312

"Recording officer"

Sec. 312. "Recording officer" has the meaning set forth in IC 16-22-7-4.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-313

"Reduction in license"

Sec. 313. "Reduction in license", for purposes of IC 16-28 and IC 16-29, means the reduction of the number of licensed beds of a health facility.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-314
Repealed
(Repealed by P.L.144-1996, SEC.15.)

IC 16-18-2-315
Repealed
(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-315.5
Repealed
(As added by P.L.234-2007, SEC.46. Repealed by P.L.3-2008, SEC.269.)

IC 16-18-2-315.8
"Remediation"
Sec. 315.8. "Remediation" means actions that constitute:
(1) abatement (as defined in IC 16-18-2-0.5); or
(2) interim control (as defined in 24 CFR 35.110);
of a lead hazard.
As added by P.L.102-2008, SEC.9. Amended by P.L.57-2009, SEC.13.

IC 16-18-2-316
"Renovate"
Sec. 316. "Renovate", for purposes of IC 16-41-32, has the meaning set forth in IC 16-41-32-9.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-316.5
"Replacement bed"
Sec. 316.5. "Replacement bed", for purposes of IC 16-28-16, has the meaning set forth in IC 16-28-16-3.
As added by P.L.229-2011, SEC.160.

IC 16-18-2-316.6
"Replacement facility"
Sec. 316.6. "Replacement facility", for purposes of IC 16-28-2.5, has the meaning set forth in IC 16-28-2.5-4.
As added by P.L.257-2015, SEC.3.

IC 16-18-2-317
"Representative"
Sec. 317. (a) "Representative", for purposes of IC 16-36-1, has the meaning set forth in IC 16-36-1-2.
(b) "Representative", for purposes of IC 16-36-5, has the meaning set forth in IC 16-36-5-9.
(c) "Representative", for purposes of IC 16-36-6, has the meaning set forth in IC 16-36-6-6.

As added by P.L.2-1993, SEC.1. Amended by P.L.148-1999, SEC.11; P.L.164-2013, SEC.7.

IC 16-18-2-317.5
"Residence"

Sec. 317.5. "Residence", for purposes of IC 16-21-12, has the meaning set forth in IC 16-21-12-6.
As added by P.L.149-2016, SEC.47.

IC 16-18-2-318
"Responsible head"

Sec. 318. "Responsible head", for purposes of IC 16-41-12, has the meaning set forth in IC 16-41-12-20.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-318.1
Repealed

(As added by P.L.256-1996, SEC.4. Repealed by P.L.156-2011, SEC.41.)

IC 16-18-2-319
"Retailer"

Sec. 319. "Retailer", for purposes of IC 16-42-11, has the meaning set forth in IC 16-42-11-1.1.
As added by P.L.2-1993, SEC.1. Amended by P.L.28-2009, SEC.2.

IC 16-18-2-320
"Rolls"

Sec. 320. "Rolls", for purposes of IC 16-42-10, has the meaning set forth in IC 16-42-10-4.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-321
"Sale"

Sec. 321. (a) "Sale", for purposes of IC 16-42-1 through IC 16-42-4, includes the following:

(1) A sale.
(2) Manufacturing, processing, transporting, handling, packing, canning, bottling, or any other production, preparation, or putting up.
(3) Exposure, offer, or any other proffer.
(4) Holding, storing, or any other possession.
(5) Dispensing, giving, delivering, serving, or any other supplying.
(6) Applying, administering, or any other using.

(b) "Sale", for purposes of IC 16-42-19, has the meaning set forth in IC 16-42-19-8.
As added by P.L.2-1993, SEC.1. Amended by P.L.137-1996, SEC.65.

IC 16-18-2-321.5
"Sample"
Sec. 321.5. "Sample", for purposes of IC 16-21-8, has the meaning set forth in IC 16-21-8-0.2.
As added by P.L.161-2014, SEC.5.

IC 16-18-2-322
Repealed
(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-323
Repealed
(As added by P.L.2-1993, SEC.1. Repealed by P.L.69-1999, SEC.12.)

IC 16-18-2-323.1
Repealed
(As added by P.L.252-2003, SEC.7. Repealed by P.L.141-2012, SEC.7.)

IC 16-18-2-323.4
Repealed
(As added by P.L.252-2003, SEC.8. Repealed by P.L.141-2012, SEC.8.)

IC 16-18-2-324
"Screening test"
Sec. 324. "Screening test", for purposes of IC 16-41-12, has the meaning set forth in IC 16-41-12-8.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-324.7
"Second opinion"
Sec. 324.7. "Second opinion", for purposes of IC 16-48-1, has the meaning set forth in IC 16-48-1-4.
As added by P.L.6-2012, SEC.113.

IC 16-18-2-325
"Secondhand"
Sec. 325. "Secondhand", for purposes of IC 16-41-32, has the meaning set forth in IC 16-41-32-10.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-326
"Secure area"
Sec. 326. "Secure area", for purposes of IC 16-41-16, has the meaning set forth in IC 16-41-16-6.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-326.5
"Secured storage"
Sec. 326.5. "Secured storage", for purposes of IC 16-21-8, has the meaning set forth in IC 16-21-8-0.2.
As added by P.L.161-2014, SEC.6.

IC 16-18-2-327
"Sell"
Sec. 327. "Sell", for purposes of IC 16-41-32, has the meaning set forth in IC 16-41-32-11.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-328
"Serious and present danger to the health of others"
Sec. 328. "Serious and present danger to the health of others", for purposes of IC 16-41-7 and IC 16-41-9, has the meaning set forth in IC 16-41-7-2.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-328.1
"Services"
Sec. 328.1. "Services", for purposes of IC 16-27-2, has the meaning set forth in IC 16-27-2-2.2.
As added by P.L.178-1993, SEC.1.

IC 16-18-2-328.2
"Service animal"
Sec. 328.2. "Service animal", for purposes of IC 16-32-3, has the meaning set forth in IC 16-32-3-1.5.
As added by P.L.1-2010, SEC.70.

IC 16-18-2-328.3
"Sexual assault examination kit"
Sec. 328.3. "Sexual assault examination kit", for purposes of IC 16-21-8, has the meaning set forth in IC 16-21-8-0.2.
As added by P.L.161-2014, SEC.7.

IC 16-18-2-328.4
"Sexual assault nurse examiner"
Sec. 328.4. "Sexual assault nurse examiner", for purposes of IC 16-21-8, has the meaning set forth in IC 16-21-8-0.2.
As added by P.L.161-2014, SEC.8.

IC 16-18-2-328.5
"Shaken baby syndrome"
Sec. 328.5. "Shaken baby syndrome", for purposes of IC 16-41-40, has the meaning set forth in IC 16-41-40-2.
As added by P.L.51-1998, SEC.2.

IC 16-18-2-328.6
"Sex selective abortion"

Sec. 328.6. "Sex selective abortion", for purposes of IC 16-34-4, has the meaning set forth in IC 16-34-4-4.
As added by P.L.213-2016, SEC.9.

IC 16-18-2-329
"Sharp frozen"

Sec. 329. "Sharp frozen", for purposes of IC 16-42, means the freezing of food in a room or compartment in which the temperature is not more than zero (0) degrees Fahrenheit.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-330
Repealed

(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-331
"Shortage area"

Sec. 331. "Shortage area", for purposes of IC 16-46-5, has the meaning set forth in IC 16-46-5-6.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-331.8
"Small employer"

Sec. 331.8. "Small employer", for purposes of IC 16-46-13 has the meaning set forth in IC 16-3.1-31.2-3.
As added by P.L.218-2007, SEC.43.

IC 16-18-2-331.9
"Small house health facility"

Sec. 331.9. "Small house health facility" means a freestanding, self-contained comprehensive care health facility that has the following characteristics:

(1) Has at least ten (10) and not more than twelve (12) private resident rooms in one (1) structure that has the appearance of a residential dwelling, that is not more than eight thousand (8,000) square feet, and that includes the following:

(A) A fully accessible private bathroom for each resident room that includes a toilet, sink, and roll in shower with a seat.

(B) A common area living room seating area.

(C) An open full-sized kitchen where one hundred percent (100%) of the resident's meals are prepared.

(D) A dining room that has one (1) table large enough to seat each resident of the dwelling and at least two (2) staff members.

(E) Access to natural light in each habitable space.

(2) Does not include the following characteristics of an institutional setting:
(A) A nurse's station.
(B) Room numbering or other signs that would not be found in a residential setting.
(3) Provides self-directed care.
As added by P.L.229-2011, SEC.161. Amended by P.L.6-2012, SEC.114.

IC 16-18-2-332
Repealed
(As added by P.L.2-1993, SEC.1. Repealed by P.L.156-2011, SEC.41.)

IC 16-18-2-333
"Solid waste"
Sec. 333. "Solid waste", for purposes of IC 16-42-18, has the meaning set forth in IC 16-42-18-1.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-334
Repealed
(As added by P.L.2-1993, SEC.1. Repealed by P.L.29-2014, SEC.7.)

IC 16-18-2-335
Repealed
(As added by P.L.2-1993, SEC.1. Repealed by P.L.29-2014, SEC.8.)

IC 16-18-2-336
Repealed
(As added by P.L.2-1993, SEC.1. Repealed by P.L.29-2014, SEC.9.)

IC 16-18-2-337
"Sponsoring or supervising hospital"
Sec. 337. "Sponsoring" or "supervising hospital", for purposes of IC 16-31, means a hospital:
(1) that is licensed under IC 16-21-2 or under the licensing law of another state; and
(2) that has been certified by the emergency medical services commission to sponsor or supervise paramedics, advanced emergency medical technicians, and provider organizations in providing advanced life support.
As added by P.L.2-1993, SEC.1. Amended by P.L.205-2003, SEC.20; P.L.77-2012, SEC.14.

IC 16-18-2-337.8
"Standard licensed diagnostic test for HIV"

Sec. 337.8. "Standard licensed diagnostic test for HIV", for purposes of IC 16-41-6, has the meaning set forth in IC 16-41-6-0.5.
As added by P.L.237-2003, SEC.4.

IC 16-18-2-338
"Standard serological test for syphilis"

Sec. 338. "Standard serological test for syphilis", for purposes of IC 16-41-15, has the meaning set forth in IC 16-41-15-2.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-338.3
"Standing order"

Sec. 338.3. "Standing order", for purposes of IC 16-31 and IC 16-42-27, means:

(1) a written order; or

(2) an order transmitted by other means of communication;

that is prepared by a person authorized to write a prescription for the distribution and administration of an overdose intervention drug, including any actions and interventions to be used in order to ensure timely access to treatment.
As added by P.L.32-2015, SEC.3.

IC 16-18-2-338.5
"State authority"

Sec. 338.5. "State authority", for purposes of IC 16-22, means the Indiana finance authority established by IC 4-4-11-4.
As added by P.L.43-1993, SEC.12. Amended by P.L.162-2007, SEC.36.

IC 16-18-2-339
"State department"

Sec. 339. (a) "State department" refers to the state department of health.

(b) For purposes of IC 16-42-1 through IC 16-42-4, the term means the Indiana state board of animal health when impounding or disposing of adulterated or misbranded products under IC 15-17-5 and IC 15-18-1.
As added by P.L.2-1993, SEC.1. Amended by P.L.137-1996, SEC.66; P.L.2-2008, SEC.37.

IC 16-18-2-340
"State health commissioner"; "commissioner"

Sec. 340. (a) "State health commissioner" or "commissioner", except as otherwise provided, means the state health commissioner of the state department of health.

(b) For purposes of IC 16-21, IC 16-28, and IC 16-29, the term

includes a deputy or an assistant state health commissioner appointed by the state health commissioner, or an agent expressly authorized by the state health commissioner.

(c) For purposes of IC 16-42-1 through IC 16-42-4, the term means the state veterinarian when impounding or disposing of adulterated or misbranded products under IC 15-17-5 and IC 15-18-1.

As added by P.L.2-1993, SEC.1. Amended by P.L.179-1993, SEC.1; P.L.137-1996, SEC.67; P.L.144-1996, SEC.5; P.L.2-2008, SEC.38.

IC 16-18-2-341
"Stillbirth"

Sec. 341. "Stillbirth", for purposes of IC 16-37, means a birth after twenty (20) weeks of gestation that is not a live birth.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-342
"Storage facility"

Sec. 342. "Storage facility", for purposes of IC 16-41-12, has the meaning set forth in IC 16-41-12-9.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-342.4
"Subsidized health services"

Sec. 342.4. (a) "Subsidized health services", for purposes of IC 16-21-6 and IC 16-21-9, means services that:

(1) are provided by a hospital, in response to community needs, for which the reimbursement is less than the hospital's cost for providing the services; and

(2) must be subsidized by other hospital or nonprofit supporting entity revenue sources.

(b) Subsidized health services may include:

(1) emergency and trauma care;

(2) neonatal intensive care;

(3) free standing community clinics; and

(4) collaborative efforts with local government or private agencies in preventive medicine, such as immunization programs.

(c) As used in this section, "nonprofit supporting entity" means a nonprofit entity that is created by the hospital or the hospital's parent entity to further the charitable purposes of the hospital and that is owned or controlled by the hospital or the hospital's parent entity.

As added by P.L.94-1994, SEC.10.

IC 16-18-2-343
"Substitute"

Sec. 343. "Substitute", for purposes of IC 16-42-22, has the meaning set forth in IC 16-42-22-5.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-344
"Superintendent"

Sec. 344. "Superintendent", for purposes of IC 16-36-3, has the meaning set forth in IC 12-7-2-188(3).

As added by P.L.2-1993, SEC.1.

IC 16-18-2-345
"Supply dealer"

Sec. 345. "Supply dealer", for purposes of IC 16-41-32, has the meaning set forth in IC 16-41-32-12.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-346
"Surgeon"

Sec. 346. "Surgeon", for purposes of IC 16-41-12, has the meaning set forth in IC 16-41-12-10.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-346.3
"Target housing"

Sec. 346.3. (a) "Target housing", for purposes of lead-based paint activities and IC 16-41-39.8, means housing constructed before January 1, 1978.

(b) The term does not include the following:

(1) Housing for the elderly or individuals with disabilities that is not occupied by or expected to be occupied by a child of not more than six (6) years of age.

(2) A building without a bedroom.

As added by P.L.57-2009, SEC.14.

IC 16-18-2-346.5
"Task force"

Sec. 346.5. "Task force", for purposes of IC 16-41-41, has the meaning set forth in IC 16-41-41-1.

As added by P.L.69-2004, SEC.1.

IC 16-18-2-347
Repealed

(Repealed by P.L.142-1995, SEC.32.)

IC 16-18-2-348
Repealed

(Repealed by P.L.142-1995, SEC.32.)

IC 16-18-2-348.5
"Telemedicine"

Sec. 348.5. "Telemedicine", for purposes of IC 16-36-1, means a specific method of delivery of services, including medical exams and

consultations and behavioral health evaluations and treatment, including those for substance abuse, using videoconferencing equipment to allow a provider to render an examination or other service to a patient at a distant location. The term does not include the use of the following:

(1) A telephone transmitter for transtelephonic monitoring.

(2) A telephone or any other means of communication for the consultation from one (1) provider to another provider.

As added by P.L.185-2015, SEC.15.

IC 16-18-2-349
"Temporary residence"

Sec. 349. "Temporary residence", for purposes of IC 16-26, means the premises in which the pregnant woman resides for not more than eleven (11) months that is equipped for sleeping and that is not a hotel, motel, inn, or the pregnant woman's regular residence.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-349.5
"Tenant"

Sec. 349.5. "Tenant" has the meaning set forth in IC 32-31-3-10.

As added by P.L.102-2008, SEC.10.

IC 16-18-2-350
Repealed

(As added by P.L.2-1993, SEC.1. Repealed by P.L.87-2005, SEC.40.)

IC 16-18-2-351
"Terminal condition"

Sec. 351. "Terminal condition", for purposes of IC 16-36-4, has the meaning set forth in IC 16-36-4-5.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-351.5
"Terminal illness"

Sec. 351.5. "Terminal illness", for purposes of IC 16-25, has the meaning set forth in IC 16-25-1.1-9.

As added by P.L.256-1999, SEC.11.

IC 16-18-2-352
"Toilet units"

Sec. 352. "Toilet units", for purposes of IC 16-41-23-2, has the meaning set forth in IC 16-41-23-2(a).

As added by P.L.2-1993, SEC.1.

IC 16-18-2-353
Repealed

(Repealed by P.L.87-1994, SEC.16.)

IC 16-18-2-353.5
"Training or educational purposes"

Sec. 353.5. "Training or educational purposes", for purposes of IC 16-39-7.1, has the meaning set forth in IC 16-39-7.1-1.5.
As added by P.L.179-2003, SEC.1.

IC 16-18-2-354
"Transfer station"

Sec. 354. "Transfer station", for purposes of IC 16-42, means a place, a premises, or an establishment where milk or milk products are transferred directly from one (1) transport tank to another.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-354.5
"Trauma care"

Sec. 354.5. "Trauma care", for purposes of IC 16-19-3-28, means the assessment, diagnosis, transportation, treatment, or rehabilitation by a health care provider of an acute bodily injury that requires immediate intervention to prevent the loss of life or a serious impairment of a body function or part.
As added by P.L.155-2006, SEC.1.

IC 16-18-2-355
"Trimester"

Sec. 355. "Trimester", for purposes of IC 16-34, means any one (1) of three (3) equal periods of time of normal gestation period of a pregnant woman derived by dividing the period of gestation into three (3) equal parts of three (3) months each and to be designated as the first trimester, second trimester, and the third trimester, respectively.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-356
"Truck"

Sec. 356. "Truck", for purposes of IC 16-42-18, has the meaning set forth in IC 16-42-18-2.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-357
"Tuberculosis"

Sec. 357. "Tuberculosis", for purposes of IC 16-24, includes other chronic diseases unless the context clearly requires otherwise.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-358
"Unfit for human habitation"

Sec. 358. "Unfit for human habitation", for purposes of IC 16-41-20, has the meaning set forth in IC 16-41-20-1.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-359
"Unit"
Sec. 359. "Unit", for purposes of IC 16-41-22, has the meaning set forth in IC 16-41-22-4.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-360
"Universal precautions"
Sec. 360. "Universal precautions", for purposes of IC 16-41-11, has the meaning set forth in IC 16-41-11-3.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-361
"Unnecessary radiation"
Sec. 361. "Unnecessary radiation", for purposes of IC 16-41-35, has the meaning set forth in IC 16-41-35-14.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-361.5
"Unreimbursed costs"; "government sponsored indigent health care"; "nonprofit supporting entity"
Sec. 361.5. (a) "Unreimbursed costs", for purposes of IC 16-21-6 and IC 16-21-9, means the costs a hospital incurs for providing services after subtracting payments received from any source for such services, including the following:
(1) Third party insurance payments.
(2) Medicare payments.
(3) Medicaid payments.
(4) Medicare education reimbursements.
(5) State reimbursements for education.
(6) Payments from drug companies to pursue research.
(7) Grant funds for research.
(8) Disproportionate share payments.
(b) For purposes of this definition, costs must be calculated by applying the aggregate cost to charge ratios for all hospital services derived from the hospital's Medicare cost report to billed charges. Before January 1, 1997, for purposes of this definition, charitable contributions and grants to a hospital, including transfers from endowment or other funds controlled by the hospital or the hospital's nonprofit supporting entities, shall not be subtracted from the costs of providing services for purposes of determining unreimbursed costs. Beginning January 1, 1997, for purposes of this definition, charitable contributions and grants to a hospital, including transfers from endowment or other funds controlled by the hospital or the

hospital's nonprofit supporting entities, shall not be subtracted from the costs of providing services for purposes of determining the unreimbursed costs of charity care and government sponsored indigent health care.

(c) As used in this section, "government sponsored indigent health care" has the meaning set forth in IC 16-21-9-2.

(d) As used in this section, "nonprofit supporting entity" means a nonprofit entity that is created by the hospital or the hospital's parent entity to further the charitable purposes of the hospital and that is owned or controlled by the hospital or the hospital's parent entity.

As added by P.L.94-1994, SEC.11.

IC 16-18-2-362
Repealed

(As added by P.L.2-1993, SEC.1. Repealed by P.L.29-2014, SEC.10.)

IC 16-18-2-363
"Vector"

Sec. 363. "Vector", for purposes of IC 16-41-33, has the meaning set forth in IC 16-41-33-2.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-364
Repealed

(Repealed by P.L.137-1996, SEC.75.)

IC 16-18-2-365
"Viability"

Sec. 365. "Viability", for purposes of IC 16-34, means the ability of a fetus to live outside the mother's womb.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-365.5
Repealed

(As added by P.L.90-2005, SEC.3. Amended by P.L.41-2007, SEC.5. Repealed by P.L.161-2014, SEC.9.)

IC 16-18-2-366
"Vital statistics"

Sec. 366. "Vital statistics" includes the following:

(1) Factual data concerning births, deaths, and stillbirths and relevant personal, medical, and social data.

(2) The registration, preparation, transcription, collection, compilation, and preservation of that data.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-367

"Volunteer fire department"

Sec. 367. "Volunteer fire department", for purposes of IC 16-31-3, has the meaning set forth in IC 16-31-3-6(a).

As added by P.L.2-1993, SEC.1. Amended by P.L.1-1999, SEC.43.

IC 16-18-2-368

"Volunteer firefighter"

Sec. 368. "Volunteer firefighter", for purposes of IC 16-31-3, has the meaning set forth in IC 16-31-3-6(b).

As added by P.L.2-1993, SEC.1.

IC 16-18-2-369

"Warehouseman"

Sec. 369. "Warehouseman", for purposes of IC 16-42-19, has the meaning set forth in IC 16-42-19-9.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-370

"Waste blood specimen"

Sec. 370. "Waste blood specimen", for purposes of IC 16-41-17, has the meaning set forth in IC 16-41-17-1.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-371

"Wastes"

Sec. 371. "Wastes", for purposes of IC 16-41-16-3, has the meaning set forth in rules adopted under 16-41-16-8.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-372

Repealed

(As added by P.L.2-1993, SEC.1. Amended by P.L.1-1996, SEC.73; P.L.133-2012, SEC.181. Repealed by P.L.113-2014, SEC.101.)

IC 16-18-2-373

"White bread"

Sec. 373. "White bread", for purposes of IC 16-42-10, has the meaning set forth in IC 16-42-10-5.

As added by P.L.2-1993, SEC.1.

IC 16-18-2-374

"Wholesaler"

Sec. 374. (a) "Wholesaler", for purposes of IC 16-42-11, has the meaning set forth in IC 16-42-11-1.1.

(b) "Wholesaler", for purposes of IC 16-42-19 and IC 16-42-21, has the meaning set forth in IC 16-42-19-10.

(c) "Wholesaler", for purposes of IC 16-41-32, has the meaning

set forth in IC 16-41-32-13.
As added by P.L.2-1993, SEC.1. Amended by P.L.28-2009, SEC.3.

IC 16-18-2-375
"WIC"
Sec. 375. "WIC", for purposes of IC 16-35-1.5, has the meaning set forth in IC 16-35-1.5-2.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-376
"WIC participant"
Sec. 376. "WIC participant", for purposes of IC 16-35-1.5, has the meaning set forth in IC 16-35-1.5-3.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-377
"WIC vendor"
Sec. 377. "WIC vendor", for purposes of IC 16-35-1.5, has the meaning set forth in IC 16-35-1.5-4.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-378
"Women, infants, and children nutrition program"
Sec. 378. "Women, infants, and children nutrition program", for purposes of IC 16-35-1.5, has the meaning set forth in IC 16-35-1.5-5.
As added by P.L.2-1993, SEC.1.

IC 16-18-2-379
"X-ray film"
Sec. 379. "X-ray film", for purposes of IC 16-39, has the meaning set forth in IC 16-39-7-2.
As added by P.L.2-1993, SEC.1.

IC 16-18-3

Chapter 3. Effect of Recodification by Senate Enrolled Act 24 of the 1993 Regular Session of the General Assembly

IC 16-18-3-1

"Prior health and hospital law" defined

Sec. 1. As used in this chapter, "prior health and hospital law" refers to the statutes that are repealed or amended in senate enrolled act 24 of the 1993 regular session of the general assembly as the statutes existed before the effective date of the applicable or corresponding provision of senate enrolled act 24 of the 1993 regular session of the general assembly.

As added by P.L.2-1993, SEC.1.

IC 16-18-3-2

Purpose of act; operation and effect of prior health and hospital law

Sec. 2. The purpose of senate enrolled act 24 of the 1993 regular session of the general assembly is to recodify prior health and hospital law in a style that is clear, concise, and easy to interpret and apply. Except to the extent that:

(1) senate enrolled act 24 of the 1993 regular session of the general assembly is amended to reflect the changes made in a provision of another bill that adds to, amends, or repeals a provision in senate enrolled act 24 of the 1993 regular session of the general assembly; or

(2) the minutes of meetings of the code revision commission during 1992 expressly indicate a different purpose;

the substantive operation and effect of the prior health and hospital law continue uninterrupted as if senate enrolled act 24 of the 1993 regular session of the general assembly had not been enacted.

As added by P.L.2-1993, SEC.1.

IC 16-18-3-3

Application

Sec. 3. Subject to section 2 of this chapter, sections 4 through 7 of this chapter shall be applied to the statutory construction of senate enrolled act 24 of the 1993 regular session of the general assembly.

As added by P.L.2-1993, SEC.1.

IC 16-18-3-4

Preservation of rights, liabilities, penalties, violations, proceedings, indebtedness, and tax levies

Sec. 4. Senate enrolled act 24 of the 1993 regular session of the general assembly does not affect any:

(1) rights or liabilities accrued;

(2) penalties incurred;

(3) violations committed;

(4) proceedings begun;
(5) bonds, notes, loans, or other forms of indebtedness issued, incurred, or made; or
(6) tax levies made;

before the effective date of senate enrolled act 24 of the 1993 regular session of the general assembly (July 1, 1993). Those rights, liabilities, penalties, offenses, proceedings, bonds, notes, loans, other forms of indebtedness, and tax levies continue and shall be imposed and enforced under prior health and hospital law as if senate enrolled act 24 of the 1993 regular session of the general assembly had not been enacted.

As added by P.L.2-1993, SEC.1.

IC 16-18-3-5
Construction of act

Sec. 5. Senate enrolled act 24 of the 1993 regular session of the general assembly shall be construed as a recodification of prior health and hospital law. If the literal meaning of senate enrolled act 24 of the 1993 regular session of the general assembly would result in a substantive change in the prior health and hospital law, the difference shall be construed as a typographical, spelling, or other clerical error that must be corrected by:

(1) inserting, deleting, or substituting words, punctuation, or other matters of style in senate enrolled act 24 of the 1993 regular session of the general assembly; and
(2) using any other rule of statutory construction;

as necessary or appropriate to apply senate enrolled act 24 of the 1993 regular session of the general assembly in a manner that does not result in a substantive change in the law. The principle of statutory construction that a court must apply the literal meaning of an act if the literal meaning of the act is unambiguous does not apply to senate enrolled act 24 of the 1993 regular session of the general assembly to the extent that senate enrolled act 24 of the 1993 regular session of the general assembly is not substantively identical to the prior health and hospital law.

As added by P.L.2-1993, SEC.1.

IC 16-18-3-6
References to repealed statutes

Sec. 6. Subject to section 7 of this chapter, a reference in a statute or rule to a statute that is repealed and replaced in the same or a different form in senate enrolled act 24 of the 1993 regular session of the general assembly shall be treated after the effective date of the new provision as a reference to the new provision.

As added by P.L.2-1993, SEC.1.

IC 16-18-3-7
Construction of citation references to include references to prior

law

Sec. 7. A citation reference in senate enrolled act 24 of the 1993 regular session of the general assembly to another provision of senate enrolled act 24 of the 1993 regular session of the general assembly shall be treated as including a reference to the provision of prior health and hospital law that is substantively equivalent to the provision of senate enrolled act 24 of the 1993 regular session of the general assembly that is referred to by the citation reference.

As added by P.L.2-1993, SEC.1.

IC 16-18-3-8

Validity of rules adopted under certain repealed statutes

Sec. 8. (a) As used in this section, "repealed statute" refers to any of the following statutes repealed by P.L.2-1993:

(1) IC 13-1-2.
(2) IC 13-1-7.
(3) IC 13-1-8.
(4) IC 13-1-9.
(5) IC 13-1-13.
(6) IC 16-1.
(7) IC 16-2.
(8) IC 16-2.5.
(9) IC 16-3.
(10) IC 16-4.
(11) IC 16-5.
(12) IC 16-6.
(13) IC 16-6.5.
(14) IC 16-7.
(15) IC 16-8.
(16) IC 16-9.
(17) IC 16-9.5.
(18) IC 16-10.
(19) IC 16-11.
(20) IC 16-12.
(21) IC 16-12.1.
(22) IC 16-12.2.
(23) IC 35-1-58.5.

(b) A rule adopted under a repealed statute is valid and effective until a rule is adopted under IC 4-22-2 that:

(1) supersedes in whole or in part the rule adopted under the repealed statute; or
(2) repeals the rule adopted under the repealed statute.

As added by P.L.220-2011, SEC.308.

IC 16-18-4

Chapter 4. Hospital Police Departments

IC 16-18-4-1

Applicability

Sec. 1. This chapter applies to the following:

(1) A hospital licensed under IC 16-21-2 that is established and operated under IC 16-22-2, IC 16-22-8, or IC 16-23.

(2) A hospital licensed under IC 16-21-2 that is not:

(A) a unit of state or local government; or

(B) owned or operated by a unit of state or local government.

As added by P.L.199-2013, SEC.1.

IC 16-18-4-2

Authority to establish department

Sec. 2. The governing board of a hospital may establish a hospital police department under this chapter.

As added by P.L.199-2013, SEC.1.

IC 16-18-4-3

Governing board powers

Sec. 3. The governing board of a hospital may do the following for a hospital police department established by the governing board under section 2 of this chapter:

(1) Appoint hospital police officers.

(2) Prescribe the duties and direct the conduct of hospital police officers.

(3) Prescribe distinctive uniforms.

(4) Provide emergency vehicles.

As added by P.L.199-2013, SEC.1.

IC 16-18-4-4

Police officer requirements

Sec. 4. (a) The governing board of a hospital shall require an individual appointed as a hospital police officer under this chapter to meet at least the following requirements:

(1) The individual must successfully complete, within one (1) year after the individual is appointed as a hospital police officer, the minimum basic training and educational requirements as approved by the governing board of the hospital and the law enforcement training board.

(2) The individual must undergo a psychological evaluation.

(3) The individual must undergo a national criminal history background check.

(b) The governing board of the hospital shall require an individual appointed as a hospital police officer to annually attend inservice training courses approved by the governing board of the hospital.

As added by P.L.199-2013, SEC.1.

IC 16-18-4-5
Police officer duties

Sec. 5. A hospital police officer appointed under this chapter:

(1) must take an appropriate oath of office in a form and manner prescribed by the governing board of a hospital;

(2) serves at the governing board's pleasure; and

(3) performs the duties that the governing board assigns.

As added by P.L.199-2013, SEC.1.

IC 16-18-4-6
Police officer powers

Sec. 6. (a) A hospital police officer appointed under this chapter has the following powers:

(1) General police powers, including the power to arrest, without process, all persons who commit any offense within the view of the police officer.

(2) The same common law and statutory powers, privileges, and immunities as sheriffs and constables. However, the police officer is empowered to serve civil process only to the extent authorized by the governing board of a hospital.

(3) The duty to enforce and to assist the officials of the hospital in the enforcement of the rules and regulations of the hospital.

(4) The duty to assist and cooperate with other law enforcement agencies and law enforcement officers.

(b) The governing board of a hospital employing a hospital police officer may expressly forbid the police officer from exercising any powers otherwise granted to the police officer by law.

As added by P.L.199-2013, SEC.1.

IC 16-18-4-7
Police officer jurisdiction

Sec. 7. A hospital police officer appointed under this chapter may exercise the powers granted under this chapter only upon any property owned, leased, or occupied by the hospital.

As added by P.L.199-2013, SEC.1.

IC 16-19

ARTICLE 19. STATE DEPARTMENT OF HEALTH

IC 16-19-1

Chapter 1. Establishment of State Department of Health

IC 16-19-1-1

Establishment of department

Sec. 1. The state department of health is established.

As added by P.L.2-1993, SEC.2.

IC 16-19-1-2

Status of department

Sec. 2. The state department is the superior health department of the state, to which all other health boards are subordinate.

As added by P.L.2-1993, SEC.2.

IC 16-19-1-3

Seal

Sec. 3. The executive board of the state department may adopt an appropriate seal.

As added by P.L.2-1993, SEC.2.

IC 16-19-1-4

Repealed

(As added by P.L.220-2011, SEC.309. Repealed by P.L.100-2012, SEC.48.)

IC 16-19-2

Chapter 2. Establishment of Executive Board

IC 16-19-2-1

Establishment; membership

Sec. 1. (a) The executive board of the state department of health is established.

(b) The executive board consists of eleven (11) members appointed by the governor as follows:

(1) Three (3) licensed physicians.
(2) One (1) sanitary engineer.
(3) One (1) pharmacist.
(4) One (1) dentist.
(5) One (1) veterinarian.
(6) One (1) registered nurse.
(7) One (1) hospital administrator.
(8) One (1) health facility administrator.
(9) One (1) other person.

As added by P.L.2-1993, SEC.2.

IC 16-19-2-2

Term of office

Sec. 2. Members of the executive board shall be appointed for terms of four (4) years. Each member shall serve until a successor is appointed and qualified.

As added by P.L.2-1993, SEC.2.

IC 16-19-2-3

Removal for cause; vacancies

Sec. 3. Members of the executive board may be removed by the governor for cause. A vacancy on the executive board shall be filled by appointment by the governor for the unexpired term.

As added by P.L.2-1993, SEC.2.

IC 16-19-2-4

Administrative authority of executive board or appeals board

Sec. 4. The executive board, or an appeals panel if designated by statute, is the ultimate authority under IC 4-21.5 for any matter concerning the state department.

As added by P.L.2-1993, SEC.2.

IC 16-19-2-5

Advisory functions

Sec. 5. In addition to any other statutory duty, the executive board shall serve as an advisory board to the state department.

As added by P.L.2-1993, SEC.2.

IC 16-19-2-6

Meetings

Sec. 6. The executive board shall meet at least one (1) time every two (2) months and at other times as the executive board considers expedient.

As added by P.L.2-1993, SEC.2.

IC 16-19-2-7

Quorum

Sec. 7. A majority of the executive board members constitutes a quorum for the transaction of official business.

As added by P.L.2-1993, SEC.2.

IC 16-19-2-8

Per diem; traveling expenses

Sec. 8. Each member of the executive board who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

As added by P.L.2-1993, SEC.2.

IC 16-19-2-9

Chairman

Sec. 9. The members shall elect one (1) member as chairman of the executive board. The chairman shall serve for a term of two (2) years, unless the person's term of office as a member of the executive board expires sooner.

As added by P.L.2-1993, SEC.2.

IC 16-19-3

Chapter 3. Powers and Duties of State Department of Health and Executive Board

IC 16-19-3-0.5

"Mobile camp"

Sec. 0.5. As used in this chapter, "mobile camp" has the meaning set forth in IC 8-9-10-1(a).

As added by P.L.83-2007, SEC.5.

IC 16-19-3-1

Supervision of health and life of citizens; necessary powers

Sec. 1. The state department shall supervise the health and life of the citizens of Indiana and shall possess all powers necessary to fulfill the duties prescribed in the statutes and to bring action in the courts for the enforcement of health laws and health rules.

As added by P.L.2-1993, SEC.2.

IC 16-19-3-2

Branch offices; purpose; legislative intent

Sec. 2. (a) The state department may establish, operate, and maintain branch offices. The number of branch offices shall be determined by the state department.

(b) The purpose of authorizing the creation of branch offices is to furnish a more comprehensive and effective health program to the people of Indiana and to provide additional assistance to all local health officials. The legislative intent of this section is to authorize the establishment of branch offices as a means of assisting, but not limiting, the powers possessed by local health agencies.

As added by P.L.2-1993, SEC.2.

IC 16-19-3-3

Facilities for branch offices

Sec. 3. For the purpose of providing facilities for branch offices, the state department may, with the approval of the governor, purchase or lease real property. Structures may be remodeled, repaired, constructed, and maintained. A building may not be constructed upon property not owned in fee simple by the state. All deeds and leases shall be made to the state for the use of the state department. These procedures and powers shall be exercised under IC 4-13-2 where applicable.

As added by P.L.2-1993, SEC.2.

IC 16-19-3-4

Protection and improvement of public health; adoption of rules

Sec. 4. (a) The executive board may, by an affirmative vote of a majority of its members, adopt reasonable rules on behalf of the state department to protect or to improve the public health in Indiana.

(b) The rules may concern but are not limited to the following:

(1) Nuisances dangerous to public health.

(2) The pollution of any water supply other than where jurisdiction is in the environmental rules board and department of environmental management.

(3) The disposition of excremental and sewage matter.

(4) The control of fly and mosquito breeding places.

(5) The detection, reporting, prevention, and control of diseases that affect public health.

(6) The care of maternity and infant cases and the conduct of maternity homes.

(7) The production, distribution, and sale of human food.

(8) Except as provided in section 4.4 of this chapter, the conduct of camps.

(9) Standards of cleanliness of eating facilities for the public.

(10) Standards of cleanliness of sanitary facilities offered for public use.

(11) The handling, disposal, disinterment, and reburial of dead human bodies.

(12) Vital statistics.

(13) Sanitary conditions and facilities in public buildings and grounds, including plumbing, drainage, sewage disposal, water supply, lighting, heating, and ventilation, other than where jurisdiction is vested by law in the fire prevention and building safety commission or other state agency.

(14) The design, construction, and operation of swimming and wading pools. However, the rules governing swimming and wading pools do not apply to a pool maintained by an individual for the sole use of the individual's household and house guests.

As added by P.L.2-1993, SEC.2. Amended by P.L.83-2007, SEC.6; P.L.113-2014, SEC.102.

IC 16-19-3-4.1
Rules

Sec. 4.1. The executive board shall adopt reasonable rules to regulate the sanitary operation of tattoo parlors.

As added by P.L.181-1997, SEC.2.

IC 16-19-3-4.2
Body piercing facilities; rules

Sec. 4.2. The executive board shall adopt reasonable rules to regulate the sanitary operation of body piercing facilities.

As added by P.L.166-1999, SEC.1.

IC 16-19-3-4.3
Variances from rules regarding food handling or food establishments

Sec. 4.3. Upon a showing of good cause, the executive board may

grant a variance from one (1) or more of the state rules concerning:

(1) food handling machinery; or

(2) sanitary standards for the operation of food establishments.

As added by P.L.266-2001, SEC.8.

IC 16-19-3-4.4

Mobile camps; adoption of rules; enforcement by local health officers

Sec. 4.4. (a) The executive board shall adopt reasonable rules under IC 4-22-2 necessary to protect the health, safety, and welfare of persons living in mobile camps, including provisions relating to sanitary conditions, light, air, safety protection from fire hazards, equipment, maintenance, and operation of the camp, sewage disposal through septic tank absorption fields, and other matters appropriate for the security of the life and health of occupants.

(b) The rules adopted under subsection (a) shall be enforced by local health officers under IC 16-20-1-19 and IC 16-22-8-34(a)(23).

(c) The rules must include the following:

(1) A requirement for an inspection fee necessary to cover all the expenses incurred in the process of conducting inspections of a mobile camp, to be paid by the railroad company operating the mobile camp.

(2) A provision that the inspection fee shall be paid to the:

(A) local health department under IC 16-20-1-2; or

(B) municipal corporation created under IC 16-22-8-6;

before initiation of the inspection. The fee shall be deposited in the general fund of the local health department or the municipal corporation.

(3) A requirement that the railroad company, after the departure of the mobile camp, restore the property upon which the mobile camp existed to its condition before the arrival of the mobile camp.

(4) A provision that the officials of the local health department or the municipal corporation referenced in subdivision (2) may conduct either:

(A) independent inspections of the mobile camp without the presence of the railroad company or a union representative; or

(B) joint inspections of the mobile camp with the presence of the railroad company and a union representative of each craft of employees working for the railroad company.

As added by P.L.83-2007, SEC.7. Amended by P.L.1-2010, SEC.71.

IC 16-19-3-5

Rules for enforcement; exceptions

Sec. 5. (a) The executive board may adopt rules on behalf of the state department for the efficient enforcement of this title, except as otherwise provided. However, fees for inspections relating to weight

and measures may not be established by the rules.

(b) The executive board may declare that a rule described in subsection (a) is necessary to meet an emergency and adopt the rule under IC 4-22-2-37.1.

As added by P.L.2-1993, SEC.2. Amended by P.L.80-1999, SEC.1; P.L.140-2013, SEC.17.

IC 16-19-3-6

Rules; conformity to laws

Sec. 6. The rules of the state department may not be inconsistent with this title or any other Indiana statute.

As added by P.L.2-1993, SEC.2.

IC 16-19-3-6.5

Safety guidelines for children during bad weather conditions

Sec. 6.5. (a) The state department shall adopt guidelines concerning the safety of children during bad weather conditions.

(b) The guidelines adopted under subsection (a) must include a listing of places that are safe during the following types of weather conditions:

(A) Blizzards.
(B) Tornados.
(C) Rain storms.
(D) Lightning storms.
(E) Hail storms.
(F) Wind storms.
(G) Extreme heat.
(H) Any other weather condition for which the National Weather Service issues an advisory, a watch, or a warning.

(c) The guidelines adopted under subsection (a) must cover the following types of events and places where children may be exposed to weather conditions:

(1) Schools and activities organized by schools.
(2) Child care centers and child care homes licensed under IC 12-17.2.
(3) Preschool (as defined in IC 12-7-2-143.5).
(4) Organized sporting events.
(5) Public parks.

(d) The state department shall:

(1) distribute the guidelines adopted under subsection (a) to the department of education, which shall then distribute the guidelines to each:
(A) school corporation; and
(B) nonpublic school; and
(2) make available the guidelines adopted under subsection (a) to any person that:
(A) operates a place; or
(B) organizes or conducts an activity or event;

described in subsection (c).
As added by P.L.110-2005, SEC.1.

IC 16-19-3-7
Sanitary inspections and surveys; indoor air quality inspections; inspection of private property

Sec. 7. (a) The state department may make sanitary inspections and surveys throughout Indiana and of all public buildings and institutions.

(b) The state department may make indoor air quality inspections of all public buildings and institutions that are occupied by an agency of state or local government.

(c) After due notice is given, the state department may enter upon and inspect private property in regard to the presence of cases of infectious and contagious diseases and the possible cause and source of diseases.
As added by P.L.2-1993, SEC.2. Amended by P.L.104-2003, SEC.3.

IC 16-19-3-8
Sanitation of public buildings and institutions; enforcement

Sec. 8. The state department may enforce all laws and rules concerning the character and location of plumbing, drainage, water supply, disposal of sewage, lighting, heating, and ventilation and all sanitary features of all public buildings and institutions.
As added by P.L.2-1993, SEC.2.

IC 16-19-3-9
Quarantine

Sec. 9. The state department may establish quarantine and may do what is reasonable and necessary for the prevention and suppression of disease.
As added by P.L.2-1993, SEC.2.

IC 16-19-3-10
Epidemics

Sec. 10. The state department may order schools and churches closed and forbid public gatherings when considered necessary to prevent and stop epidemics.
As added by P.L.2-1993, SEC.2.

IC 16-19-3-11
Condemnation or abatement of conditions causative of disease

Sec. 11. The state department may issue an order condemning or abating conditions causative of disease.
As added by P.L.2-1993, SEC.2.

IC 16-19-3-12
Rules and regulations; enforcement; local health officers; removal

Sec. 12. (a) When, in the opinion of the state department:

(1) a local health authority fails or refuses to enforce the laws and rules necessary to prevent and control the spread of communicable or infectious disease declared to be dangerous to the public health; or

(2) a public health emergency exists;

the state department may enforce the orders and rules of the state department within the territorial jurisdiction of the local health authorities. In that situation, the state department may exercise all the powers given by law to local health authorities. All expenses incurred are charges against the respective counties or cities.

(b) In such cases, the failure or refusal of any local health officer or local health board to carry out and enforce the lawful orders and rules of the state department is sufficient cause for the removal of the local health officer or the members of the local health board from office.

(c) Upon removal of a local health officer or a member of the local health board, the proper county or city authorities shall immediately appoint a successor, other than the person removed, as provided by law for original appointments.

As added by P.L.2-1993, SEC.2.

IC 16-19-3-13

Local health officers; removal from office; grounds

Sec. 13. The state department may remove a local health officer in the state for any of the following reasons:

(1) Intemperance.

(2) Failure to collect vital statistics.

(3) Failure to obey rules.

(4) Failure to keep records.

(5) Failure to make reports.

(6) Failure to answer letters of inquiry of the state department concerning the health of the people.

(7) Neglect of official duty.

As added by P.L.2-1993, SEC.2.

IC 16-19-3-14

Local health officers; removal from office; procedure

Sec. 14. A local health officer may not be removed by the state department except under the procedure provided by law for the removal of an officer or employee for cause by a state officer or agency.

As added by P.L.2-1993, SEC.2.

IC 16-19-3-15

Local health officers; removal from office; ineligibility to reappointment; filling of vacancy

Sec. 15. A health officer removed as provided in this chapter is

ineligible to hold the position of health officer for four (4) years. The vacancy shall be filled for the unexpired term in the same manner as the original appointment or employment.
As added by P.L.2-1993, SEC.2.

IC 16-19-3-16
Water pollution; proceedings to abate or prevent; regulation of sanitary systems

Sec. 16. The state department may conduct hearings, issue orders, and take action on behalf of the state for the enforcement of orders as necessary to regulate the use of existing or proposed sanitary systems that do not meet or would not meet health standards established by the state department under law or rule as means, by the use of the state department's police power, to abate or prevent the pollution of streams, rivers, lakes, and other bodies of water.
As added by P.L.2-1993, SEC.2.

IC 16-19-3-17
Hearings; agent or representative of department

Sec. 17. Whenever a hearing is provided for or authorized to be held by the state department, the state department may designate a person as the state department's agent or representative to conduct the hearings. The agent or representative shall conduct the hearings in the manner provided by law.
As added by P.L.2-1993, SEC.2.

IC 16-19-3-18
Enforcement proceedings; injunction

Sec. 18. (a) The state department may bring a proceeding against any person against whom a final order or determination has been made to compel compliance. The court in such an action has jurisdiction to enforce the order or determination by injunction.

(b) Except as otherwise provided, the state department may bring an action to enforce this title, except as otherwise stated. Such an action shall be brought in the name of the state. The court in such an action has jurisdiction to compel or enforce the provisions of this title by injunction.
As added by P.L.2-1993, SEC.2.

IC 16-19-3-19
Vital statistics studies; death and sickness records; provision of information to election division regarding deceased voters

Sec. 19. (a) The state department shall study the vital statistics and endeavor to make intelligent and profitable use of the collected records of death and sickness among the people.

(b) As required under 52 U.S.C. 21083, after January 1, 2006, the department shall provide information to the election division to coordinate the computerized list of voters maintained under

IC 3-7-26.3 with the department records concerning individuals identified as deceased under IC 3-7-45.
As added by P.L.2-1993, SEC.2. Amended by P.L.209-2003, SEC.202; P.L.128-2015, SEC.237.

IC 16-19-3-20
Dental public health
Sec. 20. The state department shall provide facilities and personnel for investigation, research, and dissemination of knowledge to the public concerning dental public health.
As added by P.L.2-1993, SEC.2. Amended by P.L.142-1995, SEC.5.

IC 16-19-3-21
Programs for residential care of certain individuals; eligibility; fees
Sec. 21. The state department may:
(1) operate; and
(2) designate local boards that qualify to operate;
programs in the public interest, to provide for the care of certain individuals in each individual's place of residence. Eligibility for participation includes individuals who come within the purview of the federal Social Security Act (42 U.S.C. 301 et seq.). The state department and the designated local boards shall periodically establish a schedule of reasonable fees for this service and shall collect the fees as prescribed by IC 16-20-1-27.
As added by P.L.2-1993, SEC.2.

IC 16-19-3-22
Poisons; safety and emergency information; telephone answering service
Sec. 22. (a) The state department shall maintain a toll-free telephone answering service to provide information on safety precautions and emergency procedures with regard to poisons.
(b) The telephone number shall be widely disseminated throughout Indiana and shall be manned on a twenty-four (24) hour per day basis.
(c) The telephone companies in Indiana, the state department, all hospitals, and all other boards or commissions registering or licensing health care professions or emergency medical services shall cooperate in making the toll-free telephone number available to the public.
As added by P.L.2-1993, SEC.2.

IC 16-19-3-23
Health care programs; telephone information service
Sec. 23. (a) The state department shall maintain a toll-free telephone line to provide information, referral, follow-up, and personal assistance concerning federal, state, local, and private programs that provide services to children less than twenty-one (21)

years of age with long term health care needs. The state department shall provide the telephone service to the following:

(1) Families with children having long term health care needs.

(2) Health care providers.

(3) Employees of state and local governmental entities.

(4) Educators.

(5) Other entities that provide services to children with long term health care needs.

(b) The state department may adopt rules under IC 4-22-2 to implement this section.

As added by P.L.2-1993, SEC.2.

IC 16-19-3-24

Acquired immune deficiency drug assistance program; administration

Sec. 24. The state department shall administer the Indiana acquired immune deficiency drug assistance program.

As added by P.L.2-1993, SEC.2.

IC 16-19-3-24.5

Administration of food and nutrition programs and money

Sec. 24.5. The state department shall administer food and nutrition programs and money received under 7 U.S.C. 612, 7 U.S.C. 7501 et seq., and 42 U.S.C. 9922 et seq.

As added by P.L.156-2011, SEC.10.

IC 16-19-3-25

Inspection report; guidelines for release to public

Sec. 25. (a) This section applies to inspections performed by the state department.

(b) Except as provided in this section, until the recipient of an inspection report has had ten (10) calendar days to respond to the inspection report the state department may not release to the public:

(1) the inspection report; or

(2) records relating to the inspection.

(c) The state department shall release to the public an inspection report and records relating to the inspection earlier than the time stated in subsection (b) if the state department determines that the release is necessary to:

(1) protect the public from an imminent threat to health or safety;

(2) protect the consumers of health services from an imminent threat to health or safety; or

(3) protect the public from a gross deception or fraud.

(d) The state department shall release to the public an inspection report and records relating to the inspection earlier than the time period in subsection (b):

(1) if the state department orders closure of a regulated entity;

or

(2) after receipt of the regulated entity's written consent to the release of the inspection report and records relating to the inspection.

(e) With respect to a recipient of an inspection performed by the state department, the period of time described in subsection (b) begins as follows:

(1) If the inspection report is personally delivered to the recipient, on the date of delivery.

(2) If the inspection report is deposited in the United States mail, three (3) days after the date of deposit in the United States mail.

(f) After an inspection report is released under this section, the inspection report and records relating to the inspection may be inspected and copied as set forth in IC 5-14-3.

As added by P.L.190-1995, SEC.1.

IC 16-19-3-26

Anatomical gift promotion fund; Indiana Donation Alliance Foundation and Donate Life Indiana report

Sec. 26. (a) The anatomical gift promotion fund is established. The fund consists of amounts distributed to the fund by the auditor of state under IC 9-18-2-16.

(b) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds are invested. Interest that accrues from these investments shall be deposited in the fund.

(c) The state department shall administer the fund. Any expenses incurred in administering the fund shall be paid from the fund.

(d) The money in the fund shall be distributed quarterly to the Indiana Donation Alliance Foundation and Donate Life Indiana for the purpose of implementing an organ, tissue, and marrow registry and to promote organ, tissue, and marrow donation. However, money in the fund may not be distributed under this subsection for any quarter of a year until the annual report for the previous year has been submitted under subsection (f).

(e) The Indiana Donation Alliance Foundation and Donate Life Indiana shall keep information regarding the identity of an individual who has indicated a desire to make an organ or tissue donation confidential.

(f) The Indiana Donation Alliance Foundation and Donate Life Indiana shall submit an annual audited report, including a list of all expenditures, to the:

(1) speaker of the house of representatives;

(2) president pro tempore of the senate;

(3) senate health and provider services committee; and

(4) house public health committee;

before February 1. The report must be in an electronic format under

IC 5-14-6.

(g) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(h) This subsection applies if the Indiana Donation Alliance Foundation or Donate Life Indiana loses its status as an organization exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code. The Indiana Donation Alliance Foundation and Donate Life Indiana shall report in an electronic format under IC 5-14-6 to the chairpersons of the senate standing committee, as determined by the president pro tempore of the senate, and the house standing committee, as determined by the speaker of the house of representatives, that have subject matter jurisdiction over health issues. The chairpersons shall review the report and recommend to the state department whether to continue distributions under subsection (d).

(i) Any annual reports that were not submitted by the Indiana Donation Alliance Foundation or Donate Life Indiana before March 15, 2011, under subsection (f) must be submitted before August 1, 2012.

As added by P.L.96-1997, SEC.3. Amended by P.L.63-2000, SEC.2; P.L.131-2001, SEC.1; P.L.81-2002, SEC.2; P.L.3-2004, SEC.1; P.L.147-2007, SEC.3; P.L.154-2012, SEC.2; P.L.86-2014, SEC.2.

IC 16-19-3-27

Department study of septic system technologies; development of plans and specifications; rules

Sec. 27. (a) The state department of health shall:

(1) study the use of:

(A) effluent filters;

(B) recirculation media filters;

(C) aeration treatment units;

(D) drip irrigation;

(E) graveless trenches; and

(F) new technologies;

for residential septic systems that will cause systems to perform satisfactorily as alternatives to currently operating systems that do not perform satisfactorily because of soil characteristics, lot sizes, topographical conditions, or high water tables; and

(2) take all actions necessary to develop plans and specifications for use of the technologies listed in subdivision (1) in residential septic systems.

(b) The executive board shall adopt reasonable rules under IC 4-22-2 to:

(1) promulgate the plans and specifications developed under subsection (a); and

(2) allow for the issuance of operating permits for:

(A) residential septic systems that are installed in compliance with the plans and specifications promulgated

under subdivision (1); and

(B) onsite residential sewage discharging disposal systems in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000) that comply with IC 13-18-12-9.

As added by P.L.172-2002, SEC.6.

IC 16-19-3-28

State department designated as lead agency of a statewide trauma care system; rule making authority

Sec. 28. (a) The state department is the lead agency for the development, implementation, and oversight of a statewide comprehensive trauma care system to prevent injuries, save lives, and improve the care and outcome of individuals injured in Indiana.

(b) The state department may adopt rules under IC 4-22-2 concerning the development and implementation of the following:

(1) A state trauma registry.

(2) Standards and procedures for trauma care level designation of hospitals.

As added by P.L.155-2006, SEC.2.

IC 16-19-3-29

Records of coroners denying anatomical gift recoveries

Sec. 29. The state department shall compile and make available for public inspection records of a coroner or designee denying recovery of an anatomical gift as described in IC 36-2-14-22.6(f) and IC 36-2-14-22.6(g).

As added by P.L.147-2007, SEC.4.

IC 16-19-3-29.2

Automated external defibrillator rules

Sec. 29.2. The state department may adopt rules under IC 4-22-2 to implement the requirements set forth in IC 24-4-15 concerning automated external defibrillators in health clubs.

As added by P.L.129-2007, SEC.1.

IC 16-19-3-30

Establishment of nonprofit subsidiary corporation

Sec. 30. (a) The state department may establish a nonprofit subsidiary corporation that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code, to solicit and accept private funding, gifts, donations, bequests, devises, and contributions.

(b) A subsidiary corporation established under this section:

(1) shall use money received under subsection (a) to carry out in any manner the purposes and programs of the state department, which may include programs intended to reduce infant mortality, increase childhood immunizations, reduce

obesity, and reduce smoking rates;

(2) shall report to the budget committee each year concerning:

(A) the use of money received under subsection (a); and

(B) the balances in any accounts or funds established by the subsidiary corporation; and

(3) may deposit money received under subsection (a) in an account or fund that is:

(A) administered by the subsidiary corporation; and

(B) not part of the state treasury.

(c) A subsidiary corporation established under this section is governed by a board of directors comprised of members appointed by the governor. Employees of the state department may serve on the board of directors.

(d) Employees of the state department shall provide administrative support for a subsidiary corporation established under this section. Employees of the state department directly involved in the subsidiary corporation established under this section may engage in fundraising activities on behalf of the subsidiary corporation.

(e) The state board of accounts shall audit a subsidiary corporation established under this section.

As added by P.L.191-2013, SEC.4. Amended by P.L.181-2015, SEC.39.

IC 16-19-3-30.5

Partnerships and joint ventures; illegal drug use

Sec. 30.5. The state department may enter into partnerships and joint ventures to encourage best practices in the following:

(1) The identification and testing of populations at risk of disease related to illegal drug use.

(2) The health care treatment of incarcerated individuals for conditions related to illegal drug use.

As added by P.L.208-2015, SEC.6.

IC 16-19-3-31

Rules specifying disposal methods of aborted fetuses

Sec. 31. (a) The state department shall adopt:

(1) emergency rules in the manner provided under IC 4-22-2-37.1 not later than July 1, 2015; and

(2) permanent administrative rules under IC 4-22-2 not later than January 1, 2016;

specifying the disposal methods to be used by abortion clinics and health care facilities to dispose of aborted fetuses.

(b) This section expires December 31, 2016.

As added by P.L.113-2015, SEC.4.

IC 16-19-3.5

Chapter 3.5. Construction Permits and Plan Review

Effective 1-1-2017.

IC 16-19-3.5-1

"Applicant"

Effective 1-1-2017.

Sec. 1. As used in this chapter, "applicant" means a person that applies for a construction permit under this chapter.

As added by P.L.49-2016, SEC.1.

IC 16-19-3.5-2

"Application"

Effective 1-1-2017.

Sec. 2. As used in this chapter, "application" means an application for a construction permit and any supporting plans and specifications.

As added by P.L.49-2016, SEC.1.

IC 16-19-3.5-3

"Division"

Effective 1-1-2017.

Sec. 3. As used in this chapter, "division" means the division of fire and building safety established by IC 10-19-7-1.

As added by P.L.49-2016, SEC.1.

IC 16-19-3.5-4

"Plan review"

Effective 1-1-2017.

Sec. 4. As used in this chapter, "plan review" means a review of plans for construction, modification, or installation of a project to determine if the plans comply with the state department's rules.

As added by P.L.49-2016, SEC.1.

IC 16-19-3.5-5

"Project"

Effective 1-1-2017.

Sec. 5. As used in this chapter, "project" means a project:

(1) that involves an improvement to real property; and

(2) for which a construction permit is required to be obtained from the state department before the start of construction, installation, or modification of improvements to the real property.

The term includes only project types regulated under 410 IAC 6-12.

As added by P.L.49-2016, SEC.1.

IC 16-19-3.5-6

Means of notice

Effective 1-1-2017.

Sec. 6. The state department shall provide notice under this chapter by:

(1) first class mail; or

(2) electronic mail.

As added by P.L.49-2016, SEC.1.

IC 16-19-3.5-7

Applications for construction permits and design releases

Effective 1-1-2017.

Sec. 7. The state department shall accept an application for a construction permit that is submitted by an applicant by either of the following methods:

(1) The applicant may submit an application to the division that is a combined application for:

(A) a construction permit under this chapter; and

(B) a design release under IC 22-15-3.

(2) The applicant may submit separate applications for:

(A) a construction permit to the state department; and

(B) a design release under IC 22-15-3 to the division.

Not later than the next business day, the division shall provide a copy of the application submitted under subdivision (1) to the state department to initiate processing of the construction permit under this chapter.

As added by P.L.49-2016, SEC.1.

IC 16-19-3.5-8

Notice upon receipt of application

Effective 1-1-2017.

Sec. 8. (a) Upon receiving a complete application for a construction permit, the state department shall notify the applicant not later than the next business day of all the following:

(1) The assigned project number.

(2) Instructions on submitting any required documentation.

(3) The contact information for the person performing the plan review, including any person, entity, or local health department that is delegated a plan review as provided in section 12 of this chapter.

(b) Not later than thirty (30) business days after the date a complete application is received by the state department, the state department shall:

(1) conduct a plan review; and

(2) notify the applicant that:

(A) the plans and specifications have been approved; or

(B) a construction permit will not be issued until the applicant submits corrections to the plans or specifications.

If the plans and specifications are approved, the state department shall issue the construction permit to the applicant not later than the

thirty-first business day after the application is received.
As added by P.L.49-2016, SEC.1.

IC 16-19-3.5-9
Deadlines for state department to provide notice upon receiving application

Effective 1-1-2017.

Sec. 9. If the state department does not notify an applicant under section 8 of this chapter within thirty (30) business days after the application is received:

(1) the application is approved as submitted; and

(2) the state department shall, not later than the thirty-first business day after the date the application is received, provide the construction permit to the applicant.

As added by P.L.49-2016, SEC.1.

IC 16-19-3.5-10
State department deadlines upon receiving corrections

Effective 1-1-2017.

Sec. 10. (a) If the state department receives corrections to a plan in response to a notice sent under section 8(b)(2)(B) of this chapter, and any time the state department receives corrections to a notice under subdivision (2) thereafter, the state department shall do one (1) of the following:

(1) Not later than ten (10) business days, or fifteen (15) business days if agreed upon by the applicant and the state department, after receiving the corrections, send notice to the applicant that the corrected plans as submitted have been approved for a construction permit. The state department shall, not later than the next business day after the date that notice is sent to the applicant, provide the applicant with a construction permit.

(2) Not later than ten (10) business days, or fifteen (15) business days if agreed upon by the applicant and the state department, after receiving the corrections, send notice to the applicant that a construction permit will not be issued until the applicant submits additional corrections. However, if the applicant does not receive the notice within the period specified in this subdivision:

(A) the application is approved as submitted; and

(B) the state department shall, not later than the eleventh or sixteenth business day after the date that the corrections were received by the state department, whichever is applicable, provide the applicant with a construction permit.

(b) A review under this section is limited to:

(1) the corrections required by the state department under the notice sent under section 8(b)(2)(B) of this chapter or subsection (a)(2); and

(2) any revisions made to the plan that have not been reviewed, regardless of whether those revisions were requested under section 8(b)(2)(B) of this chapter or subsection (a)(2).

All other parts of a project not directly related to corrections or revisions described in subdivision (1) or (2), including previously completed corrections or revisions that the state department has already accepted, are considered approved for a construction permit and may not be included in subsequent notice requests sent under this section.

As added by P.L.49-2016, SEC.1.

IC 16-19-3.5-11

Denial due to noncompliance with building or fire safety rule prohibited

Effective 1-1-2017.

Sec. 11. The state department may not deny a construction permit based upon noncompliance or suspected noncompliance with a rule adopted under the authority of the fire prevention and building safety commission established by IC 22-12-2-1.

As added by P.L.49-2016, SEC.1.

IC 16-19-3.5-12

Delegation of state department plan review responsibilities

Effective 1-1-2017.

Sec. 12. (a) The state department may:

(1) contract with a person to perform the state department's plan review responsibilities under this chapter; or

(2) refer the plan review to a local health department.

(b) A person, entity, or local health department under subsection (a) that performs a plan review delegated by the state department under this chapter is subject to this chapter to the same extent as the state department. If the person, entity, or local health department fails to meet the required plan review and notification deadlines under this chapter, the state department shall approve the application as submitted and issue the applicant a construction permit.

As added by P.L.49-2016, SEC.1.

IC 16-19-4
Chapter 4. State Health Commissioner

IC 16-19-4-1
Commissioner as secretary and executive officer of executive board

Sec. 1. The state health commissioner, by virtue of the state health commissioner's office, is secretary and executive officer of the executive board.

As added by P.L.2-1993, SEC.2.

IC 16-19-4-2
Commissioner; appointment; term; qualifications

Sec. 2. (a) The governor shall appoint the state health commissioner, who serves at the will and pleasure of the governor.

(b) The state health commissioner must hold an unlimited license to practice medicine under IC 25-22.5. It is the intent of the general assembly that the office of the state health commissioner be held by a person who is qualified by training and experience to administer the affairs of the state department.

As added by P.L.2-1993, SEC.2.

IC 16-19-4-3
Commissioner; oath of office

Sec. 3. The state health commissioner shall take an oath of office before exercising the authority of the office of secretary or attending to full-time duties as the state health commissioner.

As added by P.L.2-1993, SEC.2.

IC 16-19-4-4
Commissioner; ethics and conflicts of interest; practice of medicine

Sec. 4. (a) The state health commissioner is governed in the performance of the state health commissioner's official duties by IC 4-2-6 and IC 35-44.1-1-4 concerning ethics and conflict of interest.

(b) To learn professional skills and to become familiar with new developments in the field of medicine, and except as provided in IC 16-42-27-2(f), the state health commissioner may, in an individual capacity as a licensed physician and not in an official capacity as state health commissioner, engage in the practice of medicine if the practice of medicine does not interfere with the performance of the state health commissioner's duties as state health commissioner.

As added by P.L.2-1993, SEC.2. Amended by P.L.126-2012, SEC.36; P.L.6-2016, SEC.2.

IC 16-19-4-5
Commissioner; practice of medicine; liability of state

Sec. 5. This section does not apply to the prescribing, dispensing, or issuance of a standing order for an overdose intervention drug

under IC 16-42-27-2. Any medical care provided to a patient by the state health commissioner is provided by the state health commissioner in an individual capacity as a licensed physician and the state is not liable for any act performed by the state health commissioner in this capacity.
As added by P.L.2-1993, SEC.2. Amended by P.L.6-2016, SEC.3.

IC 16-19-4-6
Commissioner; salary
Sec. 6. The state health commissioner is entitled to receive a salary in an amount to be fixed by the executive board with the approval of the governor.
As added by P.L.2-1993, SEC.2.

IC 16-19-4-7
Repealed
(As added by P.L.2-1993, SEC.2. Repealed by P.L.100-2012, SEC.49.)

IC 16-19-4-8
Divisions and subdivisions
Sec. 8. (a) The state health commissioner may, subject to the approval of the executive board, organize the personnel and functions of the state department into divisions and subdivisions to carry out the state health commissioner's powers and duties and the powers and duties of the state department.
(b) The state health commissioner may periodically consolidate, divide, or abolish divisions and subdivisions as is necessary to carry out those powers and duties.
As added by P.L.2-1993, SEC.2.

IC 16-19-4-9
Commissioner to comment on proposed rules
Sec. 9. (a) This section applies:
(1) when a proposed rule is published in the Indiana Register by:
(A) the office of the secretary of family and social services;
(B) a division of family and social services; or
(C) the office of Medicaid policy and planning; and
(2) if the state department has rule making authority in an area similar to the area that would be affected by the proposed rule.
(b) The commissioner shall submit written comments on a proposed rule to the entity described in subsection (a) that proposed the rule not more than thirty (30) days after the rule is published in the Indiana Register.
As added by P.L.11-1995, SEC.2.

IC 16-19-4-10

Public health emergency declaration

Sec. 10. For purposes of IC 16-41-7.5, the commissioner is authorized to declare a public health emergency.

As added by P.L.208-2015, SEC.7.

IC 16-19-5
Chapter 5. Fees

IC 16-19-5-1
Services for which fees may be collected

Sec. 1. (a) In addition to other fees provided by this title, the state department may establish and collect reasonable fees for specific services described under subsection (b) provided by the state department. The fees may not exceed the cost of services provided.

(b) Fees may be charged for the following services:

(1) Plan reviews conducted under rules adopted under IC 16-19-3-4(b)(13).

(2) Licensing of agricultural labor camps under IC 16-41-26.

(3) Services provided to persons other than governmental entities under rules adopted under IC 16-19-3-5.

(4) Services provided by the state health laboratory under IC 16-19-8.

(5) Services provided under IC 16-19-11-3.

(6) Services provided under IC 24-6 by the state metrology laboratory.

As added by P.L.2-1993, SEC.2. Amended by P.L.80-1999, SEC.2; P.L.104-2003, SEC.4.

IC 16-19-5-2
Serological test for marriage license; residential care provided under IC 16-19-3-21

Sec. 2. In addition to other fees provided by this title, the state department shall charge and collect the following fees:

(1) For performance of any standard serological test for an applicant for a marriage license, two dollars and fifty cents ($2.50).

(2) Fees prescribed in IC 16-19-3-21.

As added by P.L.2-1993, SEC.2.

IC 16-19-5-3
License and permit fee collections; deposits; expense payments

Sec. 3. (a) All license and permit fees collected by the state department under this title shall be deposited monthly with the treasurer of state and become a part of the state general fund, unless stated otherwise.

(b) All expenses of the enforcement of this title shall be paid out of any appropriate appropriation, unless stated otherwise.

As added by P.L.2-1993, SEC.2.

IC 16-19-5-4
Weights and measures fund

Sec. 4. (a) The weights and measures fund is established for the purpose of providing funds for training and equipment for weights

and measures inspectors and the state metrology laboratory. The state department shall administer the fund.

(b) The fund consists of fees collected under section 1(b)(7) of this chapter.

(c) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.80-1999, SEC.3.

IC 16-19-6

Chapter 6. Administrative Unit for Special Institutions

IC 16-19-6-1

Administrative unit defined

Sec. 1. As used in this chapter, "administrative unit" refers to the administrative unit for special institutions.

As added by P.L.2-1993, SEC.2.

IC 16-19-6-2

Commission defined

Sec. 2. As used in this chapter, "commission" refers to the commission for special institutions.

As added by P.L.2-1993, SEC.2.

IC 16-19-6-3

Creation of unit

Sec. 3. The administrative unit for special institutions is created within the state department.

As added by P.L.2-1993, SEC.2.

IC 16-19-6-4

Administrative head; duties

Sec. 4. The state health commissioner is the administrative head of the administrative unit and shall do the following:

(1) Exercise general supervision and control of the administrative unit.

(2) Direct the medical and physical care, education, and rehabilitation of persons in the institutions that are under the control and supervision of the administrative unit.

(3) Employ the personnel necessary to perform the duties imposed upon the administrative unit and the state health commissioner by this chapter.

As added by P.L.2-1993, SEC.2.

IC 16-19-6-5

Institutions under administrative control of commissioner

Sec. 5. The state health commissioner has complete administrative control and responsibility for the Indiana Soldiers' and Sailors' Children's Home.

As added by P.L.2-1993, SEC.2. Amended by P.L.69-1999, SEC.3; P.L.21-2008, SEC.17.

IC 16-19-6-6

Institutions; superintendents; powers and duties; appointment; removal

Sec. 6. (a) Each of the institutions named in section 5 of this chapter is under the administrative control of a superintendent who

has the powers, duties, and qualifications provided by law for each of the respective superintendents or as may be otherwise prescribed or delegated by the state health commissioner (including the authority to execute contracts for a special institution named in section 5 of this chapter) insofar as the powers, duties, and qualifications are not in conflict with this chapter.

(b) Each of the superintendents shall be appointed by the state health commissioner. A superintendent may be removed only by the state health commissioner. The superintendent of any of the special institutions listed in section 5 of this chapter shall be administratively responsible to the state health commissioner.

As added by P.L.2-1993, SEC.2. Amended by P.L.142-1995, SEC.6.

IC 16-19-6-7
Repealed

(As added by P.L.2-1993, SEC.2. Repealed by P.L.100-2012, SEC.50.)

IC 16-19-6-8
Institutions; superintendents; salary

Sec. 8. The superintendent of a special institution named in section 5 of this chapter is entitled to receive a salary in an amount to be fixed by the state health commissioner subject to the approval of the governor and the budget agency.

As added by P.L.2-1993, SEC.2.

IC 16-19-6-9
Repealed

(As added by P.L.2-1993, SEC.2. Amended by P.L.142-1995, SEC.7; P.L.69-1999, SEC.4; P.L.21-2008, SEC.18. Repealed by P.L.113-2010, SEC.170.)

IC 16-19-6-10
Application of IC 4-13-2

Sec. 10. IC 4-13-2 applies to the following:

(1) The administrative unit.

(2) The state health commissioner in the state health commissioner's capacity as administrative head of the administrative unit.

(3) All agencies, officers, or institutions subject to the jurisdiction or the supervision of the administrative unit or the state health commissioner.

As added by P.L.2-1993, SEC.2.

IC 16-19-6-11
Employee bonds and crime policies

Sec. 11. (a) The following persons shall furnish an individual public official bond, if the state health commissioner requires, in an

amount determined by the state health commissioner, payable to the state and conditioned upon the faithful performance of that person's duties:

(1) Each superintendent of an institution subject to the jurisdiction or the supervision of the administrative unit.

(2) An officer or employee of the administrative unit or of any agency or institution.

(b) A bond required under this section is subject to the approval of the insurance commissioner, and shall be filed in the office of the secretary of state.

(c) The premiums for the bonds shall be payable from the funds of the administrative unit.

(d) The state health commissioner, at the state health commissioner's election, may secure a standard form blanket bond or crime insurance policy endorsed to include faithful performance covering all or any part of the officers and employees of the state department. However, the blanket bond or crime insurance policy must be in an amount of not less than fifty thousand dollars ($50,000).

(e) The commissioner of insurance shall prescribe the form of the bonds or crime policies required by this section.

As added by P.L.2-1993, SEC.2. Amended by P.L.49-1995, SEC.10.

IC 16-19-6-12

Notice regarding requests for names of nursing personnel or direct care staff

Sec. 12. (a) Each special institution designated under section 5 of this chapter shall post a notice that a resident, the legal representative of the resident, or another individual designated by the resident may request from the individual in charge of each shift information that designates the names of all nursing personnel or direct care staff on duty by job classification for the:

(1) wing;

(2) unit; or

(3) other area as routinely designated by the special institution;

where the resident resides.

(b) The notice required under subsection (a) must meet the following conditions:

(1) Be posted in a conspicuous place that is readily accessible to residents and the public.

(2) Be at least 24 point font size on a poster that is at least eleven (11) inches wide and seventeen (17) inches long.

(3) Contain the:

(A) business telephone number of the superintendent of the special institution; and

(B) toll free telephone number for filing complaints with the state department.

(4) State that if a resident, the legal representative of the

resident, or another individual designated by the resident is unable to obtain the information described in subsection (a) from the individual in charge of each shift, the resident, the legal representative of the resident, or other individual designated by the resident may do any of the following:

(A) Contact the superintendent of the special institution.

(B) File a complaint with the state department by using the state department's toll free telephone number.

(c) The state department may adopt rules under IC 4-22-2 to carry out this section.

As added by P.L.108-2000, SEC.3.

IC 16-19-6-13

Semiannual statistical reports

Sec. 13. (a) The state health commissioner shall produce a statistical report semiannually for each special institution designated in section 5 of this chapter. The statistical report must list the following information:

(1) The number of total hours worked in the special institution by each classification of personnel for which the state health commissioner maintains data.

(2) The resident census of the special institution for which the state health commissioner maintains data.

(b) The state health commissioner shall provide a compilation of the statistical reports prepared under subsection (a) to the following:

(1) Each special institution designated in section 5 of this chapter.

(2) The state department.

(3) The state ombudsman.

(c) Each special institution designated in section 5 of this chapter shall:

(1) make available in a place that is readily accessible to residents and the public a copy of the compilation of statistical reports provided under this section; and

(2) post a notice that a copy of the compilation of statistical reports may be requested from the individual in charge of each shift.

(d) The notice required under subsection (c)(2) must meet the following conditions:

(1) Be posted in a conspicuous place that is readily accessible to residents and the public.

(2) Be at least 24 point font size on a poster that is at least eleven (11) inches wide and seventeen (17) inches long.

(3) Contain the:

(A) business telephone number of the superintendent of the special institution; and

(B) toll free telephone number for filing complaints with the state department.

(4) State that if a resident, the legal representative of the resident, or another individual designated by the resident is unable to obtain the compilation of statistical reports from the individual in charge of each shift, the resident, the legal representative of the resident, or other individual designated by the resident may do any of the following:

(A) Contact the superintendent of the special institution.

(B) File a complaint with the state department by using the state department's toll free telephone number.

(e) The state department may adopt rules under IC 4-22-2 to carry out this section.

As added by P.L.108-2000, SEC.4.

IC 16-19-7

Chapter 7. Division of Weights and Measures

IC 16-19-7-1

Creation of division

Sec. 1. The division of weights and measures of the state department is created.

As added by P.L.2-1993, SEC.2.

IC 16-19-7-2

Rights, powers, and duties

Sec. 2. The division of weights and measures has all the rights, duties, and powers provided under IC 24-4-4 and IC 24-6.

As added by P.L.2-1993, SEC.2. Amended by P.L.87-1994, SEC.6.

IC 16-19-7-3

Penalties; compliance orders; proceedings

Sec. 3. (a) In addition to the other remedies provided in this chapter, the state department shall adopt a schedule of civil penalties that may be levied to enforce the provisions of either of the following:

(1) This chapter.

(2) The rules adopted under this chapter by the state department.

(b) A penalty included in the schedule of civil penalties adopted under subsection (a) may not exceed one thousand dollars ($1,000) for each violation for each day.

(c) The state department may issue an order of compliance, impose a civil penalty included in the schedule of civil penalties adopted under subsection (a), or both, against a person who:

(1) fails to comply with this chapter or a rule adopted under this chapter; or

(2) interferes with or obstructs the state department or the state department's designated agent in the performance of duties under this chapter.

(d) An order of compliance may be issued under IC 4-21.5-3-6, IC 4-21.5-3-8, or IC 4-21.5-4. A civil penalty may be imposed only in a proceeding under IC 4-21.5-3-8.

(e) A proceeding commenced to impose a civil penalty may be consolidated with any other proceeding commenced to enforce this chapter or a rule adopted under this chapter.

As added by P.L.2-1993, SEC.2.

IC 16-19-8
Chapter 8. State Health Laboratory

IC 16-19-8-1
Establishment

Sec. 1. A state health laboratory is established as a division of the state department under the general control of the state department.
As added by P.L.2-1993, SEC.2.

IC 16-19-8-2
Location; purpose; fees

Sec. 2. (a) The state health laboratory shall be located at Indianapolis and shall be used to:

(1) analyze foods and drugs for the purpose of enforcing the pure food and drug laws; and

(2) perform sanitary analyses, pathological examinations, and studies in hygiene and preventive medicine;

to aid in the enforcement of the health laws and for no other purpose.

(b) All work done in the state health laboratory must be done exclusively and entirely for the public benefit.

(c) The state department may establish fee schedules and charges for services provided by the state health laboratory.
As added by P.L.2-1993, SEC.2.

IC 16-19-8-3
Superintendent, chemist, and other employees; compensation

Sec. 3. (a) For the conduct of the state health laboratory, the state department shall employ and appoint a superintendent other than the state health commissioner.

(b) The superintendent shall have charge of and manage the state health laboratory. The superintendent is entitled to receive a salary established by the state department subject to approval by the budget agency. The superintendent must be learned and skilled in bacteriology and pathology.

(c) The state department shall also employ a skilled chemist, whose salary is established by the state department subject to approval by the budget agency.

(d) Both appointees must be temperate, healthy, well recommended, and of good moral character.

(e) The state department may employ employees the state department considers necessary for the successful conduct of the laboratory. The state department may define the duties and fix the compensation of the employees, whose employment is by consent of the governor.
As added by P.L.2-1993, SEC.2.

IC 16-19-9
Chapter 9. Clinical Laboratories

IC 16-19-9-1
Delegation from federal agency

Sec. 1. The state department is the designated state agency to accept delegation from the federal Department of Health and Human Services to carry out the purposes of the Clinical Laboratory Improvement Amendments of 1988 (P.L.100-578) (42 U.S.C. 201, 263a).

As added by P.L.2-1993, SEC.2.

IC 16-19-9-2
Rules

Sec. 2. The state department is the designated state agency to adopt rules under IC 4-22-2 to carry out the purposes of the Clinical Laboratory Improvement Amendments of 1988 (P.L.100-578) (42 U.S.C. 201, 263a).

As added by P.L.2-1993, SEC.2.

IC 16-19-10
Chapter 10. State Health Data Center

IC 16-19-10-1
Center defined
Sec. 1. As used in this chapter, "center" refers to the state health data center established by this chapter.
As added by P.L.2-1993, SEC.2.

IC 16-19-10-2
Health data defined
Sec. 2. As used in this chapter, "health data" means information on the following:
(1) A person's:
(A) health status;
(B) ethnicity; and
(C) gender.
(2) The cost, availability, and use of health resources and services.
The term includes vital statistics and vital records as described in this title.
As added by P.L.2-1993, SEC.2. Amended by P.L.142-1995, SEC.8.

IC 16-19-10-3
Establishment
Sec. 3. The state department shall establish the state health data center.
As added by P.L.2-1993, SEC.2.

IC 16-19-10-4
Duties
Sec. 4. The center shall do the following:
(1) Collect and process health data.
(2) Maintain statistics concerning gender and ethnicity and provide the information to the state department of health annually.
(3) Improve the quality, timeliness, and comparability of health statistics.
(4) Analyze and disseminate information about the health status of Indiana residents.
(5) Provide access to health data to persons who are permitted to obtain the data under this chapter.
(6) Support the goals and objectives of the Cooperative Health Statistics System established by the federal National Center for Health Statistics.
As added by P.L.2-1993, SEC.2. Amended by P.L.142-1995, SEC.9.

IC 16-19-10-5

Rules

Sec. 5. (a) Except as provided in subsection (b), the state department shall adopt rules under IC 4-22-2 to carry out this chapter.

(b) The state department may not adopt a rule that restricts a person's access to health data unless the right to inspect and copy that health data is specifically restricted by statute.

As added by P.L.2-1993, SEC.2.

IC 16-19-10-6

State department surveys; confidentiality

Sec. 6. (a) The state department may conduct surveys:

(1) concerning the health status of Indiana residents; and

(2) evaluating the effectiveness of the state department's programs.

(b) Information contained in a survey described in subsection (a) that identifies or could be used to determine the identity of a person responding to the survey is confidential. All other information contained in the survey is not confidential and is available for inspection and copying under IC 5-14-3.

(c) For purposes of this section, "survey" does not include data or information that is generated, collected, or transferred under IC 16-21-6-7 or IC 16-39-5-3.

As added by P.L.261-2003, SEC.14.

IC 16-19-10-7

Medical or epidemiological information; form of disclosure; consent

Sec. 7. (a) This section does not apply to medical or epidemiological information protected from disclosure under IC 16-41-8-1 or data or information that is confidential under IC 16-21-6-7 or IC 16-39-5-3.

(b) Except as provided in subsection (c), medical or epidemiological information:

(1) collected from or volunteered by a person; and

(2) that results in or from:

(A) a public health surveillance;

(B) a public health investigation; or

(C) an epidemiological investigation or study;

may be released only in a form that protects the identity of a person whose medical or epidemiological information was obtained.

(c) Medical or epidemiological information described in subsection (b) may be released in a form that does not protect the identity of a person whose medical or epidemiological information was obtained if:

(1) the person consents in writing to the release of the person's medical or epidemiological information; or

(2) the investigation or study results in an administrative or a

judicial proceeding and release of the medical or epidemiological information is ordered by the administrative law judge or the court.

As added by P.L.261-2003, SEC.15.

IC 16-19-10-8

Counterterrorism symptom and health syndrome data collection

Sec. 8. (a) The state department shall support the goals and objectives of the state's counterterrorism programs by collecting data related to:

(1) symptoms; and

(2) health syndromes;

from outbreaks or suspected outbreaks of diseases or other health conditions that may be a danger to public health.

(b) A health care provider or other entity that collects data described in subsection (a) shall report to the state department in accordance with rules adopted under section 5 of this chapter.

(c) The state department shall establish reporting, monitoring, and prevention procedures for data collected under this section.

(d) Data:

(1) collected under subsection (a); or

(2) reported under subsection (b);

from which the identity of an individual may be ascertained are confidential.

As added by P.L.8-2004, SEC.1.

IC 16-19-11

Chapter 11. Protection and Regulation of State Department of Health Property

IC 16-19-11-1

Security force; appointment, duties, conduct, and vehicles

Sec. 1. (a) The state health commissioner and the superintendents of the special institutions operated by the state department may appoint security officers for the properties owned or operated by the state department and the special institutions.

(b) The state health commissioner and the superintendents of the special institutions, with the concurrence of the state health commissioner, shall:

(1) prescribe the duties of;
(2) direct the conduct of;
(3) prescribe distinctive uniforms for; and
(4) designate emergency vehicles for use by;

the security force.

As added by P.L.2-1993, SEC.2.

IC 16-19-11-2

Powers of security officers

Sec. 2. (a) Except as provided in subsection (b), security officers appointed under this chapter have general police powers, including the power to arrest, without process, all persons who within the view of the security officers commit any offense. The security officers have the same common law and statutory powers, privileges, and immunities as sheriffs and constables.

(b) Security officers appointed under this chapter may serve civil process only to the extent authorized by the appointing authority. In addition, security officers are denied those powers expressly forbidden to security officers by the appointing authority.

(c) In addition to any other powers or duties, the security officers have the duty to enforce, and to assist the officials of the state department or special institution in the enforcement of, the rules of the state department or special institution, and to assist and cooperate with other law enforcement agencies and officers.

(d) The security officers may exercise the powers granted under this section only upon any real property owned or occupied by the state department or special institutions, including the streets passing through and adjacent to those properties. Additional jurisdiction may be established by agreement with the chief of police of the municipality, sheriff of the county, or the appropriate law enforcement agency where the property is located depending upon the jurisdiction involved.

As added by P.L.2-1993, SEC.2.

IC 16-19-11-3

Traffic and parking regulations

Sec. 3. (a) The state health commissioner may regulate the traffic and parking of motor vehicles, bicycles, or other vehicles, as well as the traffic of pedestrians, on, over, and across the streets, roads, paths, and grounds of real property owned, used, occupied, or controlled by the state department or special institution. The rules applicable to traffic and parking may include the following provisions:

(1) Provisions governing the registration, speed, operation, parking, and times, places, and manner of use of motor vehicles, bicycles, and other vehicles.

(2) Provisions prescribing penalties for the violation of rules, including the following:

(A) The imposition of reasonable charges, the removing and impounding (at the expense of the violator) of vehicles that are operated or parked in violation of the rules.

(B) The denial of permission to operate vehicles on the property of the state department or special institution.

(3) Provisions establishing reasonable charges and fees for the registration of vehicles and for the use of parking spaces or facilities owned or occupied by the state department or special institution.

(b) This section does not limit or restrict the powers of any other governmental authority having jurisdiction over public streets, roads, alleys, or ways.

As added by P.L.2-1993, SEC.2.

IC 16-19-11-4

Assistance of law enforcement officers; powers of assisting officers

Sec. 4. The state health commissioner may empower one (1) or more officials of the board of any of the special institutions to request the assistance of law enforcement officers of the state, counties, cities, or towns, when it appears necessary to do so. When a law enforcement officer is on the property of the state department or special institution by virtue of a request, the law enforcement officer has all powers conferred by this chapter upon the security officers appointed under this chapter in addition to the powers otherwise conferred upon law enforcement officers.

As added by P.L.2-1993, SEC.2.

IC 16-19-12
Chapter 12. Penalties

IC 16-19-12-1
Violations

Sec. 1. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with the following commits a Class B misdemeanor:

IC 16-19-1
IC 16-19-2
IC 16-19-3
IC 16-19-4
IC 16-19-5
IC 16-19-7
IC 16-19-10
IC 16-19-11.

(b) Each day a violation continues constitutes a separate offense.
As added by P.L.2-1993, SEC.2.

IC 16-19-13

Chapter 13. Office of Women's Health

IC 16-19-13-1

"Office" defined

Sec. 1. As used in this chapter, "office" refers to the office of women's health established by this chapter.

As added by P.L.52-1999, SEC.3.

IC 16-19-13-2

Establishment

Sec. 2. The office of women's health is established within the state department.

As added by P.L.52-1999, SEC.3.

IC 16-19-13-3

Purposes

Sec. 3. The office is established for the following purposes:

(1) To educate and advocate for women's health by requesting that the state department, either on its own or in partnership with other entities, establish appropriate forums, programs, or initiatives designed to educate the public regarding women's health, with an emphasis on preventive health and healthy lifestyles.

(2) To assist the state health commissioner in identifying, coordinating, and establishing priorities for programs, services, and resources the state should provide for women's health issues and concerns relating to the reproductive, menopausal, and postmenopausal phases of a woman's life, with an emphasis on postmenopausal health.

(3) To serve as a clearinghouse and resource for information regarding women's health data, strategies, services, and programs that address women's health issues, including the following:

(A) Diseases that significantly impact women, including heart disease, cancer, and osteoporosis.

(B) Menopause.

(C) Mental health.

(D) Substance abuse.

(E) Sexually transmitted diseases.

(F) Sexual assault and domestic violence.

(4) To collect, classify, and analyze relevant research information and data conducted or compiled by:

(A) the state department; or

(B) other entities in collaboration with the state department;

and to provide interested persons with information regarding the research results, except as prohibited by law.

(5) To develop and recommend funding and program activities

for educating the public on women's health initiatives, including the following:

(A) Health needs throughout a woman's life.

(B) Diseases that significantly affect women, including heart disease, cancer, and osteoporosis.

(C) Access to health care for women.

(D) Poverty and women's health.

(E) The leading causes of morbidity and mortality for women.

(F) Special health concerns of minority women.

(6) To make recommendations to the state health commissioner regarding programs that address women's health issues for inclusion in the state department's biennial budget and strategic planning.

(7) To seek funding from private or governmental entities to carry out the purposes of this chapter.

(8) To prepare materials for publication and dissemination to the public on women's health.

(9) To conduct public educational forums in Indiana to raise public awareness and to educate citizens about women's health programs, issues, and services.

(10) To coordinate the activities and programs of the office with other entities that focus on women's health or women's issues, including the Indiana commission for women (IC 4-23-25-3).

(11) To represent the state health commissioner, upon request, before the general assembly and the Indiana commission for women established by IC 4-23-25-3.

(12) To provide an annual report to the governor, the legislative council, and the Indiana commission for women regarding the successes of the programs of the office, priorities and services needed for women's health in Indiana, and areas for improvement. A report provided under this subdivision to the legislative council must be in an electronic format under IC 5-14-6.

This section does not allow the director or any employees of the office to advocate, promote, refer to, or otherwise advance abortion or abortifacients.

As added by P.L.52-1999, SEC.3. Amended by P.L.28-2004, SEC.135.

IC 16-19-13-4

Staff appointments

Sec. 4. (a) The state health commissioner shall appoint persons to staff the office, including:

(1) the director of the office; and

(2) any other employees that the state health commissioner determines are necessary.

(b) The employees appointed under subsection (a)(2) shall report

to the director. The director shall report to the state health commissioner.

(c) The director shall supervise the employees assigned to the office.

(d) The director shall oversee the administrative functions of the office.

As added by P.L.52-1999, SEC.3.

IC 16-19-13-5

Advisory committee

Sec. 5. (a) The state health commissioner shall appoint an advisory committee on women's health to assist in advising the director regarding the duties required under this chapter.

(b) The advisory committee is comprised of persons with an expertise in and a knowledge of women's health issues in Indiana.

(c) The state health commissioner shall:

(1) determine the number of persons to serve on the advisory committee;

(2) appoint a chairperson or co-chairpersons for the advisory committee; and

(3) establish the policies and procedures under which the advisory committee operates.

As added by P.L.52-1999, SEC.3.

IC 16-19-13-6

Repealed

(As added by P.L.280-2001, SEC.13. Amended by P.L.1-2002, SEC.72; P.L.98-2004, SEC.97. Repealed by P.L.126-2006, SEC.4.)

IC 16-19-13-7

Expired

(As added by P.L.156-2014, SEC.6. Expired 6-30-2016 by P.L.156-2014, SEC.6.)

IC 16-19-14

Chapter 14. Office of Minority Health

IC 16-19-14-1

"Director"

Sec. 1. As used in this chapter, "director" refers to the director of the office.

As added by P.L.38-2010, SEC.4.

IC 16-19-14-2

"Minority"

Sec. 2. As used in this chapter, "minority" means an individual identified as any of the following:

(1) Black or African-American.

(2) Hispanic or Latino.

(3) Asian.

(4) American Indian.

(5) Alaska Native.

(6) Native Hawaiian and other Pacific Islander.

As added by P.L.38-2010, SEC.4.

IC 16-19-14-3

"Office"

Sec. 3. As used in this chapter, "office" refers to the office of minority health established by this chapter.

As added by P.L.38-2010, SEC.4.

IC 16-19-14-4

Office of minority health established

Sec. 4. The office of minority health is established within the state department.

As added by P.L.38-2010, SEC.4.

IC 16-19-14-5

Minority health initiative duties

Sec. 5. The office shall perform the minority health initiative duties set forth in IC 16-46-11.

As added by P.L.38-2010, SEC.4.

IC 16-19-14-6

Appointments; supervision

Sec. 6. (a) The state health commissioner shall appoint individuals to staff the office, including:

(1) the director of the office; and

(2) any other employees that the state health commissioner determines are necessary.

(b) The employees appointed under subsection (a)(2) shall report to the director. The director shall report to at least an appointed

assistant commissioner.

(c) The director shall supervise the employees assigned to the office.

(d) The director shall oversee the administrative functions of the office.

As added by P.L.38-2010, SEC.4.

IC 16-19-14-7

Expiration of chapter

Sec. 7. This chapter expires July 1, 2017.

As added by P.L.38-2010, SEC.4. Amended by P.L.141-2014, SEC.2.

IC 16-19-15
Repealed

(Repealed by P.L.141-2014, SEC.3.)

IC 16-19-16

Chapter 16. Neonatal Abstinence Syndrome (NAS)

IC 16-19-16-1

Study of NAS issues

Sec. 1. The state department shall meet with representatives of at least the following associations to study and make recommendations on issues concerning Neonatal Abstinence Syndrome (NAS):

(1) The Indiana Hospital Association.

(2) The Indiana Perinatal Network.

(3) The Indiana State Medical Association.

(4) The Indiana Chapter of the American Academy of Pediatrics.

(5) The Indiana Section of the American Congress of Obstetricians and Gynecologists.

(6) The Indiana Chapter of the March of Dimes.

As added by P.L.110-2014, SEC.2.

IC 16-19-16-2

Report; pilot program

Sec. 2. (a) Before November 1, 2014, the state department, in consultation with the persons described in section 1 of this chapter, shall report the following to the legislative council in an electronic format under IC 5-14-6 for distribution to the appropriate interim study committee:

(1) The appropriate standard clinical definition of "Neonatal Abstinence Syndrome".

(2) The development of a uniform process of identifying Neonatal Abstinence Syndrome.

(3) The estimated time and resources needed to educate hospital personnel in implementing an appropriate and uniform process for identifying Neonatal Abstinence Syndrome.

(4) The identification and review of appropriate data reporting options available for the reporting of Neonatal Abstinence Syndrome data to the state department, including recommendations for reporting of Neonatal Abstinence Syndrome using existing data reporting options or new data reporting options.

(5) The identification of whether payment methodologies for identifying Neonatal Abstinence Syndrome and the reporting of Neonatal Abstinence Syndrome data are currently available or needed.

(b) Before June 1, 2015, the state department may establish one (1) or more pilot programs with hospitals that consent to participate in the pilot programs to implement appropriate and effective models for Neonatal Abstinence Syndrome identification, data collection, and reporting determined under this chapter.

As added by P.L.110-2014, SEC.2.

IC 16-19-17

Chapter 17. Palliative Care and Quality of Life Advisory Council

IC 16-19-17-1

"Advisory council"

Sec. 1. As used in this chapter, "advisory council" refers to the palliative care and quality of life advisory council established by section 3 of this chapter.

As added by P.L.43-2016, SEC.3.

IC 16-19-17-2

"Palliative care"

Sec. 2. As used in this chapter, "palliative care" means patient centered and family focused medical care that optimizes quality of life by anticipating, preventing, and treating suffering caused by a medical illness or a physical injury or condition that substantially affects a patient's quality of life. The term includes the following:

(1) Addressing physical, emotional, social, and spiritual needs.

(2) Facilitating patient autonomy and choice of care.

(3) Providing access to information.

(4) Discussing the patient's goals for treatment and treatment options, including hospice care when appropriate.

(5) Comprehensively managing pain and symptoms.

As added by P.L.43-2016, SEC.3.

IC 16-19-17-3

Establishment of advisory council; members; term; staffing; voting

Sec. 3. (a) The palliative care and quality of life advisory council is established.

(b) The state health commissioner shall appoint the members of the advisory council. The advisory council must be comprised of persons with an expertise in and a knowledge of palliative care issues in Indiana as follows:

(1) One (1) member representing interdisciplinary medical palliative care.

(2) One (1) member representing nursing.

(3) One (1) member representing social work.

(4) One (1) member representing pharmacy.

(5) One (1) member with spiritual or religious professional expertise.

(6) One (1) member representing a patient or family caregiver advocacy group.

(7) Two (2) or more members who:

(A) are either:

(i) licensed as a physician under IC 25-22.5; or

(ii) licensed as a registered nurse under IC 25-23; and

(B) specialize in hospice and palliative care medicine.

The commissioner may include other representatives that the commissioner considers appropriate. The advisory council membership as a whole must represent health professionals that have palliative care work experience in a variety of settings, including inpatient, outpatient, and community settings for a variety of populations, including pediatric and adults. The commissioner shall appoint a member of the advisory council as chairperson.

(c) An individual appointed to the advisory council under this section serves a three (3) year term at the will of the state health commissioner and without compensation or reimbursement for any expense that the member may incur.

(d) The state department shall staff the advisory council.

(e) The affirmative vote of a majority of the members appointed to the advisory council is required for the advisory council to take action on any measure.

As added by P.L.43-2016, SEC.3.

IC 16-19-17-4

Purpose of advisory council; report

Sec. 4. (a) The advisory council is established for the following purposes:

(1) To educate and advocate for quality palliative care by requesting that the state department, either on its own or in partnership with other entities, establish appropriate:

(A) forums;

(B) programs; or

(C) initiatives;

designed to educate the public, health care providers, and health care facilities through comprehensive and accurate information and education on palliative care and quality of life for individuals with serious illnesses.

(2) To collect, analyze, advise on, and develop state initiatives concerning the establishment, maintenance, operation, and evaluation of palliative care in Indiana.

(3) To make policy recommendations to improve palliative care and the quality of life of individuals with serious illnesses.

(4) To prepare a report not later than January 1 of each year concerning the office's findings under subdivisions (1) through (3).

(b) The report required under subsection (a)(4) must be submitted to the general assembly in an electronic format under IC 5-14-6.

As added by P.L.43-2016, SEC.3.

IC 16-19-17-5

Expiration of chapter

Sec. 5. This chapter expires June 30, 2019.

As added by P.L.43-2016, SEC.3.

IC 16-20

ARTICLE 20. LOCAL HEALTH DEPARTMENTS

IC 16-20-1

Chapter 1. Powers and Duties of Local Health Departments

IC 16-20-1-1

Application; limited area

Sec. 1. (a) Powers and duties described in this chapter and IC 16-20-8 apply to all local health officers and local health boards. However, this article does not apply to a county that is subject to IC 16-22-8.

(b) The powers and jurisdiction of a local health officer or local board are limited to the area in which the officer or board serves.

As added by P.L.2-1993, SEC.3.

IC 16-20-1-2

Operation as local government agency

Sec. 2. A local health department shall operate as an agency of local government administratively responsible to the appropriate county or city executive.

As added by P.L.2-1993, SEC.3.

IC 16-20-1-3

Procedural rules

Sec. 3. The board of each local health department may adopt procedural rules for the board's guidance and to establish administrative and personnel policies of the local health department that are consistent with the administrative operating policy of the appointing authority.

As added by P.L.2-1993, SEC.3.

IC 16-20-1-4

Board organization and officers

Sec. 4. The board of each local health department shall, immediately after appointment, meet and organize. The board shall elect a chairman, vice chairman, and other officers the board considers necessary.

As added by P.L.2-1993, SEC.3.

IC 16-20-1-5

Annual budget

Sec. 5. The board of each local health department shall submit an annual budget to the county executive, county fiscal body, and city fiscal body concerned with approval of the budget at the regular time for consideration of annual budgets.

As added by P.L.2-1993, SEC.3.

IC 16-20-1-6
Offices and equipment

Sec. 6. The board of each local health department shall provide, equip, and maintain suitable offices, facilities, and appliances for the health department.

As added by P.L.2-1993, SEC.3.

IC 16-20-1-7
Annual report

Sec. 7. The board of each local health department shall publish in pamphlet form, within ninety (90) days after January 1, for free distribution, an annual report for the previous year showing the following:

(1) The amount of money received from all sources.
(2) The name of any donor.
(3) How all money has been expended and for what purpose.
(4) Other statistics and information concerning the work of the health department that the board considers to be of general interest.

As added by P.L.2-1993, SEC.3.

IC 16-20-1-8
Health and planning services contracts

Sec. 8. (a) The board of each local health department may enter into contract with the state department, other local boards of health, other units of government, a private individual, or a corporation for the provision of health services within the board's jurisdiction. The private contracts are subject to approval of the county executive or city executive.

(b) A local board of health, a county executive, or a city fiscal body may contract with or purchase from any individual, organization, limited liability company, partnership, or corporation planning services considered essential to the development of an effective community health program.

As added by P.L.2-1993, SEC.3. Amended by P.L.8-1993, SEC.250.

IC 16-20-1-9
Duties of officers and employees

Sec. 9. The board of each local health department shall prescribe the duties of all officers and employees.

As added by P.L.2-1993, SEC.3.

IC 16-20-1-10
Records; minutes

Sec. 10. The local health officer shall keep full and permanent records of the public health work of the local health department and minutes of all meetings of the board of the local health department.

As added by P.L.2-1993, SEC.3.

IC 16-20-1-11
Monthly reports; approval; permanent records

Sec. 11. The local health officer shall make a monthly report of the work done by the local health department to the board of the local health department. After the report is approved by the board, the local health officer shall make the report a permanent record.
As added by P.L.2-1993, SEC.3.

IC 16-20-1-12
Activities reports to state department

Sec. 12. Reports of local health department activities shall be made to the state department, as required by the rules of the state department.
As added by P.L.2-1993, SEC.3.

IC 16-20-1-13
Local health officer or representative; consultative meetings with state department; expenses

Sec. 13. (a) The local health officer or a representative of all county or city boards of health shall attend meetings of the state department, when requested by the state department, for consultation concerning any matter concerning public health.

(b) The expenses of the local health officer or representative must be paid out of the health fund of the county or the city where the board of health is established, in an amount determined by the local board of health.
As added by P.L.2-1993, SEC.3.

IC 16-20-1-14
Personnel; delegation of duties on the basis of agent-principal relation; water well inspections

Sec. 14. (a) Local health officers may appoint and employ public health nurses, environmental health specialists, computer programmers, clerks, other personnel, and an administrator of public health, subject to the confirmation of the local board of health, as is necessary and reasonable to carry out and perform the duties of the local health department.

(b) Except as provided in subsection (d), the employees of local health departments shall perform any of the duties of the health officer delegated by the health officer, with the approval of the local board of health, on the basis of an agent-principal relation.

(c) The public health personnel of local health departments:

(1) must meet the minimum qualification requirements of the local board of health;

(2) by local ordinance, become part of the county classification system for the respective public health personnel positions; and

(3) shall perform additional duties prescribed by the rules of the state department and local board of health under the general

supervision of the local health officer.

(d) If an appointee or employee of a local health officer is not a licensed water well driller under IC 25-39-3, the appointee or employee may not inspect the drilling of a water well.

As added by P.L.2-1993, SEC.3. Amended by P.L.105-1999, SEC.1; P.L.121-2007, SEC.1; P.L.134-2008, SEC.9.

IC 16-20-1-15

Compensation

Sec. 15. (a) The board of city health departments shall recommend and the city fiscal body shall fix the compensation of employees of the city health department.

(b) The county fiscal body shall fix the compensation of the employees of county health departments, in the manner provided by IC 36-2-5 or IC 36-3-6, after consideration of the recommendations of the local board of health.

As added by P.L.2-1993, SEC.3.

IC 16-20-1-16

Salaries and expenses; authorized payment

Sec. 16. The board of each local health department shall authorize payment of salaries and all other department expenses from the proper fund.

As added by P.L.2-1993, SEC.3.

IC 16-20-1-17

Vital statistics; birth and death records

Sec. 17. (a) The local health officer shall collect, record, and report to the state department the vital statistics for the local health officer's area of jurisdiction.

(b) The local health officer shall be the registrar of births and deaths. After making a birth or death record, the local health officer shall, by the fourth day of each month, forward the original record to the state department.

As added by P.L.2-1993, SEC.3.

IC 16-20-1-18

Financial assistance; approval

Sec. 18. A health officer may, on behalf of the local board of health, receive financial assistance from an individual, an organization, or the state or federal government. The financial assistance must be approved by the county executive or city fiscal body and the local board of health.

As added by P.L.2-1993, SEC.3.

IC 16-20-1-19

Enforcement

Sec. 19. Local health officers shall enforce the health laws,

ordinances, orders, rules, and regulations of the officer's own and superior boards of health.
As added by P.L.2-1993, SEC.3.

IC 16-20-1-20
Proposed rules and ordinances; fiscal impact statement

Sec. 20. A proposed rule of the state department or a local board of health mandating additional or revised local services must include a general fiscal impact statement of the rule or ordinance.
As added by P.L.2-1993, SEC.3.

IC 16-20-1-21
Communicable disease control; powers

Sec. 21. Each local health board has the responsibility and authority to take any action authorized by statute or rule of the state department to control communicable diseases. The board of each local health department or a designated representative may make sanitary and health inspections to carry out this chapter and IC 16-20-8.
As added by P.L.2-1993, SEC.3.

IC 16-20-1-22
Sanitary inspections and surveys of public buildings and institutions

Sec. 22. Local health officers may make sanitary inspections and surveys of all public buildings and institutions.
As added by P.L.2-1993, SEC.3.

IC 16-20-1-23
Inspection of private property by local health officer; consent by owner; exceptions; court order; property in which officer has interest

Sec. 23. (a) Upon:

(1) showing official identification; and

(2) except as provided in subsection (b), receiving consent of the owner or occupant of the premises;

a local health officer or the officer's designee may enter any premises at any reasonable time and inspect, investigate, evaluate, conduct tests, or take specimens or samples for testing that may be reasonably necessary to determine compliance with public health laws and rules and for the prevention and suppression of disease.

(b) A local health officer or the officer's designee shall obtain the consent of the owner or the occupant of the premises under subsection (a), except as provided in any of the following circumstances:

(1) Subject to subsection (c), the local health officer or the officer's designee obtains an order from a circuit or superior court in the jurisdiction where the premises is located to

authorize the inspection, investigation, evaluation, testing, or taking of specimens or samples for testing.

(2) An emergency condition that poses an imminent and serious threat to the health of an individual or the public and the local health officer or the officer's designee believes that a delay could result in a greater health risk.

(3) Entry by a local health officer or the officer's designee to a public place or an area in plain and open view to determine compliance with public health laws and rules.

(4) Entry under the terms and conditions of a license issued by the local health department at any reasonable time if reasonably necessary to determine compliance with public health laws and rules and the terms and conditions of the license.

(c) A court described in subsection (b)(1) may issue an order to inspect, investigate, evaluate, conduct tests, or take specimens or samples for testing if the court finds that the local health officer or the officer's designee, by oath or affirmation, provided reliable information establishing the violation of a public health law or rule at the premises.

(d) However, a local health officer, or the officer's designee, shall not inspect property in which the local health officer has any interest, whether real, equitable, or otherwise. Any such inspection or any attempt to make such inspection is grounds for removal as provided for in this article.

(e) This section does not prevent inspection of premises in which a local health officer has an interest if the premises cannot otherwise be inspected. If the premises cannot otherwise be inspected, the county health officer shall inspect the premises personally.

As added by P.L.2-1993, SEC.3. Amended by P.L.122-2012, SEC.1.

IC 16-20-1-24

Epidemic control; powers

Sec. 24. (a) Local health officers may order schools and churches closed and forbid public gatherings when considered necessary to prevent and stop epidemics.

(b) An individual who takes action under this section shall comply with state laws and rules.

As added by P.L.2-1993, SEC.3.

IC 16-20-1-25

Unlawful conditions; abatement order; enforcement; providing false information

Sec. 25. (a) A person shall not institute, permit, or maintain any conditions that may transmit, generate, or promote disease.

(b) A health officer, upon receiving a complaint asserting the existence of unlawful conditions described in subsection (a) within the officer's jurisdiction, shall document the complaint as provided in subsection (d). Upon verifying the information contained in the

complaint, the health officer shall order the abatement of those conditions. The order must:

(1) be in writing;

(2) specify the conditions that may transmit disease; and

(3) name the shortest reasonable time for abatement.

(c) If a person refuses or neglects to obey an order issued under this section, the attorney representing the county of the health jurisdiction where the offense occurs shall, upon receiving the information from the health officer, institute proceedings in the courts for enforcement. An order may be enforced by injunction. If the action concerning public health is a criminal offense, a law enforcement authority with jurisdiction over the place where the offense occurred shall be notified.

(d) A complaint made under subsection (b) must include adequate details to allow the health officer to verify the existence of the unlawful conditions that are the subject of the complaint. A health officer shall provide a copy of a complaint upon request to the person who is the subject of the complaint.

(e) A person who provides false information upon which a health officer relies in issuing an order under this section commits a Class C misdemeanor.

As added by P.L.2-1993, SEC.3. Amended by P.L.97-2012, SEC.16; P.L.292-2013, SEC.10.

IC 16-20-1-26

Injunctive enforcement; legal representation of health authorities

Sec. 26. (a) A local board of health or local health officer may enforce the board's or officer's orders, citations, and administrative notices by an action in the circuit or superior court. The court may take any appropriate action in a proceeding under this section, including any of the following:

(1) Issuing an injunction.

(2) Entering a judgment.

(3) Issuing an order and conditions under IC 16-41-9.

(4) Ordering the suspension or revocation of a license.

(5) Ordering an inspection.

(6) Ordering that a property be vacated.

(7) Ordering that a structure be demolished.

(8) Imposing a penalty not to exceed an amount set forth in IC 36-1-3-8(a)(10).

(9) Imposing court costs and fees under IC 33-37-4-2 and IC 33-37-5.

(10) Ordering the respondent to take appropriate action in a specified time to comply with the order of the local board of health or local health officer.

(11) Ordering a local board of health or local health officer to take appropriate action to enforce an order within a specified time.

(b) The county attorney in which a local board of health or local health officer has jurisdiction shall represent the local health board and local health officer in the action unless the county executive, local board of health, or health and hospital corporation employs other legal counsel or the matter has been referred through law enforcement authorities to the prosecuting attorney.
As added by P.L.2-1993, SEC.3. Amended by P.L.122-2012, SEC.2.

IC 16-20-1-27
Service fees; disposition

Sec. 27. The board of each local health department may, with the approval of the county or city executive, establish and collect fees for specific services and records established by local ordinances and state law. However, fees may not exceed the cost of services provided. The fees shall be accounted for and transferred to the health fund of the taxing jurisdiction.
As added by P.L.2-1993, SEC.3.

IC 16-20-1-28
Removal of local health officers; grounds; hearing rights

Sec. 28. (a) A local health officer may be removed only for failure to:

(1) perform the officer's statutory duties; or
(2) enforce the rules of the state department.

(b) Except as provided in IC 16-19-3-12, IC 16-19-3-13, and IC 16-19-3-15, a local health officer may be removed only by the board that appointed the health officer.

(c) When removal of a local health officer is sought by the appointing authority, the local health officer is entitled to the following:

(1) At least five (5) days notice.
(2) An open hearing.
(3) Representation by counsel.

As added by P.L.2-1993, SEC.3.

IC 16-20-1-29
Rights of employees of local health department under prior law

Sec. 29. (a) The employees of a local health department under IC 16-1-5 (before its repeal), IC 16-1-6 (before its repeal), or IC 16-1-7 (before its repeal) become employees of the local health department established under IC 16-1-3.8 (before its repeal, now codified at IC 16-20-2) or IC 16-1-3.9 (before its repeal, now codified at IC 16-20-3) under P.L.40-1989.

(b) P.L.40-1989 does not affect the vacation, sick leave, insurance, or retirement benefits acquired by an employee of a local health department under IC 5-10.3, IC 16-1-5 (before its repeal), IC 16-1-6 (before its repeal), or IC 16-1-7 (before its repeal).
As added by P.L.220-2011, SEC.310.

IC 16-20-1-30

Rights of employees of certain city-county health departments under prior law

Sec. 30. (a) In a county having a population of more than two hundred seventy thousand (270,000) and less than four hundred thousand (400,000), as reported by the 1980 decennial census, employees who were employees of a city-county health department under IC 16-1-7-16 (before its repeal) on December 31, 1985, are entitled to the benefits relating to vacation, sick leave, insurance, and clothing allowance permitted under IC 16-1-7-16 (before its repeal).

(b) The benefits provided under subsection (a) are subject to satisfactory job performance.

As added by P.L.220-2011, SEC.311.

IC 16-20-2
Chapter 2. Local Boards of Health

IC 16-20-2-1
Application of chapter
Sec. 1. This chapter does not apply to a county that is subject to IC 16-22-8.
As added by P.L.2-1993, SEC.3.

IC 16-20-2-2
Establishment and maintenance of local health department; adoption of health ordinances
Sec. 2. (a) Except as provided in IC 16-20-3, the executive of each county shall by ordinance establish and maintain a local health department.
(b) The executive of a county having a population of more than one hundred seventy thousand (170,000) but less than one hundred seventy-five thousand (175,000) may only establish and maintain one (1) local health department having countywide jurisdiction.
(c) The county executive in a county having a population of more than one hundred seventy thousand (170,000) but less than one hundred seventy-five thousand (175,000) may adopt health ordinances that apply to the entire county.
(d) A health ordinance adopted by a city legislative body after December 31, 1993, in a county having a population of more than one hundred seventy thousand (170,000) but less than one hundred seventy-five thousand (175,000) is void.
As added by P.L.2-1993, SEC.3. Amended by P.L.2-1993, SEC.127; P.L.87-1994, SEC.7; P.L.95-1994, SEC.1; P.L.170-2002, SEC.98; P.L.119-2012, SEC.124.

IC 16-20-2-2.5
Legalization of certain health ordinances by Tippecanoe County adopted after December 31, 1993, and before March 11, 1994
Sec. 2.5. A health ordinance adopted by the county executive of Tippecanoe County that:
(1) was adopted after December 31, 1993, and before March 11, 1994; and
(2) applies to the entire county;
is legalized.
As added by P.L.220-2011, SEC.312. Amended by P.L.119-2012, SEC.125.

IC 16-20-2-3
Management of local health departments
Sec. 3. A local board of health shall manage each local health department established under this chapter.
As added by P.L.2-1993, SEC.3.

IC 16-20-2-4
Composition of board

Sec. 4. A local board of health is composed of seven (7) members, not more than four (4) of whom may be from the same political party.

As added by P.L.2-1993, SEC.3.

IC 16-20-2-5
Membership selection criteria

Sec. 5. The members of a local board of health shall be chosen as follows:

(1) Four (4) persons knowledgeable in public health, at least two (2) of whom are licensed physicians. The other two (2) appointees may be any of the following:
  (A) A registered nurse licensed under IC 25-23.
  (B) A registered pharmacist licensed under IC 25-26.
  (C) A dentist licensed under IC 25-14.
  (D) A hospital administrator.
  (E) A social worker.
  (F) An attorney with expertise in health matters.
  (G) A school superintendent.
  (H) A veterinarian licensed under IC 25-38.1.
  (I) A professional engineer registered under IC 25-31.
  (J) An environmental scientist.
(2) Two (2) representatives of the general public.
(3) One (1) representative described in either subdivision (1) or (2).

As added by P.L.2-1993, SEC.3. Amended by P.L.2-2008, SEC.39.

IC 16-20-2-6
Appointment of members

Sec. 6. Except as provided in section 7 of this chapter, the county executive shall appoint the members of a local board of health.

As added by P.L.2-1993, SEC.3.

IC 16-20-2-7
Appointment of members in certain circumstances

Sec. 7. (a) In the following counties, the county executive and the executive of the most populous city located in the county shall appoint the members of the local board of health:

(1) A county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000).
(2) A county having a population of more than one hundred seventy-five thousand (175,000) but less than one hundred eighty-five thousand (185,000).
(3) A county having a population of more than seventy-one thousand (71,000) but less than seventy-five thousand (75,000).

(b) Except as provided in subsection (c), the executive of each second class city shall appoint a number of members of the board in the proportion that the city's population is to the total county population to the nearest whole fraction. The appointments made under this subsection shall be made in order, according to the population of a city, with the city having the largest population making the first appointments. The county executive shall appoint the remaining number of members of the county board of health.

(c) The members of the local board of health in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000) shall be appointed as follows:

(1) Three (3) members shall be appointed by the executive of the most populous city in the county.

(2) Four (4) members shall be appointed by the county executive.

As added by P.L.2-1993, SEC.3. Amended by P.L.191-1995, SEC.1; P.L.170-2002, SEC.99; P.L.119-2012, SEC.126.

IC 16-20-2-8
Removal of members

Sec. 8. A member of a local board of health may be removed by the appointing authority if the board member does any of the following:

(1) Is absent from three (3) consecutive regular board meetings.

(2) Is absent from four (4) regular board meetings during a calendar year.

(3) Fails to perform the statutory duties of the office.

As added by P.L.2-1993, SEC.3.

IC 16-20-2-9
Compensation of members

Sec. 9. Members of a local board of health may receive compensation for the performance of their duties as determined by the county fiscal body.

As added by P.L.2-1993, SEC.3.

IC 16-20-2-10
Term of office; staggered terms

Sec. 10. (a) All members of a local board of health shall be appointed for a term of four (4) years.

(b) Unless otherwise required by law, after December 31, 1991, the board members serve staggered terms. The appointing authority shall appoint the members of a board in existence on December 31, 1991, and the initial members of a board established after December 31, 1991, as follows:

(1) One (1) member must be appointed for one (1) year.

(2) Two (2) members must be appointed for two (2) years.

(3) Two (2) members must be appointed for three (3) years.

(4) Two (2) members must be appointed for four (4) years.
As added by P.L.2-1993, SEC.3.

IC 16-20-2-11
Vacancies; qualified replacements

Sec. 11. (a) Members of a local board of health continue to serve until their successors are appointed.

(b) When a vacancy occurs, the original appointing authority shall appoint a qualified person to serve the remainder of the unexpired term. A local board of health shall provide to the appointing authority a list of five (5) individuals, at least three (3) of whom must have professional experience in one (1) of the following areas:

(1) Medicine.
(2) Nursing.
(3) Hospital administration.
(4) Pharmacology.
(5) Social work.
(6) Dentistry.
(7) Veterinary medicine.
(8) Engineering.
(9) Environmental science.
(10) Legal profession.
(11) School administration.

(c) The list must include at least one (1) licensed physician. The appointing authority may select an individual from the list when filling a vacancy.
As added by P.L.2-1993, SEC.3.

IC 16-20-2-12
Conditions of membership

Sec. 12. A member of a local board of health must meet the following conditions:

(1) Be a citizen of the United States.
(2) Reside in a county to which the local board of health provides health services.

As added by P.L.2-1993, SEC.3.

IC 16-20-2-13
Conflict of interest

Sec. 13. An individual who has a vested interest or stands to gain financially from any activity of the local health department or a policy decision of the board is ineligible to serve on a local health board.
As added by P.L.2-1993, SEC.3.

IC 16-20-2-14
Election of chairman

Sec. 14. At the first meeting of a local board of health each year,

the members shall elect a chairman.
As added by P.L.2-1993, SEC.3.

IC 16-20-2-15
Meetings; call; quorum

Sec. 15. (a) Meetings may be called by any of the following:

(1) The chairman.
(2) Four (4) members of the local board of health.
(3) The local health officer.

(b) A majority of the members constitutes a quorum for the transaction of business.
As added by P.L.2-1993, SEC.3.

IC 16-20-2-16
Health officer; appointment; certification; reappointment; duties

Sec. 16. (a) Each local board of health shall appoint a health officer to serve for a term of four (4) years. The health officer must be a licensed physician.

(b) The appointment shall be certified by the county executive and sent to the state department. The state department shall maintain a record of the certification.

(c) The health officer is eligible for reappointment.

(d) The health officer is the executive officer of the local health department and shall serve as secretary of the local board of health.
As added by P.L.2-1993, SEC.3.

IC 16-20-2-17
Annual levy for maintenance of department; county health fund; appropriations; exception

Sec. 17. (a) The fiscal body of a county in which a local health department has been authorized shall assess a levy annually on the assessed valuation of taxable property for the maintenance of the county health department.

(b) The taxes shall be paid into the county treasury and placed in a special fund to be known as the county health fund. The fund shall be used only for the purpose of this title and shall be drawn upon by the proper officers of the county upon the properly authenticated vouchers of the local health department.

(c) Each county fiscal body shall appropriate from the county health fund money necessary to maintain the local health department.

(d) A tax levy provided for in this chapter may not be made upon property within the corporate limits of any city maintaining the city's own full-time health department.
As added by P.L.2-1993, SEC.3.

IC 16-20-2-18
Transfer of revenue to community health clinic in certain counties

Sec. 18. (a) This section applies to a county having a population

of more than one hundred seventy thousand (170,000) but less than one hundred seventy-five thousand (175,000).

(b) Each year the county fiscal officer shall transfer to the community health clinic located in the county an amount equal to the revenue raised from a property tax rate of one hundred sixty-seven thousandths of one cent ($0.00167) for each one hundred dollars ($100) of assessed valuation of the taxable property in the county.

(c) The transfer shall be made in four (4) equal installments before the end of January, April, July, and October. The transfer shall be made without the necessity of an appropriation.

As added by P.L.2-1993, SEC.128. Amended by P.L.6-1997, SEC.164; P.L.170-2002, SEC.100; P.L.119-2012, SEC.127.

IC 16-20-3

Chapter 3. Multiple County Health Departments

IC 16-20-3-1

Establishment; conditions; notice

Sec. 1. (a) The county executives of at least two (2) adjacent counties may establish and maintain a multiple county health department if the following conditions are met:

(1) The state department approves the establishment of a multiple county health department.

(2) The county executive of each of the involved counties approves a separate ordinance establishing a multiple county health department.

(b) Upon establishment of a multiple county health department, the county executives shall notify the state department of the action.

As added by P.L.2-1993, SEC.3.

IC 16-20-3-2

Board members; qualifications; appointment

Sec. 2. (a) There must be at least seven (7) members of a multiple county board of health.

(b) The county executives establishing a multiple county health department shall determine the following for the multiple county board of health:

(1) The number of members.

(2) The qualifications of members.

(3) The number of appointments made by each county.

(c) The county executive of each county participating in a multiple county board of health shall appoint at least one (1) licensed physician.

(d) At least two-thirds (2/3) of the members appointed under this section must have expertise in public health. The appointees may be any of the following:

(1) A registered nurse licensed under IC 25-23.

(2) A registered pharmacist licensed under IC 25-26.

(3) A dentist licensed under IC 25-14.

(4) A hospital administrator.

(5) A social worker.

(6) An attorney with expertise in health matters.

(7) A school superintendent.

(8) A veterinarian licensed under IC 25-38.1.

(9) A professional engineer registered under IC 25-31.

(10) An environmental scientist.

As added by P.L.2-1993, SEC.3. Amended by P.L.2-2008, SEC.40.

IC 16-20-3-3

Removal of board member; grounds

Sec. 3. A member of a multiple county board of health may be

removed by the appointing authority if the board member does any of the following:

(1) Is absent from three (3) consecutive regular board meetings.

(2) Is absent from four (4) regular board meetings during a calendar year.

(3) Fails to perform required statutory duties.

As added by P.L.2-1993, SEC.3.

IC 16-20-3-4

Compensation of board members

Sec. 4. Members of a multiple county board of health may receive compensation for the performance of their duties as determined by the fiscal body of the county from which the members were appointed.

As added by P.L.2-1993, SEC.3.

IC 16-20-3-5

Term of office; staggered terms

Sec. 5. (a) Each member of a multiple county board of health shall be appointed for a term of four (4) years.

(b) Unless otherwise required by law, after December 31, 1991, board members serve staggered terms. The appointing authority shall appoint members of a board in existence on December 31, 1991, and the initial members of a board established after December 31, 1991, as follows:

(1) One (1) member shall be appointed for one (1) year.

(2) Two (2) members shall be appointed for two (2) years.

(3) Two (2) members shall be appointed for three (3) years.

(4) Two (2) members shall be appointed for four (4) years.

As added by P.L.2-1993, SEC.3.

IC 16-20-3-6

Vacancies; qualified replacements

Sec. 6. (a) Members continue to serve until their successors are appointed. When a vacancy occurs, the original appointing authority shall appoint a qualified person to serve the unexpired term.

(b) Whenever a vacancy occurs on a multiple county board of health, the local board of health shall provide to the appointing authority a list of five (5) individuals, at least three (3) of whom must have professional experience in one (1) of the following areas:

(1) Medicine.

(2) Nursing.

(3) Hospital administration.

(4) School superintendent.

(5) Pharmacology.

(6) Dentistry.

(7) Veterinary medicine.

(8) Social work.

(9) Legal profession.
(10) Engineering.
(11) Environmental science.

(c) The list must include at least one (1) licensed physician. The appointing authority may select an individual from the list when filling a vacancy.

As added by P.L.2-1993, SEC.3.

IC 16-20-3-7
Election of chairman

Sec. 7. At the first meeting of a multiple county board of health each year, the members shall elect a chairman.

As added by P.L.2-1993, SEC.3.

IC 16-20-3-8
Meetings; call; quorum

Sec. 8. (a) Meetings may be called by any of the following:
(1) The chairman.
(2) Four (4) members of the multiple county board of health.
(3) The local health officer.

(b) A majority of the members constitutes a quorum for the transaction of business.

As added by P.L.2-1993, SEC.3.

IC 16-20-3-9
Health officer; appointment; term; qualifications; certification; reappointment; duties

Sec. 9. (a) A multiple county board of health shall appoint a health officer to serve for a term of four (4) years. The health officer must be a licensed physician.

(b) The appointment of the health officer shall be certified by the county executive of each participating county and sent to the state department for the state department's records.

(c) The health officer is eligible for reappointment.

(d) The health officer is the executive officer of the multiple county health department and shall serve as secretary of the multiple county board of health.

As added by P.L.2-1993, SEC.3.

IC 16-20-3-10
Annual levy for maintenance of department; county health fund; appropriations

Sec. 10. (a) The fiscal body of each county that has become a part of a multiple county health department by ordinance of the county executive shall assess a levy annually on the assessed valuation of taxable property for maintenance of the multiple county health department.

(b) The taxes shall be paid into the county treasury and placed in

a special fund to be known as the county health fund. The fund may be used only for the purpose of this title and may be drawn upon by the proper officers of the county upon the properly authenticated vouchers of the multiple county health department.

(c) Each county fiscal body shall appropriate from the county health fund money necessary to pay the fiscal body's apportioned share to maintain a multiple county health department in the proportion that the population of the county bears to the total population of all counties in the multiple county health department. *As added by P.L.2-1993, SEC.3.*

IC 16-20-4
Chapter 4. City Health Departments in Second Class Cities

IC 16-20-4-1
Application of chapter

Sec. 1. This chapter applies to city health departments in second class cities.

As added by P.L.2-1993, SEC.3.

IC 16-20-4-2
City health department defined

Sec. 2. As used in this chapter, "city health department" means a city health department in a second class city. The term includes a full-time local health department under this chapter.

As added by P.L.2-1993, SEC.3.

IC 16-20-4-3
Formation and establishment

Sec. 3. Formation and establishment of a city health department is subject to the approval of the city fiscal body.

As added by P.L.2-1993, SEC.3.

IC 16-20-4-4
Jurisdiction in city with full-time health department

Sec. 4. A county or multiple county health board and the board's officers do not have jurisdiction in any city having a full-time city health department.

As added by P.L.2-1993, SEC.3.

IC 16-20-4-5
Authority of second class city to establish full-time city health department; exception in certain counties

Sec. 5. (a) Except as provided in subsection (b), the legislative body of a second class city may by resolution provide for a full-time city health department.

(b) A local official, city legislative body, city fiscal body, or county may not establish a full-time or part-time city health department in a county having a population of more than one hundred seventy thousand (170,000) but less than one hundred seventy-five thousand (175,000).

(c) A health ordinance adopted by a city legislative body after December 31, 1993, in a county having a population of more than one hundred seventy thousand (170,000) but less than one hundred seventy-five thousand (175,000) is void.

As added by P.L.2-1993, SEC.3. Amended by P.L.87-1994, SEC.8; P.L.95-1994, SEC.2; P.L.170-2002, SEC.101; P.L.119-2012, SEC.128.

IC 16-20-4-5.5
Legalization of certain health ordinances by Tippecanoe County adopted after December 31, 1993, and before March 11, 1994

Sec. 5.5. A health ordinance adopted by the county executive of Tippecanoe County that:

(1) was adopted after December 31, 1993, and before March 11, 1994; and

(2) applies to the entire county;

is legalized.

As added by P.L.220-2011, SEC.313. Amended by P.L.119-2012, SEC.129.

IC 16-20-4-6
Health board membership; qualifications

Sec. 6. The city health departments provided for by this chapter shall be managed by a board of health consisting of seven (7) members appointed by the city executive, not more than four (4) of whom belong to the same political party. At least three (3) of the members must be licensed physicians. At least one (1) of the members must be a licensed veterinarian.

As added by P.L.2-1993, SEC.3.

IC 16-20-4-7
Terms of office; vacancies

Sec. 7. (a) All members of the board shall be appointed for a term of four (4) years except that of the first appointees. The initial terms are as follows:

(1) One (1) shall serve for a period of two (2) years.

(2) Two (2) shall serve for a period of three (3) years.

(3) Four (4) shall serve for a term of four (4) years.

(b) At the expiration of the respective terms, appointments shall be made to fill the vacancies for the following four (4) years.

As added by P.L.2-1993, SEC.3.

IC 16-20-4-8
Vacancy; candidate list; qualifications

Sec. 8. (a) Whenever a vacancy occurs on a board, the city board of health shall provide to the appointing authority a list of five (5) individuals, at least three (3) of whom must have professional experience in one (1) of the following areas:

(1) Medicine.

(2) Nursing.

(3) Health care administration.

(4) Pharmacology.

(5) Dentistry.

(6) Veterinary medicine.

(7) Engineering.

(8) Environmental science.

(9) Social work.
(10) Legal profession.
(11) School administration.

(b) The list must include at least one (1) licensed physician. When filling a vacancy, the appointing authority may select from the list provided by the city board of health.

As added by P.L.2-1993, SEC.3.

IC 16-20-4-9
Removal; grounds

Sec. 9. A member of a city board of health may be removed by the appointing authority if the board member does any of the following:

(1) Is absent from three (3) consecutive regular board meetings.
(2) Is absent from four (4) regular board meetings in a calendar year.
(3) Fails to perform the statutory duties of the office.

As added by P.L.2-1993, SEC.3.

IC 16-20-4-10
Conflicts of interest

Sec. 10. An individual who has a vested interest or may gain financially from any activity of the city health department or policy decision of the board is ineligible to serve on a city board of health.

As added by P.L.2-1993, SEC.3.

IC 16-20-4-11
Organizational meeting; officers

Sec. 11. The board of each full-time city health department shall, immediately after appointment, meet and organize by electing a chairman, vice chairman, and other officers the board considers necessary.

As added by P.L.2-1993, SEC.3.

IC 16-20-4-12
Election meeting; regular meetings; special meetings

Sec. 12. (a) The board of each city health department shall hold a meeting in January of each year, at which meeting officers shall be elected for the following calendar year.

(b) The board shall hold regular meetings quarterly in January, April, July, and October.

(c) The board shall hold special meetings:

(1) on a written request signed by three (3) members and filed with the local health officer; or
(2) on request of the health officer.

As added by P.L.2-1993, SEC.3.

IC 16-20-4-13
Powers and duties

Sec. 13. A board of health that manages a city health department under this chapter has the powers and duties prescribed for all health boards.
As added by P.L.2-1993, SEC.3.

IC 16-20-4-14
Procedural rules
Sec. 14. The board of each city health department may adopt procedural rules for the board's own guidance and as are necessary or desirable to protect, promote, or improve public health or to control disease not inconsistent with state statutes and rules of the state department.
As added by P.L.2-1993, SEC.3.

IC 16-20-4-15
Offices and equipment
Sec. 15. The board of each city health department shall provide, equip, and maintain suitable offices, facilities, and appliances for the health department.
As added by P.L.2-1993, SEC.3.

IC 16-20-4-16
Officers and employees; duties; compensation; approval
Sec. 16. (a) The board of each city health department shall prescribe the duties of all officers and employees.
(b) The board shall fix compensation of all officers and employees. However, in counties having joint city-county full-time health departments, the prescription of duties and fixing of compensation is subject to prior approval by the city legislative body and the county executive of cities and counties maintaining the department.
(c) The city board of health may recommend compensation for any officer or employee of the board subject to approval by the city fiscal body.
As added by P.L.2-1993, SEC.3.

IC 16-20-4-17
Annual report; contents
Sec. 17. The board of each city health department shall publish annually in pamphlet form, within ninety (90) days after the second Tuesday in January, for free distribution, an annual report showing the following:
(1) As of January 1 of that year, the amount of money received from all sources.
(2) The name of any donor.
(3) How all money has been expended and for what purpose.
(4) Other statistics and information concerning the work of the city health department as the board considers to be of general

interest.

As added by P.L.2-1993, SEC.3.

IC 16-20-4-18

Communicable disease control; inspections

Sec. 18. (a) The board of each city health department has the responsibility and authority to take any action authorized by state statute or rule of the state department to control communicable diseases.

(b) The board of each city health department or a designated representative may make sanitary and health inspections that are necessary to carry out the purposes of this chapter.

As added by P.L.2-1993, SEC.3.

IC 16-20-4-19

Disease control powers and duties

Sec. 19. The board of each city health department shall do the following:

(1) Investigate the existence of any contagious or infectious disease.

(2) Adopt measures, not inconsistent with the rules of the state department, to arrest the progress of contagious or infectious disease.

(3) Make all necessary sanitary and health investigations and inspections.

As added by P.L.2-1993, SEC.3.

IC 16-20-4-20

Health officers; qualifications; term of office

Sec. 20. (a) The board of each city health department shall appoint a health officer. The appointment is subject to the approval of the city legislative body.

(b) The health officer is the executive officer for the department and shall serve as secretary of the local board.

(c) The health officer must meet the following conditions:

(1) Be a citizen of the United States.

(2) Be a licensed physician or be eligible for such a license.

(d) A health officer serves a term of four (4) years unless removed for cause as provided in this title.

As added by P.L.2-1993, SEC.3.

IC 16-20-4-21

Employment of personnel

Sec. 21. A city health officer may appoint and employ the professional, clerical, and other employees that are necessary and reasonable to carry out and perform the duties of the department.

As added by P.L.2-1993, SEC.3.

IC 16-20-4-22
Department expenses and salaries; payment; authorization

Sec. 22. The board of each city health department shall authorize payment of salaries and all other department expenses from the proper fund.

As added by P.L.2-1993, SEC.3.

IC 16-20-4-23
Professional employees; confirmation of appointment

Sec. 23. The board of each city health department shall confirm the appointment of professional employees who are appointed by the health officers and who meet the qualification requirements of the local board for the respective professional employee positions.

As added by P.L.2-1993, SEC.3.

IC 16-20-4-24
Annual budget; submission for approval

Sec. 24. The board of each city health department shall submit an annual budget to the city fiscal body for approval of the annual budget at the regular time for consideration of annual budgets.

As added by P.L.2-1993, SEC.3.

IC 16-20-4-25
Expenses appropriation; tax

Sec. 25. The fiscal body of the city shall annually make the necessary appropriation for expenses of the full-time city health department even though the appropriation may exceed existing limitations. However, the tax may not exceed one (1) mill on each dollar ($1) of assessed valuation of taxable property in addition to other health appropriations.

As added by P.L.2-1993, SEC.3.

IC 16-20-4-26
Emergency appropriations

Sec. 26. An appropriation may be made, as emergency appropriations are made, to provide for the expenses of the operation of a full-time city health department, until appropriations are made available by the next regular annual budget after the full-time city health department has been authorized.

As added by P.L.2-1993, SEC.3.

IC 16-20-4-27
Transfer of revenue by cities in certain counties to county community health clinic

Sec. 27. (a) This section applies to each city having a population of any of the following:

(1) More than twenty-nine thousand five hundred (29,500) but less than twenty-nine thousand six hundred (29,600).

(2) More than sixty-five thousand (65,000) but less than seventy thousand (70,000).

(b) Each year the fiscal officer of each city shall transfer to the community health clinic located in the county in which the city is located an amount equal to the revenue raised from a property tax rate of sixty-seven hundredths of one cent ($0.0067) for each one hundred dollars ($100) of assessed valuation of the taxable property in the city.

(c) The transfer shall be made in four (4) equal installments before the end of January, April, July, and October. The transfer shall be made without the necessity of an appropriation.

As added by P.L.2-1993, SEC.130. Amended by P.L.6-1997, SEC.165; P.L.170-2002, SEC.102; P.L.119-2012, SEC.130.

IC 16-20-5

Chapter 5. Area Boards of Health

IC 16-20-5-1

Authority to establish; jurisdiction

Sec. 1. (a) If a multiple county sewer, water, wastewater, or similar district has been established under IC 13-26 or IC 13-3-2 (before its repeal), the affected counties may by concurrent resolution of each county executive establish an area board of health for the sole purposes of administering and enforcing, consistent with environmental management laws (as defined in IC 13-11-2-71), all state and local environmental statutes, rules, and ordinances relative to the maintenance of a high quality environmental level in the district.

(b) Area boards of health created under this chapter have jurisdiction with the board established under IC 13-13-8 and the department of environmental management within the uniform inspection and enforcement area established under section 5 of this chapter.

As added by P.L.2-1993, SEC.3. Amended by P.L.1-1996, SEC.74; P.L.133-2012, SEC.182.

IC 16-20-5-2

Membership; term of office; vacancies

Sec. 2. (a) An area board of health consists of two (2) members from each participating county board of health, to be selected by the appropriate county executive. In addition, the health officer of each participating county and the county treasurer from the participating county with the highest population are members.

(b) Members serve for terms of two (2) years, beginning on the first day of the first month following the date of the establishment of the area board of health.

(c) Appointments to fill vacancies may be made by the county executive of the county where the vacancy exists.

As added by P.L.2-1993, SEC.3.

IC 16-20-5-3

Meetings

Sec. 3. An area board of health shall meet at the call of the chairman, with the first meeting to be held during the first month following the date of establishment of the board.

As added by P.L.2-1993, SEC.3.

IC 16-20-5-4

Officers

Sec. 4. At the first meeting and annually thereafter, the area board of health shall elect a chairman and a vice chairman. One (1) of the health officers shall be designated to serve as secretary. The county

treasurer member serves as treasurer of the board.
As added by P.L.2-1993, SEC.3.

IC 16-20-5-5
Boundaries; hearings; notice

Sec. 5. (a) An area board of health and the trustees of the multiple county sewer, water, wastewater, or similar district shall jointly establish boundary lines, which may not exceed the boundaries of the district, for a special uniform inspection and enforcement area.

(b) The area board of health shall publish notice of a hearing regarding the establishment of the area in at least two (2) newspapers of general circulation in each member county. The notice must inform the public of the public's right to appear and provide evidence on the matter.
As added by P.L.2-1993, SEC.3.

IC 16-20-5-6
Powers and duties

Sec. 6. To carry out the purposes of this chapter, the area board of health may do the following:

(1) Adopt and enforce ordinances consistent with state law.
(2) Employ qualified individuals or utilize existing qualified employees to perform inspection and enforcement duties.
(3) Accept financial or in kind assistance from the state department, the department of environmental management, or any other source.
(4) Collect fees.
(5) Issue permits, after written agreement of the department of environmental management has been obtained.
(6) Enter into contracts.
(7) Adopt rules under IC 4-22-2 necessary to establish administrative policies and procedures.

As added by P.L.2-1993, SEC.3.

IC 16-20-5-7
Annual budget; proration of costs; payment of expenses

Sec. 7. (a) An area board of health shall prepare an annual budget and submit the budget to the county fiscal body of each participating county for review and approval.

(b) Each county fiscal body shall appropriate that county's proportionate share of the costs to be incurred by the area board of health. Each county's proportionate share shall be based on that county's percentage of the population of the entire district.

(c) Money appropriated by each participating county shall be remitted to the treasurer of the area board of health. Transfer of funds from each participating county shall be made by claim allowed by the appropriate county executive. Expenses of the area board of health shall be paid only after claims have been allowed by the area board

of health.
As added by P.L.2-1993, SEC.3.

IC 16-20-5-8
Fees and fines; collection; records

Sec. 8. Fees and fines collected by the area board of health shall be collected by a person designated by the area board of health. Accurate records shall be kept of all fees and fines collected.
As added by P.L.2-1993, SEC.3.

IC 16-20-6

Chapter 6. Acceptance of Gifts for County or City Health Department Buildings

IC 16-20-6-1

Authority to accept gifts to erect and equip building; use

Sec. 1. (a) The executive of a county or the fiscal body of a city may accept gifts, devises, and bequests, in trust or otherwise, for the purpose of erecting and equipping a suitable building for the county or city health department.

(b) The building may contain the offices of local health officers, local boards of health, and other facilities and equipment that will serve to promote the efficient operation of local health boards and officers and best serve the community's public health administration.

As added by P.L.2-1993, SEC.3.

IC 16-20-6-2

Form of gift; conversion into cash; separate account for proceeds

Sec. 2. (a) The gifts, devises, and bequests accepted under this chapter may be in the form of cash or real, personal, or mixed property that, in accordance with the terms of a gift, devise, or bequest, may be converted into cash by the county executive or city fiscal body as follows:

(1) If real property, by sale as county and city real property may be sold.

(2) If personal property, by sale at private sale through the office of auditor, clerk, or clerk-treasurer, upon two (2) weeks publication of notice.

(b) The sale may be continued from day to day and shall be approved by the county executive or city fiscal body before the execution of a bill of sale. The auditor, clerk, or clerk-treasurer may execute bills of sale.

(c) Revenues realized from the gifts, devises, and bequests must be kept in a separate account for the purposes specified in this chapter. However, the account may not be permitted to exceed one dollar and fifty cents ($1.50) per capita of the population of the county or city.

As added by P.L.2-1993, SEC.3.

IC 16-20-6-3

Construction and equipment of building

Sec. 3. Upon the accumulation of a sufficient amount to construct and equip a building for the county or city health department as provided in this chapter, the county executive or city fiscal body may, after consultation with local health boards and officers and after approval of plans and specifications by the state department, provide for the construction and equipment of the building.

As added by P.L.2-1993, SEC.3.

IC 16-20-6-4

Real property acquisition; surplus funds; tax for maintenance

Sec. 4. (a) Real property and easements or appurtenances may be acquired by any of the following methods:

(1) Gift as provided in section 1 of this chapter.

(2) Purchase with money accepted for that purpose.

(3) Condemnation proceedings as prescribed by statute.

(b) Upon condemnation, all damages must be paid from the money accepted as provided in section 1 of this chapter. All money remaining in the account after the construction and equipment of the building may be used for the maintenance of the building. The county or city may levy a tax sufficient to maintain the buildings when constructed as provided in this chapter.

As added by P.L.2-1993, SEC.3.

IC 16-20-6-5

Alternative use for gifts if insufficient for building

Sec. 5. A gift, grant, or conveyance made under this chapter is upon the implied condition that if sufficient money is not available within ten (10) years of the acceptance of the gift, grant, or conveyance, the property or the proceeds from the property, may be used by the county or city, with the approval of the court having probate jurisdiction in the county, for a purpose that will promote the general health of the people of the county or city.

As added by P.L.2-1993, SEC.3.

IC 16-20-7

Chapter 7. Assistance by Cities and Counties to Public Health Nursing Associations

IC 16-20-7-1

Appropriations authorized

Sec. 1. A city or county may appropriate money out of the general fund of the city or county to assist incorporated public health nursing associations, organized and operated not-for-profit and solely for the promotion of public health and the suppression of disease, in carrying on the work of the public health nursing associations within the city or county.

As added by P.L.2-1993, SEC.3.

IC 16-20-7-2

Limitations on appropriations

Sec. 2. The amount appropriated under section 1 of this chapter may not exceed the amount that could be collected from annually levying a tax on each one hundred dollars ($100) valuation of taxable property in the city or county as follows:

(1) For a city, one and sixty-seven hundredths cents ($0.0167).

(2) For a county, thirty-three hundredths of one cent ($0.0033).

As added by P.L.2-1993, SEC.3. Amended by P.L.6-1997, SEC.166.

IC 16-20-8

Chapter 8. Food Service Inspections

IC 16-20-8-1

"Checklist" defined

Sec. 1. As used in this chapter, "checklist" refers to a food service establishment inspection report checklist form prepared by the state department.

As added by P.L.2-1993, SEC.3.

IC 16-20-8-2

"Narrative report" defined

Sec. 2. As used in this chapter, "narrative report" refers to a food service establishment inspection report narrative form prepared by the state department.

As added by P.L.2-1993, SEC.3.

IC 16-20-8-3

Checklist explaining narrative report

Sec. 3. Whenever an authorized representative of a local health department or the state department uses a checklist, the representative must complete a narrative report that explains the checklist.

As added by P.L.2-1993, SEC.3.

IC 16-20-8-4

Narrative report; time for completion

Sec. 4. The narrative report required under this chapter must be completed at the same time the checklist is completed.

As added by P.L.2-1993, SEC.3.

IC 16-20-8-5

Inspection report review; written response

Sec. 5. Except as provided in section 8 of this chapter, a food service establishment that is the subject of inspection reports such as checklists or narrative reports must have an opportunity to review the reports and submit to the local health department a written response to the reports. If a written response is submitted to the local health department:

(1) within the time stated for abatement of the alleged violations; or

(2) within ten (10) calendar days after the completion of the inspection reports;

whichever is earlier, the written response must be attached to and becomes part of the inspection reports.

As added by P.L.2-1993, SEC.3. Amended by P.L.190-1995, SEC.2.

IC 16-20-8-6

Inspection and copying of documents

Sec. 6. After the checklist, the narrative report, and the written response are completed, the checklist, the narrative report, and the written response may be inspected and copied under IC 5-14-3.

As added by P.L.2-1993, SEC.3.

IC 16-20-8-7

Inspection and copying of checklist and narrative report in absence of written response

Sec. 7. If a written response is not submitted within the time described in section 5 of this chapter, the checklist and the narrative report may be inspected and copied under IC 5-14-3 immediately after the expiration of that period of time.

As added by P.L.2-1993, SEC.3.

IC 16-20-8-8

Immediate inspection and copying of checklist and narrative report; conditions

Sec. 8. Notwithstanding sections 6 and 7 of this chapter, the checklist, the narrative report, and the related public records may upon completion be inspected and copied under IC 5-14-3 if a local health department takes any of the following actions with respect to a food service establishment that is the subject of the records:

(1) Schedules a hearing by the local health department or a designee.

(2) Orders closure.

(3) Requests revocation of a permit.

(4) Finds the existence of an imminent danger to public health or a gross deception of or fraud upon the consumer.

As added by P.L.2-1993, SEC.3. Amended by P.L.190-1995, SEC.3.

IC 16-20-8-9

Forms

Sec. 9. The state department shall provide to local health departments the forms used under this chapter.

As added by P.L.2-1993, SEC.3.

IC 16-20-9
Chapter 9. Penalties

IC 16-20-9-1
Violations

Sec. 1. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this article commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.
As added by P.L.2-1993, SEC.3.

IC 16-21

ARTICLE 21. HOSPITALS

IC 16-21-1

Chapter 1. Hospital Council

IC 16-21-1-1
Repealed

(As added by P.L.2-1993, SEC.4. Amended by P.L.13-2000, SEC.1; P.L.145-2006, SEC.132. Repealed by P.L.156-2011, SEC.41; P.L.197-2011, SEC.153.)

IC 16-21-1-2
Repealed

(As added by P.L.2-1993, SEC.4. Repealed by P.L.156-2011, SEC.41; P.L.197-2011, SEC.153.)

IC 16-21-1-3
Repealed

(As added by P.L.2-1993, SEC.4. Repealed by P.L.156-2011, SEC.41; P.L.197-2011, SEC.153.)

IC 16-21-1-4
Repealed

(As added by P.L.2-1993, SEC.4. Repealed by P.L.156-2011, SEC.41; P.L.197-2011, SEC.153.)

IC 16-21-1-5
Repealed

(As added by P.L.2-1993, SEC.4. Repealed by P.L.156-2011, SEC.41; P.L.197-2011, SEC.153.)

IC 16-21-1-6
Repealed

(As added by P.L.2-1993, SEC.4. Repealed by P.L.156-2011, SEC.41; P.L.197-2011, SEC.153.)

IC 16-21-1-7
Rules

Sec. 7. The executive board may adopt rules under IC 4-22-2 necessary to protect the health, safety, rights, and welfare of patients, including the following:

(1) Rules pertaining to the operation and management of hospitals, ambulatory outpatient surgical centers, abortion clinics, and birthing centers.

(2) Rules establishing standards for equipment, facilities, and staffing required for efficient and quality care of patients.

As added by P.L.2-1993, SEC.4. Amended by P.L.96-2005, SEC.4;

P.L.141-2014, SEC.4.

IC 16-21-1-8
Repealed

(As added by P.L.2-1993, SEC.4. Repealed by P.L.156-2011, SEC.41; P.L.197-2011, SEC.153.)

IC 16-21-1-9
Waiver of rules

Sec. 9. (a) The state health commissioner may, for good cause shown, waive a rule:

(1) adopted under this chapter; or

(2) that may be waived under IC 16-28 for a specified time for a hospital based health facility or a hospital licensed under this article.

(b) A waiver may not be granted unless the requesting party affirmatively demonstrates that the waiver will not adversely affect or increase any risk to the health, safety, or welfare of existing or potential residents or patients.

As added by P.L.2-1993, SEC.4. Amended by P.L.156-2011, SEC.12; P.L.197-2011, SEC.57; P.L.92-2015, SEC.3.

IC 16-21-1-10
Licensure inspections; disclosure of inspection date; penalties; reports; release of records to public

Sec. 10. (a) Licensure inspections of an institution or agency shall be made regularly in accordance with rules adopted under this chapter. The state department shall make all health and sanitation inspections, including inspections in response to an alleged breach of this chapter or rules adopted under this chapter. The division of fire and building safety shall make all fire safety inspections.

(b) An employee of the state department who knowingly or intentionally informs an institution or agency of the exact date of an unannounced inspection shall be suspended without pay for five (5) days for a first offense and shall be dismissed for a subsequent offense.

(c) Reports of all inspections must be in writing and sent to the institution or agency.

(d) The report of an inspection and records relating to the inspection may not be released to the public until the conditions set forth in IC 16-19-3-25 are satisfied.

As added by P.L.2-1993, SEC.4. Amended by P.L.190-1995, SEC.4; P.L.1-2006, SEC.295; P.L.141-2014, SEC.5.

IC 16-21-2

Chapter 2. Licensure of Hospitals

IC 16-21-2-1

Application of chapter

Sec. 1. (a) Except as provided in subsection (b), this chapter applies to all hospitals, ambulatory outpatient surgical centers, abortion clinics, and birthing centers.

(b) This chapter does not apply to a hospital operated by the federal government.

(c) This chapter does not affect a statute pertaining to the placement and adoption of children.

As added by P.L.2-1993, SEC.4. Amended by P.L.96-2005, SEC.5.

IC 16-21-2-2

Duty to license and regulate hospitals, ambulatory outpatient surgical centers, birthing centers, and abortion clinics

Sec. 2. The state department shall license and regulate:

(1) hospitals;

(2) ambulatory outpatient surgical centers;

(3) birthing centers; and

(4) abortion clinics.

As added by P.L.2-1993, SEC.4. Amended by P.L.96-2005, SEC.6.

IC 16-21-2-2.3

Adoption of rules concerning food and dietetic services

Sec. 2.3. The state department shall adopt rules under IC 4-22-2 to amend rules governing hospitals to comply with federal regulations under 42 CFR 482.28 concerning food and dietetic services.

As added by P.L.131-2015, SEC.1.

IC 16-21-2-2.5

Adoption of rules concerning birthing centers and abortion clinics; prohibition on exemption of abortion clinics from requirements; penalty

Sec. 2.5. (a) The state department shall adopt rules under IC 4-22-2 to do the following concerning birthing centers and abortion clinics:

(1) Establish minimum license qualifications.

(2) Establish the following requirements:

(A) Sanitation standards.

(B) Staff qualifications.

(C) Necessary emergency equipment.

(D) Procedures to provide emergency care.

(E) Quality assurance standards.

(F) Infection control.

(3) Prescribe the operating policies, supervision, and

maintenance of medical records.

(4) Establish procedures for the issuance, renewal, denial, and revocation of licenses under this chapter. The rules adopted under this subsection must address the following:

(A) The form and content of the license.

(B) The collection of an annual license fee.

(5) Prescribe the procedures and standards for inspections.

(b) A person who knowingly or intentionally:

(1) operates a birthing center or an abortion clinic that is not licensed under this chapter; or

(2) advertises the operation of a birthing center or an abortion clinic that is not licensed under this chapter;

commits a Class A misdemeanor.

As added by P.L.96-2005, SEC.7. Amended by P.L.136-2013, SEC.4; P.L.92-2015, SEC.4.

IC 16-21-2-2.6

Inspection of abortion clinics

Sec. 2.6. The state department may inspect an abortion clinic at least one (1) time per calendar year and may conduct a complaint inspection as needed.

As added by P.L.98-2014, SEC.1.

IC 16-21-2-3

Determination of coverage of chapter; review

Sec. 3. The state department may determine if an institution or agency is covered by this chapter. A decision of the state department under this section is subject to review under IC 4-21.5.

As added by P.L.2-1993, SEC.4. Amended by P.L.156-2011, SEC.13; P.L.197-2011, SEC.58.

IC 16-21-2-4

Repealed

(As added by P.L.2-1993, SEC.4. Repealed by P.L.141-2014, SEC.6.)

IC 16-21-2-5

Hospital governing board; responsibilities

Sec. 5. The governing board of the hospital is the supreme authority in the hospital and is responsible for the following:

(1) The management, operation, and control of the hospital.

(2) The appointment, reappointment, and assignment of privileges to members of the medical staff, with the advice and recommendations of the medical staff, consistent with the individual training, experience, and other qualifications of the medical staff.

(3) Establishing requirements for appointments to and continued service on the hospital's medical staff, consistent with

the appointee's individual training, experience, and other qualifications, including the following requirements:

(A) Proof that a medical staff member has qualified as a health care provider under IC 16-18-2-163(a).

(B) The performance of patient care and related duties in a manner that is not disruptive to the delivery of quality medical care in the hospital setting.

(C) Standards of quality medical care that recognize the efficient and effective utilization of hospital resources, developed by the medical staff.

(4) Upon recommendation of the medical staff, establishing protocols within the requirements of this chapter and 410 IAC 15-1.2-1 for the admission, treatment, and care of patients with extended lengths of stay.

As added by P.L.2-1993, SEC.4. Amended by P.L.162-1999, SEC.5.

IC 16-21-2-6

Hospital governing board; disciplinary actions; reports; immunity

Sec. 6. (a) The governing board shall report, in writing, to the Indiana medical licensing board the results and circumstances of a final, a substantive, and an adverse disciplinary action taken by the governing board regarding a physician on the medical staff or an applicant for the medical staff if the action results in voluntary or involuntary resignation, termination, nonappointment, revocation, or significant reduction of clinical privileges or staff membership. The report shall not be made for nondisciplinary resignations or for minor disciplinary action.

(b) The governing board and the governing board's employees, agents, consultants, and attorneys have absolute immunity from civil liability for communications, discussions, actions taken, and reports made concerning disciplinary action or investigation taken or contemplated if the reports or actions are made in good faith and without malice.

As added by P.L.2-1993, SEC.4.

IC 16-21-2-7

Medical staff; responsibilities

Sec. 7. The medical staff of a hospital is responsible to the governing board for the following:

(1) The clinical and scientific work of the hospital.

(2) Advice regarding professional matters and policies.

(3) Review of the professional practices in the hospital for the purpose of reducing morbidity and mortality and for the improvement of the care of patients in the hospital, including the following:

(A) The quality and necessity of care provided.

(B) The preventability of complications and deaths occurring in the hospital.

As added by P.L.2-1993, SEC.4.

IC 16-21-2-8
Retrospective medical review; medical staff committee members; immunity

Sec. 8. The members of a medical staff committee who conduct a retrospective medical review have absolute immunity from civil liability for the following:

(1) Communications made in committee meetings.

(2) Reports and recommendations made by the committee arising from deliberations by the committee to the governing board of the hospital or another duly authorized medical staff committee.

As added by P.L.2-1993, SEC.4.

IC 16-21-2-9
Practice of medicine not authorized by chapter; performance of health care services not prohibited

Sec. 9. This chapter does not authorize a person or a state, county, or local governmental unit, division, department, board, or agency to engage in the practice of medicine. However, this chapter does not prohibit the performance of health care services by a hospital employee in a hospital when that performance is delegated or ordered by a licensed health practitioner if the services performed are within the practitioner's scope of practice.

As added by P.L.2-1993, SEC.4.

IC 16-21-2-10
Necessity of license

Sec. 10. A:

(1) person;

(2) state, county, or local governmental unit; or

(3) division, a department, a board, or an agency of a state, county, or local governmental unit;

must obtain a license from the state health commissioner under IC 4-21.5-3-5 before establishing, conducting, operating, or maintaining a hospital, an ambulatory outpatient surgical center, an abortion clinic, or a birthing center.

As added by P.L.2-1993, SEC.4. Amended by P.L.96-2005, SEC.8.

IC 16-21-2-11
License; application; form; information; tax warrant list

Sec. 11. (a) An applicant must submit an application for a license on a form prepared by the state department showing that:

(1) the applicant is of reputable and responsible character;

(2) the applicant is able to comply with the minimum standards for a hospital, an ambulatory outpatient surgical center, an abortion clinic, or a birthing center, and with rules adopted

under this chapter; and

(3) the applicant has complied with section 15.4 of this chapter.

(b) The application must contain the following additional information:

(1) The name of the applicant.

(2) The type of institution to be operated.

(3) The location of the institution.

(4) The name of the person to be in charge of the institution.

(5) If the applicant is a hospital, the range and types of services to be provided under the general hospital license, including any service that would otherwise require licensure by the state department under the authority of IC 16-19.

(6) Other information the state department requires.

(c) If the department of state revenue notifies the department that a person is on the most recent tax warrant list, the department shall not issue or renew the person's license until:

(1) the person provides to the department a statement from the department of state revenue that the person's tax warrant has been satisfied; or

(2) the department receives a notice from the commissioner of the department of state revenue under IC 6-8.1-8-2(k).

As added by P.L.2-1993, SEC.4. Amended by P.L.12-1994, SEC.10; P.L.162-1999, SEC.6; P.L.96-2005, SEC.9; P.L.172-2011, SEC.114.

IC 16-21-2-11.5

Construction projects; prior notice and hearing

Sec. 11.5. (a) As used in this section, "construction project" means the erection, installation, alteration, repair, or remodeling of a building or structure that, when completed, will be subject to licensure as a hospital or an ambulatory outpatient surgical center under this article. The term does not include the acquisition or installation of medical equipment or the purchase of the services of an architect, engineer, or consultant to prepare plans or studies related to a construction project.

(b) Except as provided in subsection (c), this section applies to a hospital or an ambulatory outpatient surgical center for which licensure is required under this article.

(c) This section does not apply to:

(1) a hospital or an ambulatory outpatient surgical center that is operated by the federal government or an agency of the federal government; or

(2) a construction project begun before July 1, 2005.

For purposes of this subsection, a construction project is considered to have begun on the day that the physical erection, installation, alteration, repair, or remodeling of the building or structure commences.

(d) Before the owner of:

(1) a hospital or proposed hospital may begin a construction

project that is estimated by the owner to cost at least ten million dollars ($10,000,000); or

(2) an ambulatory outpatient surgical center or a proposed ambulatory outpatient surgical center may begin a construction project that is estimated by the owner to cost at least three million dollars ($3,000,000);

the owner shall hold at least two (2) public hearings concerning the construction project and publish notice of each hearing at least ten (10) days before the hearing is held.

(e) A notice published under subsection (d) must meet the standards specified for public notices in IC 5-3-1.

(f) A hearing held under subsection (d):

(1) must:

(A) be held at a location not more than ten (10) miles from the site of the construction project;

(B) be held exclusively by the owner or the owner's representative; and

(C) include an announcement from the owner or the owner's representative that provides to the public:

(i) a description of;

(ii) an estimate of the cost of; and

(iii) a statement regarding the owner's reason for;

the construction project, including a description of the health care services that will be provided by the hospital or ambulatory outpatient surgical center as a result of the construction project; and

(2) may be held:

(A) on any day of the week other than Saturday or Sunday; and

(B) at any time not earlier than 3 p.m. or later than 9 p.m.;

as determined by the owner.

(g) A hearing held as required under this section does not cause any information or materials possessed or held by the owner or the owner's employee, contractor, agent, or representative to be discoverable or considered public information or public materials.

(h) A statement or question concerning a construction project, or an objection to a construction project, that arises during a hearing held under this section may not cause a delay in or denial of the issuance of a license under this article.

(i) Compliance with this section may be enforced only by the state department.

As added by P.L.67-2005, SEC.2.

IC 16-21-2-12

License; application; fee

Sec. 12. An application must be accompanied by a licensing fee at the rate adopted by the state department under IC 4-22-2.

As added by P.L.2-1993, SEC.4. Amended by P.L.156-2011, SEC.14;

P.L.197-2011, SEC.59.

IC 16-21-2-13
License; issuance

Sec. 13. The state health commissioner may:

(1) issue a license upon the application without further evidence; or

(2) request additional information concerning the application and conduct an investigation to determine whether a license should be granted.

As added by P.L.2-1993, SEC.4.

IC 16-21-2-14
License; duration; transferability; posting; renewal

Sec. 14. A license to operate a hospital, an ambulatory outpatient surgical center, an abortion clinic, or a birthing center:

(1) expires one (1) year after the date of issuance;

(2) is not assignable or transferable;

(3) is issued only for the premises named in the application;

(4) must be posted in a conspicuous place in the facility; and

(5) may be renewed each year upon the payment of a renewal fee at the rate adopted by the state department under IC 4-22-2.

As added by P.L.2-1993, SEC.4. Amended by P.L.96-2005, SEC.10; P.L.156-2011, SEC.15; P.L.197-2011, SEC.60.

IC 16-21-2-15
Physician to be on duty at all times at hospital with at least 100 beds

Sec. 15. A hospital with at least one hundred (100) beds shall have on duty at all times at least one (1) physician licensed under IC 25-22.5. Implementation of this section shall be subject to rules promulgated by the state department of health to ensure continuous coverage by physicians licensed under IC 25-22.5 for inpatient emergencies.

As added by P.L.96-1994, SEC.1.

IC 16-21-2-15.4
Hospital procedures to aid in the identification of newborns and reduction of newborn and infant abductions; prerequisites to licensure

Sec. 15.4. (a) To obtain a license under this chapter, a hospital must demonstrate that the hospital has established procedures designed to reduce the likelihood of abduction of newborn babies and other infants from the hospital. These procedures may include the following:

(1) Architectural plans to control access to areas of infant care.

(2) Video camera observation of areas of infant care.

(3) Procedures to identify hospital staff and visitors.

(b) To obtain a license under this chapter, a hospital must demonstrate that the hospital has established procedures to aid in the identification of newborns and other infants. These procedures may include the following:

(1) Footprinting of newborn infants by staff who have been trained by law enforcement personnel.

(2) Photographing of newborn infants at the time of their birth and photographing of other infants upon their admission to the hospital.

(3) Maintaining full written descriptions of each infant together with their footprints and photographs.

(4) Obtaining and retaining cord blood samples at the time of an infant's birth for purposes of conducting genetic testing.

(c) Failure to comply with this section is grounds for suspension or revocation of a hospital's license.

As added by P.L.12-1994, SEC.11.

IC 16-21-2-16

Third party billing notice

Sec. 16. A hospital, an ambulatory outpatient surgical center, an abortion clinic, or a birthing center that provides to a patient notice concerning a third party billing for a service provided to the patient shall ensure that the notice:

(1) conspicuously states that the notice is not a bill;

(2) does not include a tear-off portion; and

(3) is not accompanied by a return mailing envelope.

As added by P.L.178-2003, SEC.4. Amended by P.L.96-2005, SEC.11.

IC 16-21-3

Chapter 3. Remedies for Violations

IC 16-21-3-1

Civil penalty, license revocation, or other possible actions

Sec. 1. The state health commissioner may take any of the following actions on any of the grounds listed in section 2 of this chapter:

(1) Issue a letter of correction.

(2) Issue a probationary license.

(3) Conduct a resurvey.

(4) Deny renewal of a license.

(5) Revoke a license.

(6) Impose a civil penalty in an amount not to exceed ten thousand dollars ($10,000).

As added by P.L.2-1993, SEC.4.

IC 16-21-3-2

Grounds for action

Sec. 2. The state health commissioner may take action under section 1 of this chapter on any of the following grounds:

(1) Violation of any of the provisions of this chapter or of the rules adopted under this chapter.

(2) Permitting, aiding, or abetting the commission of any illegal act in an institution.

(3) Knowingly collecting or attempting to collect from a subscriber (as defined in IC 27-13-1-32) or an enrollee (as defined in IC 27-13-1-12) of a health maintenance organization (as defined in IC 27-13-1-19) any amounts that are owed by the health maintenance organization.

(4) Conduct or practice found by the state department to be detrimental to the welfare of the patients of an institution.

As added by P.L.2-1993, SEC.4. Amended by P.L.203-2001, SEC.1; P.L.156-2011, SEC.16; P.L.197-2011, SEC.61.

IC 16-21-3-3

Application of IC 4-21.5

Sec. 3. IC 4-21.5 applies to an action under this chapter.

As added by P.L.2-1993, SEC.4.

IC 16-21-3-4

Revocation of hospital license for cloning

Sec. 4. Notwithstanding section 1 of this chapter, the state department shall revoke the license of a hospital licensed under this article if, after appropriate notice and an opportunity for a hearing, the state health commissioner proves by a preponderance of the evidence that the hospital:

(1) knowingly allows the hospital's facilities to be used for

cloning or attempted cloning; or

(2) knowingly allows the hospital's employees, in the course of the employee's employment, to participate in cloning or attempted cloning.

As added by P.L.126-2005, SEC.5.

IC 16-21-4

Chapter 4. Hearings and Appeals

IC 16-21-4-1

Licensees and license applicants; requests for review

Sec. 1. A licensee or an applicant for a license aggrieved by an action under this article may request review under IC 4-21.5.

As added by P.L.2-1993, SEC.4.

IC 16-21-4-2

Appeals panel; appointment; proceedings; authority

Sec. 2. (a) The state department shall appoint an appeals panel consisting of three (3) members as follows:

(1) One (1) member of the executive board.

(2) One (1) attorney admitted to the practice of law in Indiana.

(3) One (1) individual with qualifications determined by the state department.

(b) An employee of the state department may not be a member of the panel.

(c) The panel shall conduct proceedings for review of an order issued by an administrative law judge under this chapter. The panel is the ultimate authority under IC 4-21.5.

As added by P.L.2-1993, SEC.4.

IC 16-21-5
Chapter 5. Penalties

IC 16-21-5-1
Investigation of report of unlicensed institution or agency; actions by attorney general

Sec. 1. The state department shall investigate a report of an unlicensed institution or agency and report the findings to the attorney general. The attorney general may seek any of the following:

(1) An injunction in a court of jurisdiction in the county in which the unlicensed institution or agency is located or in the circuit or superior court of Marion County.

(2) Relief under IC 4-21.5, including a civil penalty not to exceed an amount of twenty-five thousand dollars ($25,000) for each day of unlicensed operation.

(3) Criminal penalties as provided in section 3 of this chapter.

As added by P.L.2-1993, SEC.4.

IC 16-21-5-2
Use of term "hospital"

Sec. 2. An agency, a building, an institution, or a place may not be called a hospital if the agency, building, institution, or place is not a hospital.

As added by P.L.2-1993, SEC.4.

IC 16-21-5-3
Unlawful operation or advertisement of unlicensed institution or agency; violation; classification

Sec. 3. A person who:

(1) operates an institution or agency that is required to be licensed under this chapter that is not licensed under this chapter; or

(2) advertises the operation of an institution or agency that is required to be licensed under this chapter that is not licensed under this chapter;

commits a Class A misdemeanor.

As added by P.L.2-1993, SEC.4.

IC 16-21-6

Chapter 6. Hospital Financial Disclosure Law

IC 16-21-6-0.1

Contractual allowances defined

Sec. 0.1. As used in this chapter, "contractual allowances" means the difference between revenue at established rates and amounts realizable from third party payors under contractual agreements.

As added by P.L.94-1994, SEC.12.

IC 16-21-6-0.2

Education related costs defined

Sec. 0.2. As used in this chapter, "education related costs" means the unreimbursed cost to a hospital of providing, funding, or otherwise financially supporting educational benefits, services, and programs, including:

(1) education of physicians, nurses, technicians, and other medical professionals and health care providers;

(2) provision of scholarships and funding to medical schools and other postsecondary educational institutions for health professions education;

(3) education of patients concerning diseases and home care in response to community needs; and

(4) community health education through informational programs, publications, and outreach activities in response to community needs.

As added by P.L.94-1994, SEC.13. Amended by P.L.2-2007, SEC.189.

IC 16-21-6-1

Gross patient revenue defined

Sec. 1. As used in this chapter, "gross patient revenue" means inpatient and outpatient revenue from services to patients, including payments received from or on behalf of individual patients.

As added by P.L.2-1993, SEC.4.

IC 16-21-6-2

Net patient revenue defined

Sec. 2. As used in this chapter, "net patient revenue" means gross patient revenue less deductions for contractual adjustments, bad debts, and charity.

As added by P.L.2-1993, SEC.4.

IC 16-21-6-3

Fiscal reports; required documentation

Sec. 3. (a) Each hospital shall file with the state department a report for the preceding fiscal year within one hundred twenty (120) days after the end of the hospital's fiscal year. The state department

shall grant an extension of the time to file the report if the hospital shows good cause for the extension. The report must contain the following:

(1) A copy of the hospital's balance sheet, including a statement describing the hospital's total assets and total liabilities.

(2) A copy of the hospital's income statement.

(3) A statement of changes in financial position.

(4) A statement of changes in fund balance.

(5) Accountant notes pertaining to the report.

(6) A copy of the hospital's report required to be filed annually under 42 U.S.C. 1395g, and other appropriate utilization and financial reports required to be filed under federal statutory law.

(7) Net patient revenue.

(8) A statement including:

(A) Medicare gross revenue;

(B) Medicaid gross revenue;

(C) other revenue from state programs;

(D) revenue from local government programs;

(E) local tax support;

(F) charitable contributions;

(G) other third party payments;

(H) gross inpatient revenue;

(I) gross outpatient revenue;

(J) contractual allowance;

(K) any other deductions from revenue;

(L) charity care provided;

(M) itemization of bad debt expense; and

(N) an estimation of the unreimbursed cost of subsidized health services.

(9) A statement itemizing donations.

(10) A statement describing the total cost of reimbursed and unreimbursed research.

(11) A statement describing the total cost of reimbursed and unreimbursed education separated into the following categories:

(A) Education of physicians, nurses, technicians, and other medical professionals and health care providers.

(B) Scholarships and funding to medical schools, and other postsecondary educational institutions for health professions education.

(C) Education of patients concerning diseases and home care in response to community needs.

(D) Community health education through informational programs, publications, and outreach activities in response to community needs.

(E) Other educational services resulting in education related costs.

(b) The information in the report filed under subsection (a) must be provided from reports or audits certified by an independent

certified public accountant or by the state board of accounts.
As added by P.L.2-1993, SEC.4. Amended by P.L.94-1994, SEC.14; P.L.2-2007, SEC.190.

IC 16-21-6-4
Repealed
(As added by P.L.2-1993, SEC.4. Repealed by P.L.1-2010, SEC.156.)

IC 16-21-6-5
Fiscal reports; further verifying information
Sec. 5. If further fiscal information is necessary to verify the accuracy of any information contained in the reports filed under section 3 of this chapter, the state department may require the facility to produce the records necessary to verify that information.
As added by P.L.2-1993, SEC.4.

IC 16-21-6-6
Patient information reports
Sec. 6. In addition to the report filed under section 3 of this chapter, each hospital shall, not more than one hundred twenty (120) days after the end of each calendar quarter, file with the state department, or the state department's designated contractor, inpatient and outpatient discharge information at the patient level, in a format prescribed by the state health commissioner, including the following:
(1) The patient's:
(A) length of stay;
(B) diagnoses and surgical procedures performed during the patient's stay;
(C) date of:
(i) admission;
(ii) discharge; and
(iii) birth;
(D) type of admission;
(E) admission source;
(F) gender;
(G) race;
(H) discharge disposition; and
(I) payor, including:
(i) Medicare;
(ii) Medicaid;
(iii) a local government program;
(iv) commercial insurance;
(v) self-pay; and
(vi) charity care.
(2) The total charge for the patient's stay.
(3) The ZIP code of the patient's residence.
(4) Beginning October 1, 2013, all diagnosed external causes of

injury codes.

As added by P.L.2-1993, SEC.4. Amended by P.L.94-1994, SEC.15; P.L.44-2002, SEC.3; P.L.156-2011, SEC.17.

IC 16-21-6-7

Fiscal and patient information reports; personal identification of patients; public inspection; copies

Sec. 7. (a) The reports filed under section 3 of this chapter:

(1) may not contain information that personally identifies a patient or a consumer of health services; and

(2) must be open to public inspection.

(b) The state department shall provide copies of the reports filed under section 3 of this chapter to the public upon request, at the state department's actual cost.

(c) The following apply to information that is filed with the state department, or the state department's designated contractor, or transferred to the state department by the state department's designated contractor under section 6 of this chapter:

(1) Except as provided in subsection (e), the information is confidential.

(2) The information must be transferred by the contractor to the state department in a format determined by the state department.

(d) An analysis completed by the state department of information that is filed under section 6 of this chapter:

(1) may not contain information that personally identifies or may be used to personally identify a patient or consumer of health services, unless the information is determined by the state department to be necessary for a public health activity;

(2) must be open to public inspection; and

(3) must be provided to the public by the state department upon request at the state department's actual cost.

(e) Information provided under section 6 of this chapter may be released or made public by the state department only if at least one (1) of the following circumstances applies:

(1) The use of the information by the state department:

(A) is to comply with the requirements of this chapter; or

(B) is released for statistical purposes in a manner that does not identify an individual.

(2) At the state department's discretion, for research purposes with identifiable information being released only if:

(A) the person requesting the information states in writing to the state department:

(i) the purpose, including any intent to publish findings, and the nature of the data sought;

(ii) the personal information that is required; and

(iii) the safeguards the person will take to protect the identity of the data subjects;

(B) the proposed safeguards in clause (A)(iii) are adequate

to prevent the identity of an individual data subject from being known;

(C) the researcher executes an agreement with the state department, on a form approved by the oversight committee on public records, that:

(i) incorporates the safeguards for the protection of individual data subjects;

(ii) defines the scope of the research project; and

(iii) informs the researcher that failure to abide by the conditions of the approved agreement constitutes a breach of contract and could result in civil litigation by the data subject;

(D) the researcher agrees to pay any costs of the research; and

(E) the state department maintains a copy of the agreement or contract for the life of the record.

As added by P.L.2-1993, SEC.4. Amended by P.L.44-2002, SEC.4; P.L.78-2004, SEC.22; P.L.208-2015, SEC.8.

IC 16-21-6-8

Compliance; injunctive relief

Sec. 8. The state department may, through the attorney general, seek to compel compliance with this chapter through injunctive relief.

As added by P.L.2-1993, SEC.4.

IC 16-21-6-9

Rules; uniform reporting system

Sec. 9. (a) The state department shall adopt rules under IC 4-22-2 necessary to carry out this chapter.

(b) The rules adopted under this section must include rules that establish a uniform system for completing the reports required under sections 3 and 6 of this chapter.

(c) The rules adopted under this section must provide that, to the greatest extent possible, copies of reports required to be filed with federal, state, and local agencies may be used by facilities in completing the reports required by this chapter.

As added by P.L.2-1993, SEC.4.

IC 16-21-6-10

State health commissioner; findings and recommendations; report

Sec. 10. Each year the state health commissioner or the commissioner's designee shall make a compilation of the data obtained from the reports required under sections 3 and 6 of this chapter and report in an electronic format under IC 5-14-6 the findings and recommendations to the general assembly not later than December 1 of the year the reports are filed. However, the commissioner is not required to incorporate a report that is required

to be filed by a hospital with the state department less than one hundred twenty (120) days before December 1, but shall incorporate the report data in the report to be made the following year.
As added by P.L.2-1993, SEC.4. Amended by P.L.28-2004, SEC.136.

IC 16-21-6-11
Consumer guide to Indiana hospitals

Sec. 11. (a) The state department shall annually publish a consumer guide to Indiana hospitals. The state department shall compile the data for the consumer guide from the relevant data required to be filed under sections 3 and 6 of this chapter and publish the data in an understandable format that assists the consuming public in making both financial and utilization comparisons between hospitals.

(b) The state department shall, upon request, provide to the public, at the state department's actual cost, copies of the consumer guide to Indiana hospitals published under subsection (a).
As added by P.L.2-1993, SEC.4.

IC 16-21-6-12
Violations

Sec. 12. Any person who is a custodian of confidential data at the state department and who knowingly or intentionally:

(1) discloses, distributes, or sells confidential data obtained under this chapter; or

(2) identifies a specific patient in violation of section 7 of this chapter;

commits a Class B misdemeanor.
As added by P.L.94-1994, SEC.16.

IC 16-21-7

Chapter 7. Hospitals; Tuberculosis Patients; AIDS Patients

IC 16-21-7-1

Tuberculosis patient care or treatment; reimbursement

Sec. 1. The state shall reimburse a hospital, including a hospital operated under IC 16-22-8 that treats or cares for a patient with tuberculosis, an amount determined by the state department under section 2 of this chapter if no other sources of reimbursement are available for that patient, including the following:

(1) Patient resources.
(2) Health insurance.
(3) Medical assistance payments.
(4) Hospital care for the indigent.

As added by P.L.2-1993, SEC.4.

IC 16-21-7-2

Rules for payment

Sec. 2. The state department shall adopt rules under IC 4-22-2 for payment to a hospital that treats or cares for a patient with tuberculosis as described in section 1 of this chapter.

As added by P.L.2-1993, SEC.4.

IC 16-21-7-3

Aid to county hospitals tuberculosis fund

Sec. 3. (a) The aid to county hospitals tuberculosis fund is established to carry out the purposes of this chapter.

(b) The state department shall administer the fund.

(c) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.2-1993, SEC.4. Amended by P.L.146-1997, SEC.1.

IC 16-21-7-4

Counties' pro rata share of remaining funds at end of fiscal year

Sec. 4. With the approval of the budget director and upon the recommendation of the budget committee, each county that has incurred costs for a carrier under:

(1) IC 16-41-1;
(2) IC 16-41-2;
(3) IC 16-41-3;
(4) IC 16-41-5;
(5) IC 16-41-6;
(6) IC 16-41-7;
(7) IC 16-41-8;
(8) IC 16-41-9; or
(9) IC 16-41-13;

is entitled to a pro rata share of the money remaining at the end of the state fiscal year in the fund established under this chapter.

As added by P.L.2-1993, SEC.4. Amended by P.L.138-2006, SEC.4.

IC 16-21-7-5
Violations

Sec. 5. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.
As added by P.L.2-1993, SEC.4.

IC 16-21-7.5
Repealed
(Repealed by P.L.138-2014, SEC.7.)

IC 16-21-8

Chapter 8. Emergency Services to Sex Crime Victims

IC 16-21-8-0.1

Repealed

(As added by P.L.41-2007, SEC.6. Repealed by P.L.161-2014, SEC.10.)

IC 16-21-8-0.2

Definitions

Sec. 0.2. The following definitions apply throughout this chapter:

(1) "Division" refers to the victim services division of the Indiana criminal justice institute established by IC 5-2-6-8(a).

(2) "Evidence" means the results collected from a forensic medical examination of a victim by a provider.

(3)"Provider" means a hospital or licensed medical services provider that provides forensic medical exams and additional forensic services to a victim.

(4) "Sample" means the result collected from a forensic medical examination of the victim by a provider, when the victim has not yet reported the sex crime to law enforcement.

(5) "Secured storage" means a method of storing a sample that will adequately safeguard the integrity and viability of the sample.

(6) "Sexual assault examination kit" means the standard medical forensic examination kit for victims of sexual assault developed by the state police department under IC 10-11-2-33.

(7) "Sexual assault nurse examiner" means a registered nurse who:

(A) has received training to provide comprehensive care to sexual assault survivors; and

(B) can:

(i) conduct a forensic medical examination; and

(ii) collect evidence from a sexual assault victim.

As added by P.L.161-2014, SEC.11.

IC 16-21-8-0.3

Repealed

(As added by P.L.41-2007, SEC.7. Repealed by P.L.161-2014, SEC.12.)

IC 16-21-8-0.5

Repealed

(As added by P.L.90-2005, SEC.4. Amended by P.L.41-2007, SEC.8. Repealed by P.L.161-2014, SEC.13.)

IC 16-21-8-0.6

Repealed

(As added by P.L.90-2005, SEC.5. Amended by P.L.121-2006, SEC.22; P.L.41-2007, SEC.9. Repealed by P.L.161-2014, SEC.14.)

IC 16-21-8-0.7
Repealed

(As added by P.L.90-2005, SEC.6. Amended by P.L.41-2007, SEC.10. Repealed by P.L.161-2014, SEC.15.)

IC 16-21-8-0.8
Repealed

(As added by P.L.41-2007, SEC.11. Repealed by P.L.161-2014, SEC.16.)

IC 16-21-8-0.9
Repealed

(As added by P.L.41-2007, SEC.12. Repealed by P.L.161-2014, SEC.17.)

IC 16-21-8-1
Forensic medical exams and additional forensic services; rules; enumeration of sex crimes

Sec. 1. (a) A hospital licensed under IC 16-21-2 that provides general medical and surgical hospital services shall provide forensic medical exams and additional forensic services to all alleged sex crime victims who apply for forensic medical exams and additional forensic services in relation to injuries or trauma resulting from the alleged sex crime. To the extent practicable, the hospital shall use a sexual assault examination kit to conduct forensic exams and provide forensic services. The provision of services may not be dependent on a victim's reporting to, or cooperating with, law enforcement.

(b) For the purposes of this chapter, the following crimes are considered sex crimes:

(1) Rape (IC 35-42-4-1).
(2) Criminal deviate conduct (IC 35-42-4-2) (repealed).
(3) Child molesting (IC 35-42-4-3).
(4) Vicarious sexual gratification (IC 35-42-4-5).
(5) Sexual battery (IC 35-42-4-8).
(6) Sexual misconduct with a minor (IC 35-42-4-9).
(7) Child solicitation (IC 35-42-4-6).
(8) Child seduction (IC 35-42-4-7).
(9) Incest (IC 35-46-1-3).

(c) Payment for services under this section shall be processed in accordance with rules adopted by the victim services division of the Indiana criminal justice institute.

As added by P.L.2-1993, SEC.4. Amended by P.L.47-1993, SEC.7; P.L.36-1997, SEC.7; P.L.121-2006, SEC.23; P.L.41-2007, SEC.13; P.L.158-2013, SEC.228; P.L.214-2013, SEC.15; P.L.161-2014, SEC.18.

IC 16-21-8-1.1
Forensic medical examinations without consent of the examinee

Sec. 1.1. (a) A provider may conduct a forensic medical examination without the consent of the person who is the subject of the examination, or the consent of another person authorized to give consent under IC 16-36-1-5, if the following conditions are met:

(1) The person:
(A) does not have the capacity to provide informed consent under IC 16-36-1; and
(B) is, based on the medical opinion of the health care provider, incapable of providing consent within the time for evidence to be collected through a forensic medical examination.
(2) The provider has a reasonable suspicion that the person may be the victim of a sex crime.
(3) A person authorized to give consent under IC 16-36-1-5 is:
(A) not reasonably available; or
(B) the suspected perpetrator of the sex crime.

(b) A provider is immune from civil liability for conducting a forensic medical examination without consent in accordance with this section unless performance of the forensic medical examination constitutes gross negligence or willful or wanton misconduct.

As added by P.L.161-2014, SEC.19.

IC 16-21-8-1.5
Appointment of a sexual assault response team

Sec. 1.5. If a sexual assault response team has not been established in a county, the prosecuting attorney shall appoint a sexual assault response team in that county, or the county shall join with one (1) or more other counties to create a regional team, to comply with duties assigned to sexual assault response teams under this chapter.

As added by P.L.41-2007, SEC.14.

IC 16-21-8-2
County or regional sexual response team; duties

Sec. 2. (a) Each county or regional sexual assault response team shall develop a plan that establishes the protocol for sexual assault victim response and treatment, including the:

(1) collection;
(2) preservation;
(3) secured storage; and
(4) destruction;

of samples.

(b) The plan under subsection (a) shall address the following regarding an alleged sexual assault victim who is at least eighteen (18) years of age and who either reports a sexual assault or elects not to report a sexual assault to law enforcement:

(1) The method of maintaining the confidentiality of the alleged sexual assault victim regarding the chain of custody and secured storage of a sample.
(2) The development of a victim notification form that notifies an alleged sexual assault victim of his or her rights under the law.
(3) How a victim will receive the victim notification form.
(4) Identification of law enforcement agencies that will be responsible to transport samples.
(5) Agreements between medical providers and law enforcement agencies to pick up and store samples.
(6) Maintaining samples in secured storage.
(7) Procedures to destroy a sample following applicable statute of limitations.

As added by P.L.2-1993, SEC.4. Amended by P.L.121-2006, SEC.24; P.L.41-2007, SEC.15.

IC 16-21-8-3
Forensic medical exams and additional forensic services; consent

Sec. 3. A physician or sexual assault nurse examiner who provides forensic medical exams and additional forensic services shall provide the forensic medical exams and additional forensic services to an alleged sex crime victim under this chapter with the consent of the alleged sex crime victim.

As added by P.L.2-1993, SEC.4. Amended by P.L.121-2006, SEC.25; P.L.41-2007, SEC.16.

IC 16-21-8-4
Assistance in development and operation of forensic medical exams and additional forensic services

Sec. 4. The victim services division of the Indiana criminal justice institute shall assist in the development and operation of programs that provide forensic medical exams and additional forensic services to alleged sex crime victims, and if necessary, provide grants to hospitals for this purpose.

As added by P.L.2-1993, SEC.4. Amended by P.L.47-1993, SEC.8; P.L.121-2006, SEC.26.

IC 16-21-8-5
Payment of forensic medical exams; requirements; suspension

Sec. 5. (a) The division shall award compensation or reimbursement under this chapter for forensic medical exams.

(b) The division is not required to award compensation or reimbursement under this chapter for additional forensic services unless the following conditions are met:
(1) The victim is at least eighteen (18) years of age.
(2) If the victim is less than eighteen (18) years of age, a report of the sex crime must be made to child protective services or a

law enforcement officer.

(3) The sex crime occurred in Indiana.

If the division finds a compelling reason for failure to comply with the requirements of this section, the division may suspend the requirements of this section.

(c) A claim filed for services provided at a time before the provision of the forensic medical exams and additional forensic services for which an application for reimbursement is filed is not covered under this chapter.

As added by P.L.2-1993, SEC.4. Amended by P.L.47-1993, SEC.9; P.L.90-2005, SEC.7; P.L.121-2006, SEC.27; P.L.41-2007, SEC.17.

IC 16-21-8-6

Services without charge; reimbursement

Sec. 6. (a) When a provider provides forensic medical exams and additional forensic services under this chapter to a victim, the provider shall furnish the services without charge.

(b) When a provider provides additional forensic services under section 5(b) and 5(c) of this chapter, the provider shall furnish the services without charge.

(c) The division shall reimburse a provider for the cost for providing services and shall adopt rules and procedures to provide for reimbursement.

(d) The application for reimbursement must be filed not more than one hundred eighty (180) days after the date the service was provided.

(e) The division shall approve or deny an application for reimbursement filed under subsection (b) not more than one hundred twenty (120) days after receipt of the application for reimbursement.

(f) A provider may not charge the victim for services required under this chapter despite delays in reimbursement from the division.

As added by P.L.2-1993, SEC.4. Amended by P.L.47-1993, SEC.10; P.L.36-1997, SEC.8; P.L.90-2005, SEC.8; P.L.121-2006, SEC.28.

IC 16-21-8-7

Abortion services not required

Sec. 7. This chapter does not require a hospital to provide a service related to an abortion.

As added by P.L.2-1993, SEC.4.

IC 16-21-8-9

Duties of a provider; delayed implementation

Sec. 9. (a) Prior to the discharge of a victim from the hospital, a provider shall:

(1) require the victim to sign a form that notifies the victim of his or her rights under this chapter;

(2) provide a copy of the signed form to the victim; and

(3) inform law enforcement that the sample is available.

(b) The director of the Indiana criminal justice institute may delay the implementation of this section until the earlier of the following:

(1) A date set by the director.

(2) The date funding becomes available by a grant through the criminal justice institute or by an appropriation from the general assembly.

If the director of the criminal justice institute delays implementation of this section, the director shall notify the prosecuting attorney of each county of the director's action and when funding become available to implement this section.

As added by P.L.41-2007, SEC.18.

IC 16-21-8-10

Law enforcement duty to transport a sample to secured storage; victim notification; county plans

Sec. 10. (a) Law enforcement shall:

(1) obtain the sample within forty-eight (48) hours after receiving a provider's notification; and

(2) transport the sample to secured storage.

(b) Law enforcement shall keep the sample in secured storage until the earlier of the following:

(1) At least one (1) year after the date the sample is placed in secured storage.

(2) The victim reports the sex crime to law enforcement and the sample is transported to the crime lab for investigation and use as evidence.

(c) The division shall notify the victim, as described in subsection (d), that the victim's sample will be removed from secured storage and may be destroyed if the victim does not report the sex crime to law enforcement on or before the date described in subsection (b)(1).

(d) The notice the division is required to provide a victim under subsection (c) shall be sent:

(1) by first class mail to the individual's last known address;

(2) by electronic mail to the individual's last known electronic mail address; and

(3) six (6) months and thirty (30) days before the date described in subsection (b)(1).

(e) Each county shall develop and implement a plan for the secured storage of samples.

(f) The director of the Indiana criminal justice institute may delay the implementation of this section until the earlier of the following:

(1) A date set by the director.

(2) The date funding becomes available by a grant through the criminal justice institute or by an appropriation from the general assembly.

If the director of the criminal justice institute delays implementation of this section, the director shall notify the prosecuting attorney of each county of the director's action and when funding becomes

available to implement this section.

(g) The failure to comply with:

(1) this chapter;

(2) a plan adopted by a county; or

(3) a protocol adopted by a sexual assault response team;

does not, standing alone, affect the admissibility of a sample as evidence in a criminal or civil proceeding.

As added by P.L.41-2007, SEC.19.

IC 16-21-9

Chapter 9. Provision of Charitable Care by Nonprofit Hospitals

IC 16-21-9-1

"Community benefits" defined

Sec. 1. As used in this chapter, "community benefits" means the unreimbursed cost to a hospital of providing charity care, government sponsored indigent health care, donations, education, government sponsored program services, research, and subsidized health services. The term does not include the cost to the hospital of paying any taxes or other governmental assessments.

As added by P.L.94-1994, SEC.17.

IC 16-21-9-2

"Government sponsored indigent health care" defined

Sec. 2. As used in this chapter, "government sponsored indigent health care" means the unreimbursed cost to a hospital of Medicare, providing health care services to recipients of Medicaid, and other federal, state, or local indigent health care programs, eligibility for which is based on financial need.

As added by P.L.94-1994, SEC.17.

IC 16-21-9-3

"Nonprofit hospital" defined

Sec. 3. As used in this chapter, "nonprofit hospital" means a hospital that is organized as a nonprofit corporation or a charitable trust under Indiana law or the laws of any other state or country and that is:

(1) eligible for tax exempt bond financing; or

(2) exempt from state or local taxes.

As added by P.L.94-1994, SEC.17.

IC 16-21-9-4

Organizational mission statement; community benefits plan

Sec. 4. A nonprofit hospital shall develop:

(1) an organizational mission statement that identifies the hospital's commitment to serving the health care needs of the community; and

(2) a community benefits plan defined as an operational plan for serving the community's health care needs that:

(A) sets out goals and objectives for providing community benefits that include charity care and government sponsored indigent health care; and

(B) identifies the populations and communities served by the hospital.

As added by P.L.94-1994, SEC.17.

IC 16-21-9-5
Health care needs of community

Sec. 5. When developing the community benefits plan, the hospital shall consider the health care needs of the community as determined by communitywide needs assessments.

As added by P.L.94-1994, SEC.17.

IC 16-21-9-6
Elements of community benefits plan

Sec. 6. The hospital shall include at least the following elements in the community benefits plan:

(1) Mechanisms to evaluate the plan's effectiveness, including a method for soliciting the views of the communities served by the hospital.

(2) Measurable objectives to be achieved within a specified time frame.

(3) A budget for the plan.

As added by P.L.94-1994, SEC.17.

IC 16-21-9-7
Annual report for community benefits plan

Sec. 7. (a) Each nonprofit hospital shall prepare an annual report of the community benefits plan. The report must include, in addition to the community benefits plan itself, the following background information:

(1) The hospital's mission statement.

(2) A disclosure of the health care needs of the community that were considered in developing the hospital's community benefits plan.

(3) A disclosure of the amount and types of community benefits actually provided, including charity care. Charity care must be reported as a separate item from other community benefits.

(b) Each nonprofit hospital shall annually file a report of the community benefits plan with the state department. For a hospital's fiscal year that ends before July 1, 2011, the report must be filed not later than one hundred twenty (120) days after the close of the hospital's fiscal year. For a hospital's fiscal year that ends after June 30, 2011, the report must be filed at the same time the nonprofit hospital files its annual return described under Section 6033 of the Internal Revenue Code that is timely filed under Section 6072(e) of the Internal Revenue Code, including any applicable extension authorized under Section 6081 of the Internal Revenue Code.

(c) Each nonprofit hospital shall prepare a statement that notifies the public that the annual report of the community benefits plan is:

(1) public information;

(2) filed with the state department; and

(3) available to the public on request from the state department.

This statement shall be posted in prominent places throughout the

hospital, including the emergency room waiting area and the admissions office waiting area. The statement shall also be printed in the hospital patient guide or other material that provides the patient with information about the admissions criteria of the hospital.

(d) Each nonprofit hospital shall develop a written notice about any charity care program operated by the hospital and how to apply for charity care. The notice must be in appropriate languages if possible. The notice must also be conspicuously posted in the following areas:

(1) The general waiting area.

(2) The waiting area for emergency services.

(3) The business office.

(4) Any other area that the hospital considers an appropriate area in which to provide notice of a charity care program.

As added by P.L.94-1994, SEC.17. Amended by P.L.156-2011, SEC.18; P.L.172-2011, SEC.115; P.L.6-2012, SEC.115.

IC 16-21-9-8

Failure to file annual report

Sec. 8. The state department may assess a civil penalty against a nonprofit hospital that fails to make a report of the community benefits plan as required under this chapter. The penalty may not exceed one thousand dollars ($1,000) for each day a report is delinquent after the date on which the report is due. No penalty may be assessed against a hospital under this section until thirty (30) business days have elapsed after written notification to the hospital of its failure to file a report.

As added by P.L.94-1994, SEC.17.

IC 16-21-9-9

Other rights and remedies retained

Sec. 9. The rights and remedies provided for in this chapter are in addition to other statutory or common law rights or remedies available to the state or a nonprofit hospital.

As added by P.L.94-1994, SEC.17.

IC 16-21-10
Chapter 10. Hospital Assessment Fee

IC 16-21-10-1
"Committee"
Sec. 1. As used in this chapter, "committee" refers to the hospital assessment fee committee established by section 7 of this chapter.
As added by P.L.205-2013, SEC.214.

IC 16-21-10-2
"Fee"
Sec. 2. As used in this chapter, "fee" refers to the hospital assessment fee authorized by this chapter.
As added by P.L.205-2013, SEC.214.

IC 16-21-10-3
"Fee period"
Sec. 3. As used in this chapter, "fee period" means the period during which a fee is collected under this chapter.
As added by P.L.205-2013, SEC.214.

IC 16-21-10-4
"Hospital"
Sec. 4. (a) As used in this chapter, "hospital" means either of the following:
(1) A hospital (as defined in IC 16-18-2-179(b)) licensed under this article.
(2) A private psychiatric hospital licensed under IC 12-25.
(b) The term does not include the following:
(1) A state mental health institution operated under IC 12-24-1-3.
(2) A hospital:
(A) designated by the Medicaid program as a long term care hospital;
(B) that has an average inpatient length of stay that is greater than twenty-five (25) days, as determined by the office of Medicaid policy and planning under the Medicaid program;
(C) that is a Medicare certified, freestanding rehabilitation hospital; or
(D) that is a hospital operated by the federal government.
As added by P.L.205-2013, SEC.214.

IC 16-21-10-5
"Office"
Sec. 5. As used in this chapter, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6.5-1.
As added by P.L.205-2013, SEC.214.

IC 16-21-10-5.3
Determination of a phase out period

Sec. 5.3. As used in this chapter, "phase out period" refers to the following periods:

(1) The time during which a:

(A) phase out plan;

(B) demonstration expiration plan; or

(C) similar plan approved by the United States Department of Health and Human Services;

is in effect for the healthy Indiana plan set forth in IC 12-15-44.5.

(2) The time beginning upon the office's receipt of written notice by the United States Department of Health and Human Services of its decision to:

(A) terminate or suspend the waiver demonstration for the healthy Indiana plan; or

(B) withdraw the waiver or expenditure authority for the plan;

and ending on the effective date of the termination, suspension, or withdrawal of the waiver or expenditure authority.

(3) The time beginning upon:

(A) the office's determination to terminate the healthy Indiana plan; or

(B) the termination of the plan under IC 12-15-44.5-4(b);

if subdivisions (1) through (2) do not apply, and ending on the effective date of the termination of the healthy Indiana plan.

As added by P.L.213-2015, SEC.140. Amended by P.L.30-2016, SEC.37.

IC 16-21-10-6
Authority to assess hospital assessment fee; prerequisites; conditions for terminating the fee; records and reports

Sec. 6. (a) Subject to subsection (b) and section 8(b) of this chapter, the office may assess a hospital assessment fee to hospitals during the fee period if the following conditions are met:

(1) The fee may be used only for the purposes described in the following:

(A) Section 8(c)(1) of this chapter.

(B) Section 9 of this chapter.

(C) Section 11 of this chapter.

(D) Section 13.3 of this chapter.

(E) Section 14 of this chapter.

(2) The Medicaid state plan amendments and waiver requests required for the implementation of this chapter are submitted by the office to the United States Department of Health and Human Services before October 1, 2013.

(3) The United States Department of Health and Human Services approves the Medicaid state plan amendments and

waiver requests, or revisions of the Medicaid state plan amendments and waiver requests, described in subdivision (2):

(A) not later than October 1, 2014; or

(B) after October 1, 2014, if a date is established by the committee.

(4) The funds generated from the fee do not revert to the state general fund.

(b) The office shall stop collecting a fee, the programs described in section 8(a) of this chapter shall be reconciled and terminated subject to section 9(c) of this chapter, and the operation of section 11 of this chapter ends subject to section 9(c) of this chapter, if any of the following occurs:

(1) An appellate court makes a final determination that either:

(A) the fee; or

(B) any of the programs described in section 8(a) of this chapter;

cannot be implemented or maintained.

(2) The United States Department of Health and Human Services makes a final determination that the Medicaid state plan amendments or waivers submitted under this chapter are not approved or cannot be validly implemented.

(3) The fee is not collected because of circumstances described in section 8(d) of this chapter.

(c) The office shall keep records of the fees collected by the office and report the amount of fees collected under this chapter to the budget committee.

As added by P.L.205-2013, SEC.214. Amended by P.L.213-2015, SEC.141.

IC 16-21-10-7

Hospital assessment fee committee established; membership; meeting requirements; requirements for approval and determinations concerning the healthy Indiana plan 2.0 and incremental fee

Sec. 7. (a) The hospital assessment fee committee is established. The committee consists of the following four (4) voting members:

(1) The secretary of family and social services appointed under IC 12-8-1.5-2 or the secretary's designee, who shall serve as the chair of the committee.

(2) The budget director or the budget director's designee.

(3) Two (2) individuals appointed by the governor from a list of at least four (4) individuals submitted by the Indiana Hospital Association.

The committee members described in subdivision (3) serve at the pleasure of the governor. If a vacancy occurs among the members appointed under subdivision (3), the governor shall appoint a replacement committee member from a list of at least two (2) individuals submitted by the Indiana Hospital Association.

(b) The committee shall review any Medicaid state plan amendments, waiver requests, or revisions to any Medicaid state plan amendments or waiver requests, to implement or continue the implementation of this chapter for the purpose of establishing favorable review of the amendments, requests, and revisions by the United States Department of Health and Human Services.

(c) The committee shall meet at the call of the chair. The members serve without compensation.

(d) A quorum consists of at least three (3) members. An affirmative vote of at least three (3) members of the committee is necessary to approve Medicaid state plan amendments, waiver requests, revisions to the Medicaid state plan or waiver requests, and the approvals and other determinations required of the committee under IC 12-15-44.5 and section 13.3 of this chapter.

(e) The following apply to the approvals and any other determinations required by the committee under IC 12-15-44.5 and section 13.3 of this chapter:

(1) The committee shall be guided and subject to the intent of the general assembly in the passage of IC 12-15-44.5 and section 13.3 of this chapter.

(2) The chair of the committee shall report any approval and other determination by the committee to the budget committee.

(3) If, in taking action, the committee's vote is tied, the committee shall follow the following procedure:

(A) The chair of the committee shall notify the chairman of the budget committee of the tied vote and provide a summary of that matter that was the subject of the vote.

(B) The chairman of the budget committee shall provide each committee member who voted an opportunity to appear before the budget committee to present information and materials to the budget committee concerning the matter that was the subject of the tied vote.

(C) Following a presentation of the information and the materials described in clause (B), the budget committee may make recommendations to the committee concerning the matter that was the subject of the tied vote.

As added by P.L.205-2013, SEC.214. Amended by P.L.2-2014, SEC.77; P.L.213-2015, SEC.142.

IC 16-21-10-8

Mandatory programs for increasing Medicaid reimbursement; committee review of state plan amendments, waivers, or revisions; report to budget committee; state share dollars; termination of fee

Sec. 8. (a) This section does not apply to the use of the incremental fee described in section 13.3 of this chapter. Subject to subsection (b), the office shall develop the following programs designed to increase, to the extent allowable under federal law, Medicaid reimbursement for inpatient and outpatient hospital

services provided by a hospital to Medicaid recipients:

(1) A program concerning reimbursement for the Medicaid fee-for-service program that, in the aggregate, will result in payments equivalent to the level of payment that would be paid under federal Medicare payment principles.

(2) A program concerning reimbursement for the Medicaid risk based managed care program that, in the aggregate, will result in payments equivalent to the level of payment that would be paid under federal Medicare payment principles.

(b) The office shall not submit to the United States Department of Health and Human Services any Medicaid state plan amendments, waiver requests, or revisions to any Medicaid state plan amendments or waiver requests, to implement or continue the implementation of this chapter until the committee has reviewed and approved the amendments, waivers, or revisions described in this subsection and has submitted a written report to the budget committee concerning the amendments, waivers, or revisions described in this subsection, including the following:

(1) The methodology to be used by the office in calculating the increased Medicaid reimbursement under the programs described in subsection (a).

(2) The methodology to be used by the office in calculating, imposing, or collecting the fee, or any other matter relating to the fee.

(3) The determination of Medicaid disproportionate share allotments under section 11 of this chapter that are to be funded by the fee, including the formula for distributing the Medicaid disproportionate share allotments.

(4) The distribution to private psychiatric institutions under section 13 of this chapter.

(c) This subsection applies to the programs described in subsection (a). The state share dollars for the programs must consist of the following:

(1) Fees paid under this chapter.

(2) The hospital care for the indigent funds allocated under section 10 of this chapter.

(3) Other sources of state share dollars available to the office, excluding intergovernmental transfers of funds made by or on behalf of a hospital.

The money described in subdivisions (1) and (2) may be used only to fund the part of the payments that exceed the Medicaid reimbursement rates in effect on June 30, 2011.

(d) This subsection applies to the programs described in subsection (a). If the state is unable to maintain the funding under subsection (c)(3) for the payments at Medicaid reimbursement levels in effect on June 30, 2011, because of budgetary constraints, the office shall reduce inpatient and outpatient hospital Medicaid reimbursement rates under subsection (a)(1) or (a)(2) or request

approval from the committee and the United States Department of Health and Human Services to increase the fee to prevent a decrease in Medicaid reimbursement for hospital services. If:

(1) the committee:

(A) does not approve a reimbursement reduction; or

(B) does not approve an increase in the fee; or

(2) the United States Department of Health and Human Services does not approve an increase in the fee;

the office shall cease to collect the fee and the programs described in subsection (a) are terminated.

As added by P.L.205-2013, SEC.214. Amended by P.L.213-2015, SEC.143.

IC 16-21-10-9

Hospital Medicaid fund established; purposes; distribution of excess if fee is terminated

Sec. 9. (a) This section is effective upon implementation of the fee. The hospital Medicaid fee fund is established for the purpose of holding fees collected under section 6 of this chapter, excluding the part of the fee used for purposes of section 13.3 if this chapter, that are not necessary to match federal funds.

(b) The office shall administer the fund.

(c) Money in the fund at the end of a state fiscal year attributable to fees collected to fund the programs described in section 8 of this chapter does not revert to the state general fund. However, money remaining in the fund after the cessation of the collection of the fee under section 6(b) of this chapter shall be used for the payments described in sections 8(a) and 11 of this chapter. Any money not required for the payments described in sections 8(a) and 11 of this chapter after the cessation of the collection of the fee under section 6(b) of this chapter shall be distributed to the hospitals on a pro rata basis based upon the fees paid by each hospital for the state fiscal year that ended immediately before the cessation of the collection of the fee under section 6(b) of this chapter.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

As added by P.L.205-2013, SEC.214. Amended by P.L.213-2015, SEC.144.

IC 16-21-10-10

Use of hospital care for the indigent funds as state share dollars

Sec. 10. This section:

(1) is effective upon implementation of the fee; and

(2) does not apply to funds under IC 12-16-17.

Notwithstanding any other law, the part of the amounts appropriated for or transferred to the hospital care for the indigent program for the

state fiscal year beginning July 1, 2013, and each state fiscal year thereafter that are not required to be paid to the office by law shall be used exclusively as state share dollars for the payments described in sections 8(a) and 11 of this chapter. Any hospital care for the indigent funds that are not required for the payments described in sections 8(a) and 11 of this chapter after the cessation of the collection of the fee under section 6(b) of this chapter shall be used for the state share dollars of the payments in IC 12-15-20-2(8)(G)(ii) through IC 12-15-20-2(8)(G)(x).
As added by P.L.205-2013, SEC.214.

IC 16-21-10-11
Disproportionate share payments; allocations of federal Medicaid disproportionate share allotments

Sec. 11. (a) This section:

(1) does not apply to the incremental fee described in section 13.3 of this chapter;

(2) is effective upon the implementation of the fee described in section 6 of this chapter, excluding the part of the fee used for purposes of section 13.3 of this chapter; and

(3) applies to the Medicaid disproportionate share payments for the state fiscal year beginning July 1, 2013, and each state fiscal year thereafter.

(b) The state share dollars used to fund disproportionate share payments to acute care hospitals licensed under IC 16-21-2 that qualify as disproportionate share providers or municipal disproportionate share providers under IC 12-15-16-1(a) or IC 12-15-16-1(b) shall be paid with money collected through the fee and the hospital care for the indigent dollars described in section 10 of this chapter.

(c) The federal Medicaid disproportionate share allotments for the state fiscal years beginning July 1, 2013, and each state fiscal year thereafter shall be allocated in their entirety to acute care hospitals licensed under IC 16-21-2 that qualify as disproportionate share providers or municipal disproportionate share providers under IC 12-15-16-1(a) or IC 12-15-16-1(b). No part of the federal disproportionate share allotments applicable for disproportionate share payments for the state fiscal year beginning July 1, 2013, and each state fiscal year thereafter may be allocated to institutions for mental disease or other mental health facilities, as defined by applicable federal law.
As added by P.L.205-2013, SEC.214. Amended by P.L.213-2015, SEC.145; P.L.30-2016, SEC.38.

IC 16-21-10-12
Repealed

(As added by P.L.205-2013, SEC.214. Amended by P.L.213-2015, SEC.146. Repealed by P.L.30-2016, SEC.39.)

IC 16-21-10-13

Disproportionate share dollars that are unavailable to private psychiatric institutions

Sec. 13. This section does not apply to the use of the incremental fee described in section 13.3 of this chapter. Notwithstanding IC 12-15-16-6(c), the annual two million dollar ($2,000,000) pool of disproportionate share dollars under IC 12-15-16-6(c) shall not be available to eligible private psychiatric institutions. The office shall annually distribute two million dollars ($2,000,000) to eligible private psychiatric institutions that would have been eligible for payment under IC 12-15-16-6(c).

As added by P.L.205-2013, SEC.214. Amended by P.L.213-2015, SEC.147.

IC 16-21-10-13.3

Incremental fees; uses; requirements before collection can occur; deposit of incremental fees; limitations on use of incremental fees to fund the state share of expenses

Sec. 13.3. (a) This section is effective beginning February 1, 2015. As used in this section, "plan" refers to the healthy Indiana plan established in IC 12-15-44.5.

(b) Subject to subsections (c) through (e), the incremental fee under this section may be used to fund the state share of the expenses specified in this subsection if, after January 31, 2015, but before the collection of the fee under this section, the following occur:

(1) The committee establishes a fee formula to be used to fund the state share of the following expenses described in this subdivision:

(A) The state share of the capitated payments made to a managed care organization that contracts with the office to provide health coverage under the plan to plan enrollees other than plan enrollees who are eligible for the plan under Section 1931 of the federal Social Security Act.

(B) The state share of capitated payments described in clause (A) for plan enrollees who are eligible for the plan under Section 1931 of the federal Social Security Act that are limited to the difference between:

(i) the capitation rates effective September 1, 2014, developed using Medicaid reimbursement rates; and

(ii) the capitation rates applicable for the plan developed using the plan's Medicare reimbursement rates described in IC 12-15-44.5-5(a)(2).

(C) The state share of the state's contributions to plan enrollee accounts.

(D) The state share of amounts used to pay premiums for a premium assistance plan implemented under IC 12-15-44.2-20.

(E) The state share of the costs of increasing reimbursement rates for health care services provided to individuals enrolled in Medicaid programs other than the plan.

(F) The state share of the state's administrative costs that, for purposes of this clause, may not exceed one hundred seventy dollars ($170) per person per plan enrollee per year, and adjusted annually by the Consumer Price Index.

(G) The money described in IC 12-15-44.5-6(a) for the phase out period of the plan.

(2) The committee approves a process to be used for reconciling:

(A) the state share of the costs of the plan;

(B) the amounts used to fund the state share of the costs of the plan; and

(C) the amount of fees assessed for funding the state share of the costs of the plan.

For purposes of this subdivision, "costs of the plan" includes the costs of the expenses listed in subdivision (1)(A) through (1)(G).

The fees collected under subdivision (1)(A) through (1)(F) shall be deposited into the incremental hospital fee fund established by section 13.5 of this chapter. Fees described in subdivision (1)(G) shall be deposited into the phase out trust fund described in IC 12-15-44.5-7. The fees used for purposes of funding the state share of expenses listed in subdivision (1)(A) through (1)(F) may not be used to fund expenses incurred on or after the commencement of a phase out period of the plan.

(c) For each state fiscal year for which the fee authorized by this section is used to fund the state share of the expenses described in subsection (b)(1), the amount of fees shall be reduced by:

(1) the amount of funds annually designated by the general assembly to be deposited in the healthy Indiana plan trust fund established by IC 12-15-44.2-17; less

(2) the annual cigarette tax funds annually appropriated by the general assembly for childhood immunization programs under IC 12-15-44.2-17(a)(3).

(d) The incremental fee described in this section may not:

(1) be assessed before July 1, 2016; and

(2) be assessed or collected on or after the beginning of a phase out period of the plan.

(e) This section is not intended to and may not be construed to change or affect any component of the programs established under section 8 of this chapter.

As added by P.L.213-2015, SEC.148. Amended by P.L.30-2016, SEC.40.

IC 16-21-10-13.5

Incremental hospital fee fund established; content; administration;

uses; distribution of remaining fund during phase out period to hospitals

Sec. 13.5. (a) The incremental hospital fee fund is established for the purpose of holding fees collected under section 13.3 of this chapter.

(b) The office shall administer the fund.

(c) Money in the fund consists of the following:

(1) Fees collected under section 13.3 of this chapter.

(2) Donations, gifts, and money received from any other source.

(3) Interest accrued under this section.

(d) Money in the fund may be used only for the following:

(1) To fund exclusively the state share of the expenses listed in section 13.3(b)(1)(A) through 13.3(b)(1)(F) of this chapter.

(2) To refund hospitals in the same manner as described in subsection (g) as soon as reasonably possible after the beginning of a phase out period of the healthy Indiana plan.

(e) Money remaining in the fund at the end of a state fiscal year does not revert to the state general fund.

(f) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

(g) Upon the beginning of a phase out period of the healthy Indiana plan, money collected under section 13.3 of this chapter and any accrued interest remaining in the fund shall be distributed to the hospitals on a pro rata basis based upon the fees authorized by this chapter that were paid by each hospital for the state fiscal year that ended immediately before the beginning of the phase out period.

As added by P.L.213-2015, SEC.149. Amended by P.L.30-2016, SEC.41.

IC 16-21-10-14

Permissible uses of hospital assessment fees

Sec. 14. This section does not apply to the use of the incremental fee described in section 13.3 of this chapter. The fees collected under section 8 of this chapter may be used only as described in this chapter or to pay the state's share of the cost for Medicaid services provided under the federal Medicaid program (42 U.S.C. 1396 et seq.) as follows:

(1) Twenty-eight and five-tenths percent (28.5%) may be used by the office for Medicaid expenses.

(2) Seventy-one and five-tenths percent (71.5%) to hospitals.

As added by P.L.205-2013, SEC.214. Amended by P.L.213-2015, SEC.150.

IC 16-21-10-15

Rule of statutory construction; local fees, taxes, or assessments not permitted

Sec. 15. This chapter may not be construed to authorize any county, municipality, district, or authority to impose a fee, tax, or assessment on a hospital.
As added by P.L.205-2013, SEC.214.

IC 16-21-10-16
Rules
Sec. 16. Subject to section 8(b) of this chapter, the office may adopt rules, including emergency rules adopted in the manner provided under IC 4-22-2-37.1, necessary to implement this chapter. Rules adopted under this section may be retroactive to the effective date of the Medicaid state plan amendments or waivers approved under this chapter.
As added by P.L.205-2013, SEC.214.

IC 16-21-10-17
Installment agreements
Sec. 17. The office may enter into an agreement with a hospital to pay the fee in installments.
As added by P.L.205-2013, SEC.214.

IC 16-21-10-18
Interest on late payments; license revocations for payments at least 120 days overdue
Sec. 18. (a) A hospital shall pay to the office interest on any fee that is paid eleven (11) or more days after the payment date. The interest must be applied at the same rate as the rate determined under IC 12-15-21-3(6)(A).
(b) The office shall report to the state department of health each hospital that fails to pay the fee within one hundred twenty (120) days after the payment date. The state department shall do the following concerning a hospital described in this subsection:
(1) Notify the hospital that the hospital's license under IC 16-21 will be revoked if the fee is not paid.
(2) Revoke the hospital's license under IC 16-21 if the hospital fails to pay the fee. IC 4-21.5-3-8 and IC 4-21.5-4 apply to this subdivision.
As added by P.L.205-2013, SEC.214.

IC 16-21-10-19
Program payments
Sec. 19. Payments for the programs described in section 8(a) of this chapter are limited to claims for dates of services provided during the fee period and that are timely filed with the office or a contractor of the office. Payments for the programs described in section 8(a) of this chapter and payments to hospitals in accordance with section 11 of this chapter may occur at any time, including after collection of the fee is stopped under section 6(b) of this chapter, to

the extent the funding provided for the payments by this chapter is available under section 9(c) of this chapter. Payments for the program described in section 13 of this chapter may occur at any time, including after the collection of the fee is stopped under section 6(b) of this chapter, subject to the reconciliation and termination of the program required by section 6(b) of this chapter.
As added by P.L.205-2013, SEC.214.

IC 16-21-10-20
Collection of unpaid fees; refunds

Sec. 20. The office may collect unpaid fees owed by a hospital under this chapter and may refund fees paid by a hospital under this chapter at any time, including after the cessation of the collection of a fee under this chapter.
As added by P.L.205-2013, SEC.214.

IC 16-21-10-21
Expiration date

Sec. 21. This chapter expires June 30, 2017.
As added by P.L.205-2013, SEC.214.

IC 16-21-11

Chapter 11. Treatment of Miscarried Remains

IC 16-21-11-1

"Health care facility"

Sec. 1. As used in this chapter, "health care facility" means any of the following:

(1) A hospital.

(2) A birthing center.

(3) Any other medical facility.

As added by P.L.127-2014, SEC.4.

IC 16-21-11-2

"Miscarried fetus"

Sec. 2. As used in this chapter, "miscarried fetus" means an unborn child, irrespective of gestational age, who has died from a spontaneous or accidental death before expulsion or extraction from the unborn child's mother, irrespective of the duration of the pregnancy.

As added by P.L.127-2014, SEC.4.

IC 16-21-11-3

"Person in charge of interment"

Sec. 3. As used in this chapter, "person in charge of interment" means a person who places or causes to be placed the body of a miscarried fetus who has a gestational age of less than twenty (20) weeks of age or the ashes, after cremation, in a grave, vault, urn, or other receptacle, or who otherwise disposes of the body or ashes.

As added by P.L.127-2014, SEC.4.

IC 16-21-11-4

Determination of disposition

Sec. 4. Subject to sections 5 and 6 of this chapter, the parent or parents of a miscarried fetus may determine the final disposition of the remains of the miscarried fetus.

As added by P.L.127-2014, SEC.4.

IC 16-21-11-5

Information required; final disposition decision

Sec. 5. (a) Not more than twenty-four (24) hours after a woman has her miscarried fetus expelled or extracted in a health care facility, the health care facility shall:

(1) disclose to the parent or parents of the miscarried fetus, both orally and in writing, the parent's right to determine the final disposition of the remains of the miscarried fetus;

(2) provide the parent or parents of the miscarried fetus with written information concerning the available options for disposition of the miscarried fetus under section 6 of this

chapter and IC 16-41-16-7.6; and

(3) inform the parent or parents of the miscarried fetus of counseling that may be available concerning the death of the miscarried fetus.

(b) The parent or parents of a miscarried fetus shall inform the health care facility of the parent's decision for final disposition of the miscarried fetus after receiving the information required in subsection (a) but before the parent of the miscarried fetus is discharged from the health care facility. The health care facility shall document the parent's decision in the medical record.

As added by P.L.127-2014, SEC.4. Amended by P.L.213-2016, SEC.10.

IC 16-21-11-6

Disposition by cremation or interment; costs; permits; confidential information

Sec. 6. (a) If the parent or parents choose a location of final disposition other than the location of final disposition that is usual and customary for the health care facility, the parent or parents are responsible for the costs related to the final disposition of the fetus at the chosen location.

(b) A health care facility having possession of a miscarried fetus shall provide for the final disposition of the miscarried fetus. The burial transit permit requirements under IC 16-37-3 apply to the final disposition of the miscarried fetus, which must be cremated or interred. However:

(1) a person is not required to designate a name for the miscarried fetus on the burial transit permit and the space for a name may remain blank; and

(2) any information submitted under this section that may be used to identify the parent or parents is confidential and must be redacted from any public records maintained under IC 16-37-3.

Miscarried fetuses may be cremated by simultaneous cremation.

(c) The local health officer shall provide the person in charge of interment with a permit for the disposition of the body. A certificate of stillbirth is not required to be issued for a final disposition of a miscarried fetus having a gestational age of less than twenty (20) weeks.

(d) IC 23-14-31-26, IC 23-14-55-2, IC 25-15-9-18, and IC 29-2-19-17 concerning the authorization of disposition of human remains apply to this section.

As added by P.L.127-2014, SEC.4. Amended by P.L.213-2016, SEC.11.

IC 16-21-11.2

Chapter 11.2. Postnatal Donation Initiative

IC 16-21-11.2-1

"Postnatal donation"

Sec. 1. As used in this chapter, "postnatal donation" means any of the following donations by a patient to an umbilical cord blood bank or other similar establishment that is registered under 21 CFR 1271.1 et seq., as required by law:

(1) Postnatal fluid, including umbilical cord blood.

(2) Postnatal tissue, including the placenta and tissue extracted from an umbilical cord.

As added by P.L.138-2014, SEC.8.

IC 16-21-11.2-2

Board; members; chair; staffing by state department; duties; compensation of members

Sec. 2. (a) The postnatal donation board is established.

(b) The postnatal donation board consists of the following members:

(1) The state health commissioner or the commissioner's designee.

(2) The secretary of family and social services or the secretary's designee.

(3) The director of the state department of health's office of minority health.

(4) The following individuals appointed by the state health commissioner:

(A) One (1) president or chief executive officer of an Indiana based hospital.

(B) One (1) research scientist with expertise in umbilical cord blood research.

(C) One (1) ethicist with expertise in bioethics.

(D) One (1) physician licensed under IC 25-22.5 who specializes in birthing and delivery.

(E) One (1) representative of a donor umbilical cord blood bank.

(F) One (1) member of the interagency state council on black and minority health established under IC 16-46-6.

(c) The state health commissioner or the commissioner's designee shall chair the postnatal donation board.

(d) The state department shall staff the postnatal donation board.

(e) The postnatal donation board shall assist the state department in carrying out the postnatal donation initiative under this chapter.

(f) A member of the postnatal donation board who is not a state employee is not entitled to a salary per diem or other compensation for services as a member of the postnatal donation board. However, the member is entitled to reimbursement for travel expenses and

other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(g) A member of the postnatal donation board who is a state employee is entitled to reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

As added by P.L.138-2014, SEC.8.

IC 16-21-11.2-3

Establishment of postnatal donation initiative

Sec. 3. The state department, with the assistance of the postnatal donation board, shall establish a postnatal donation initiative to promote awareness concerning a pregnant woman's option to make a postnatal donation upon the birth of a newborn infant.

As added by P.L.138-2014, SEC.8.

IC 16-21-11.2-4

Requirements for dissemination of information; updating of materials and distribution

Sec. 4. (a) The postnatal donation initiative must include the dissemination of the following information:

(1) Information concerning the option that is available to pregnant women to make a postnatal donation upon the birth of a newborn infant.

(2) An explanation of the benefits and risks of using postnatal fluid and postnatal tissue in accordance with the National Marrow Donor Program or another federal Food and Drug Administration approved protocol, and the use of postnatal fluid and postnatal tissue for medical treatment, including the following:

(A) A list of the diseases or conditions that have been treated through the use of postnatal donations.

(B) A list of the diseases or conditions for which scientific research indicates that treatment through the use of postnatal donations are promising.

(3) Information concerning the process by which postnatal fluid and postnatal tissue are collected and the steps that a pregnant woman must take to arrange to have the postnatal fluid or postnatal tissue, or both, collected and donated.

(b) The state department shall:

(1) update the material described in subsection (a); and

(2) provide for the distribution of the information to at least the following persons that treat pregnant women:

(A) Physicians licensed under IC 25-22.5.

(B) Health care facilities.
(C) Ambulatory surgical centers.
(D) Health clinics.
(E) Maternity homes registered under IC 16-26-1.
(F) Nurse midwives licensed under IC 25-23-1-13.1.
(G) Birthing centers licensed under IC 16-21-2.

(c) A person described in subsection (b)(2) shall provide the information distributed under subsection (b) to women who:

(1) are pregnant and receive prenatal services from the person; or

(2) give birth at the person's facility.

As added by P.L.138-2014, SEC.8. Amended by P.L.48-2016, SEC.1.

IC 16-21-11.2-5
Civil immunity

Sec. 5. A member of the postnatal donation board, any of its volunteers and agents, and any person that treats pregnant women, including any person described in section 4 of this chapter, that in good faith participate in the postnatal donation initiative under this chapter is immune from civil liability for an act or omission related to participation in the postnatal donation initiative, unless the damages are the result of that person's intentional, knowing, or reckless misconduct (as defined in IC 35-41-2-2).

As added by P.L.138-2014, SEC.8.

IC 16-21-12

Chapter 12. The Caregiver Advise, Record, and Enable (CARE) Act

IC 16-21-12-1

"After care"

Sec. 1. As used in this chapter, "after care" means assistance provided by a lay caregiver to a patient in the patient's residence under an at home care plan following the patient's discharge from a hospital. The assistance may include any of the following:

(1) Assisting with basic activities of daily living.

(2) Assisting with instrumental activities of daily living.

(3) Assisting with medical or nursing tasks, including:

(A) managing wound care;

(B) assisting in administering medications; or

(C) operating medical equipment.

As added by P.L.137-2015, SEC.6.

IC 16-21-12-2

"At home care plan"

Sec. 2. As used in this chapter, "at home care plan" means any plan that serves to describe the after care needs of a patient upon discharge from a hospital to the patient's residence, if the at home care plan:

(1) is developed by:

(A) a registered nurse licensed under IC 25-23, social worker licensed under IC 25-23.6, or other licensed health care professional; or

(B) an individual supervised by a licensed registered nurse, licensed social worker, or other licensed health care professional;

(2) is based on an evaluation of the patient's need for after care, taking into consideration the patient's functional status and cognitive ability, including the patient's capacity for self care; and

(3) includes contact information for hospital personnel or the patient's physician if the patient or the patient's lay caregiver designated under this chapter has questions regarding the patient's after care.

The term includes a discharge plan prepared for the patient that is developed under the discharge planning requirements of the Medicare program's conditions of participation.

As added by P.L.137-2015, SEC.6.

IC 16-21-12-3

"Discharge"

Sec. 3. As used in this chapter, "discharge" means a patient's exit or release from a hospital following an inpatient hospitalization.

As added by P.L.137-2015, SEC.6.

IC 16-21-12-4
"Health care representative"

Sec. 4. As used in this chapter, "health care representative" means an individual appointed as the patient's health care representative under IC 16-36-1-7 or an individual holding the patient's health care power of attorney under IC 30-5-5-16. However, if the patient has not appointed a health care representative under IC 16-36-1-7 or granted a health care power of attorney to an individual under IC 30-5-5-16, the term means an individual authorized to consent to health care for the patient under IC 16-36-1-5.
As added by P.L.137-2015, SEC.6.

IC 16-21-12-5
"Lay caregiver"

Sec. 5. As used in this chapter, "lay caregiver" means an individual who:

(1) has a significant relationship with a patient;
(2) is designated as a lay caregiver by:
  (A) the patient;
  (B) the patient's health care representative; or
  (C) if the patient has not appointed a health care representative, the patient's legal guardian;
under this chapter; and
(3) provides after care to the patient.

As added by P.L.137-2015, SEC.6.

IC 16-21-12-6
"Residence"

Sec. 6. As used in this chapter, "residence" means a dwelling considered by a patient to be the patient's temporary or permanent home. The term does not include a hospital licensed under this article, a health facility or residential care facility licensed under IC 16-28, a state mental health institution operated under IC 12-24-1-3, a private mental health institution licensed under IC 12-25, an assisted living facility registered with the office of the secretary of family and social services as a housing with services establishment, or an institution or facility operated by the department of correction or a law enforcement agency.
As added by P.L.137-2015, SEC.6.

IC 16-21-12-7
Opportunity to designate lay caregiver; documentation; hospital responsibilities upon designation

Sec. 7. (a) As soon as practicable following a patient's admission to a hospital as an inpatient and before the patient's discharge from the hospital to the patient's residence or transfer to another facility,

the hospital shall provide each patient or the patient's health care representative with an opportunity to designate a lay caregiver. A patient or the patient's health care representative may decline to designate a lay caregiver.

(b) If a patient or the patient's health care representative declines to designate a lay caregiver, or does not provide the written consent or the information described in subsection (c), the hospital shall document that fact in the patient's medical record and the hospital is considered to have complied with the requirements of this chapter.

(c) If a patient or the patient's health care representative designates a lay caregiver, the hospital shall do the following:

(1) Request written consent by the patient or the patient's health care representative to release medical information to the patient's designated lay caregiver following the hospital's procedures for releasing personal health information in compliance with federal and state laws.

(2) Record the following information in the patient's medical record concerning the designated lay caregiver:

(A) The name, address, and telephone number of the designated lay caregiver.

(B) The relationship between the patient and the designated lay caregiver.

As added by P.L.137-2015, SEC.6.

IC 16-21-12-8

Provision of preferred means to contact lay caregiver; use by hospital; notification to lay caregiver if patient unable

Sec. 8. (a) If a patient or the patient's health care representative designates a lay caregiver, and provides the written consent and the other information described in section 7(c) of this chapter, the hospital shall, as soon as practicable before the patient's discharge from the hospital, provide the patient or the patient's health care representative with an opportunity to advise hospital personnel of a preferred means of contacting the lay caregiver.

(b) If the patient or the patient's health care representative advises hospital personnel of a preferred means of contacting the designated lay caregiver under subsection (a), the hospital shall, when attempting to contact a patient's designated lay caregiver, attempt to use the preferred means of contact provided in subsection (a) if the preferred means of contact is permitted by the hospital and is readily available for use by hospital personnel when attempting to contact the lay caregiver.

(c) If hospital personnel, in the exercise of their professional judgment, determine that a patient lacks the physical or mental capacity to accurately and timely notify the patient's lay caregiver of the patient's pending discharge or transfer to another facility, the hospital shall, within a reasonable time before the patient's discharge or transfer, attempt to notify the patient's lay caregiver of the pending

discharge or transfer.
As added by P.L.137-2015, SEC.6.

IC 16-21-12-9
Hospital attempt to consult with lay caregiver; at home care plan

Sec. 9. (a) If a patient or the patient's health care representative:

(1) designates a lay caregiver; and

(2) provides the written consent and the other information described in section 7(c) of this chapter;

the hospital shall, as soon as practicable before the patient's discharge from a hospital, attempt to consult with the designated lay caregiver to prepare the lay caregiver for the patient's after care needs and issue an at home care plan that describes the patient's after care needs upon discharge from the hospital to the patient's residence.

(b) An at home care plan may include contact information for health care, community resources, and long term services and supports necessary to successfully carry out the patient's at home care plan.
As added by P.L.137-2015, SEC.6.

IC 16-21-12-10
Opportunity for lay caregiver to ask questions; live or recorded demonstration of after care needs

Sec. 10. (a) As part of the consultation under section 9(a) of this chapter, the hospital shall attempt to provide the designated lay caregiver the opportunity to ask questions and receive answers about the after care needs of the patient.

(b) If the hospital personnel who consult with the lay caregiver under section 9(a) of this chapter, determine, in the exercise of their professional judgment, that a live or recorded demonstration is necessary in order to appropriately prepare the lay caregiver for the patient's after care needs, the hospital may provide to a designated lay caregiver a live or recorded demonstration of the after care described in the patient's at home care plan.
As added by P.L.137-2015, SEC.6.

IC 16-21-12-11
No interference or delay of medical care if unable to contact lay caregiver

Sec. 11. If the hospital is unable to contact the designated lay caregiver, the lack of contact may not interfere with, delay, or otherwise affect the medical care provided to the patient or an otherwise appropriate discharge or transfer to another facility.
As added by P.L.137-2015, SEC.6.

IC 16-21-12-12
No requirement to designate lay caregiver

Sec. 12. This chapter may not be construed to require a patient or the patient's health care representative to designate a lay caregiver.
As added by P.L.137-2015, SEC.6.

IC 16-21-12-13
No obligation for lay caregiver to perform after care

Sec. 13. The designation of a lay caregiver does not obligate any individual to perform any after care for the patient.
As added by P.L.137-2015, SEC.6.

IC 16-21-12-14
No interference with, delay, or affect on patient care

Sec. 14. A hospital may not allow the process of appointing or the refusal or failure to appoint a lay caregiver for a patient to interfere with, delay, or otherwise affect the services that the hospital provides to a patient.
As added by P.L.137-2015, SEC.6.

IC 16-21-12-15
No interference with health care representative rights; no private right of action against hospital

Sec. 15. (a) This chapter may not be construed to interfere with the rights of a health care representative appointed under IC 16-36-1.

(b) This chapter may not be construed to create a private right of action against a hospital, a hospital employee, or an individual with whom a hospital has a contractual relationship.

(c) No cause of action of any type arises against a hospital, a hospital employee, a staff member, or an individual with whom a hospital has a contractual relationship based upon an act or omission of a lay caregiver.
As added by P.L.137-2015, SEC.6.

IC 16-21-12-16
No new reimbursement requirements under chapter

Sec. 16. This chapter may not be construed to establish a new requirement to reimburse or otherwise pay for services rendered by a lay caregiver for after care services.
As added by P.L.137-2015, SEC.6.

IC 16-22

ARTICLE 22. COUNTY HOSPITALS

IC 16-22-1

Chapter 1. Applicability

IC 16-22-1-1

Application of article

Sec. 1. This article applies to the following:

(1) Hospitals organized or established before September 2, 1971, under IC 16-12 or IC 16-12.1.

(2) Hospitals organized or established under IC 16-12 or IC 16-12.1 before July 1, 1993.

(3) Hospitals organized or established under this article.

As added by P.L.2-1993, SEC.5.

IC 16-22-2

Chapter 2. County Hospital Governing Boards

IC 16-22-2-1

Establishment

Sec. 1. (a) A county executive may establish a hospital in the following manner:

(1) The county executive shall promptly determine the following:

(A) The buildings and the estimated cost of the buildings needed to serve the needs of the county.

(B) The method of financing the hospital buildings.

(C) The estimated amount of money to be raised by the sale of general obligation bonds of the county or revenue bonds of an authority.

(2) The county executive shall enter an order establishing the hospital.

(b) The appointment of the members of the board and the acquisition and financing of hospital buildings shall be done under this article.

As added by P.L.2-1993, SEC.5.

IC 16-22-2-2

Board; qualifications; appointments; terms; vacancies

Sec. 2. (a) Except as otherwise provided in this article or in IC 16-12.1 (before its repeal on July 1, 1993), each hospital established under this article or IC 16-12.1 (before its repeal on July 1, 1993) must have a board of four (4) members, appointed by the county executive. All four (4) members must be residents of the county in which the hospital is located and one (1) member may be a licensed physician who is a member of the medical staff of the hospital. When appointing a physician member, the county executive shall consider the recommendation of the medical staff of the hospital.

(b) The initial appointments made under this section are as follows:

(1) One (1) member holds office for one (1) year.

(2) One (1) member holds office for two (2) years.

(3) One (1) member holds office for three (3) years.

(4) One (1) member holds office for four (4) years.

(c) After the initial appointments, board members shall be appointed to serve terms of four (4) years.

(d) Except as provided in section 11 of this chapter, a vacancy on the board shall be filled by the county executive, and the appointee shall be appointed to complete the unexpired term of the member whose office has been vacated.

As added by P.L.2-1993, SEC.5. Amended by P.L.91-2002, SEC.1 and P.L.100-2002, SEC.1.

IC 16-22-2-3
Governing board; qualifications; appointments; terms; residence limitations

Sec. 3. (a) This section applies to hospitals operated under IC 16-12-1 (before its repeal on July 1, 1993).

(b) The management of a hospital shall be under the control of a governing board consisting of eleven (11) members. Three (3) of the members of the governing board must be the members of the county executive.

(c) Subject to subsection (e), if the hospital is acquired or equipped without the aid of a hospital association:

(1) three (3) members of the governing board shall be appointed by the county executive; and

(2) five (5) members of the governing board, one (1) of whom may be a licensed physician, shall be appointed by the county fiscal body.

(d) Subject to subsection (e), if the hospital is acquired or equipped with the aid of a hospital association:

(1) four (4) members of the governing board, one (1) of whom may be a licensed physician, shall be appointed by the hospital association;

(2) two (2) members of the governing board shall be appointed by the county executive; and

(3) two (2) members of the governing board shall be appointed by the county fiscal body.

(e) Not more than two (2) members of a governing board appointed under this section may reside in a county other than the county in which the hospital is located. A member who is not a resident of the county in which the hospital is located must:

(1) be an Indiana resident; and

(2) be appointed upon a submission made under section 11 of this chapter by the governing board of the hospital to the appointing authority.

(f) The term of an appointed member of the governing board is two (2) years, except a person appointed by the county executive under subsection (c)(1) or (d)(2) serves a one (1) year term. Thereafter, the persons appointed by the county executive to succeed initial persons serve two (2) year terms.

As added by P.L.2-1993, SEC.5. Amended by P.L.80-2011, SEC.1.

IC 16-22-2-3.1
Governing board; members; residence limitations; terms; vacancy

Sec. 3.1. (a) This section applies to a hospital operated under IC 16-12-4-2 (before its repeal on July 1, 1993) that is located in a county having a population of more than forty-two thousand three hundred (42,300) but less than forty-three thousand (43,000).

(b) The management of a hospital is under the control of a

governing board. The governing board consists of nine (9) members appointed by the county executive as follows:

(1) Three (3) members must be members of the county executive.

(2) Six (6) members meeting the following requirements:

(A) At least four (4) members must be residents of the county.

(B) Not more than two (2) members appointed under this subdivision may reside in a county other than the county in which the hospital is located. A member who is not a resident of the county in which the hospital is located must:

(i) be an Indiana resident; and

(ii) be appointed upon a submission made under section 11 of this chapter by the governing board of the hospital to the appointing authority.

(C) One (1) member appointed under this subdivision may also be a licensed physician.

(c) The term of each member of the governing board is three (3) years.

(d) If a vacancy occurs due to the expiration of an appointed member's term and the county executive does not fill the vacancy within sixty (60) days from the date of expiration, the member whose term has expired is automatically reappointed for another term.

As added by P.L.56-1995, SEC.2. Amended by P.L.91-2002, SEC.2 and P.L.100-2002, SEC.2; P.L.80-2011, SEC.2; P.L.119-2012, SEC.131.

IC 16-22-2-4

Governing board in certain counties; members; residence limitations; terms

Sec. 4. (a) This section applies to the governing boards of county hospitals in a county having a population of more than thirty-eight thousand two hundred (38,200) but less than thirty-eight thousand five hundred (38,500).

(b) Subject to subsection (c), the governing board of a county hospital consists of seven (7) members, as follows:

(1) Three (3) members must be the members of the county executive.

(2) Four (4) members, one (1) of whom may be a licensed physician, shall be appointed by the judge of the circuit court of the county.

(c) Not more than two (2) members of a governing board appointed under this section may reside in a county other than the county in which the hospital is located. A member who is not a resident of the county in which the hospital is located must:

(1) be an Indiana resident; and

(2) be appointed upon a submission made under section 11 of this chapter by the governing board of the hospital to the

appointing authority.

(d) The term of office for members of the governing board, other than the members of the county executive, is two (2) years.

As added by P.L.2-1993, SEC.5. Amended by P.L.170-2002, SEC.103; P.L.80-2011, SEC.3; P.L.119-2012, SEC.132.

IC 16-22-2-5

Governing board; members; residence limitations; terms

Sec. 5. (a) This section applies to county hospitals in counties having a population of more than seventeen thousand three hundred fifty (17,350) but less than eighteen thousand (18,000).

(b) Subject to subsection (e), the hospital and the affairs and business of the hospital shall be under the management and control of a governing board consisting of seven (7) members as follows:

(1) Three (3) members must be members of the county executive.

(2) Two (2) members shall be appointed by the county fiscal body, one (1) of whom may be a licensed physician.

(3) Two (2) members shall be appointed by the county executive.

(c) One (1) of the members initially appointed by the county fiscal body serves for one (1) year and one (1) of the members initially appointed serves for two (2) years. After the initial appointment, the members serve for two (2) years.

(d) One (1) of the members initially appointed by the county executive serves for one (1) year and one (1) of the members initially appointed serves for two (2) years. After the initial appointment, the members serve for two (2) years.

(e) Not more than two (2) members of a governing board appointed under this section may reside in a county other than the county in which the hospital is located. A member who is not a resident of the county in which the hospital is located must:

(1) be an Indiana resident; and

(2) be appointed upon a submission made under section 11 of this chapter by the governing board of the hospital to the appointing authority.

As added by P.L.2-1993, SEC.5. Amended by P.L.35-1997, SEC.2; P.L.91-2002, SEC.3 and P.L.100-2002, SEC.3; P.L.80-2011, SEC.4; P.L.119-2012, SEC.133.

IC 16-22-2-5.5

Repealed

(Repealed by P.L.64-1998, SEC.8.)

IC 16-22-2-6

County hospital governing board; membership; terms of office

Sec. 6. (a) This section applies to hospitals established under Acts 1917, c.144, s.1.

(b) Except as provided in section 7 of this chapter, the management of the hospital shall be under the control of a governing board consisting of four (4) members appointed by the county executive. One (1) of the members may be a licensed physician. The members shall be chosen from the residents of the county.

(c) The initial terms of the members are as follows:

(1) One (1) member has a term of one (1) year.

(2) One (1) member has a term of two (2) years.

(3) One (1) member has a term of three (3) years.

(4) One (1) member has a term of four (4) years.

After the initial appointments, the members serve for four (4) years.

As added by P.L.2-1993, SEC.5. Amended by P.L.35-1997, SEC.3; P.L.91-2002, SEC.4 and P.L.100-2002, SEC.4.

IC 16-22-2-7

Governing board; membership; increase or decrease in number; qualifications; terms

Sec. 7. (a) Except as provided in subsection (d), a governing board of four (4) members in existence on September 2, 1971, may petition the county executive to increase the size of the board to five (5), six (6), seven (7), eight (8), or nine (9) members. If the county executive approves the petition, the county executive shall appoint new members to increase the number of board members to the chosen size in the following manner:

(1) All members must be residents of the county in which the hospital is located except in the following circumstances:

(A) If a determination is made to increase a board size to five (5) or six (6) members, one (1) member may be a resident of an Indiana county other than the county in which the hospital is located if the member to be appointed was recommended by the governing board as set forth in section 11 of this chapter to fill the vacancy.

(B) If a determination is made to increase a board size to at least seven (7) members, not more than two (2) members may be residents of an Indiana county other than the county in which the hospital is located if the member to be appointed was recommended by the governing board as set forth in section 11 of this chapter to fill the vacancy.

(2) If a board size of five (5) members is chosen, a new member shall be appointed for an initial term of one (1) year.

(3) If a board size of six (6) members is chosen, the new members shall be appointed in the following order as necessary:

(A) One (1) new member for an initial term of one (1) year.

(B) One (1) new member for an initial term of two (2) years.

(4) If a board size of seven (7) members is chosen, the new members shall be appointed in the following order as necessary:

(A) One (1) new member for an initial term of one (1) year.

(B) One (1) new member for an initial term of two (2) years.

(C) One (1) new member for an initial term of three (3) years.

(5) If a board size of eight (8) members is chosen, the new members shall be appointed in the following order as necessary:

(A) One (1) new member for an initial term of one (1) year.

(B) One (1) new member for an initial term of two (2) years.

(C) One (1) new member for an initial term of three (3) years.

(D) One (1) new member for an initial term of four (4) years.

(6) If a board size of nine (9) members is chosen, the new members shall be appointed in the following order as necessary:

(A) Two (2) new members for an initial term of one (1) year.

(B) One (1) new member for an initial term of two (2) years.

(C) One (1) new member for an initial term of three (3) years.

(D) One (1) new member for an initial term of four (4) years.

(7) If a board size of seven (7), eight (8), or nine (9) members is chosen, two (2) members may be licensed physicians.

(b) A governing board that has increased its size may petition the county executive to decrease the size of the board. However, a decrease under this subsection may only be accomplished through:

(1) the vacancy of a member's position, either through expiration of the member's term or any other cause; or

(2) removal of a member as provided under applicable law.

(c) There is no limit to the number of times a governing board may seek to increase or decrease its size under this section.

(d) For a governing board of four (4) members located in a county having a population of:

(1) more than fourteen thousand (14,000) but less than fifteen thousand (15,000);

(2) more than twenty-four thousand five hundred (24,500) but less than twenty-five thousand (25,000); or

(3) more than thirty-three thousand two hundred (33,200) but less than thirty-three thousand two hundred fifty (33,250);

the county executive may increase the number of board members to five (5), six (6), or seven (7), subject to the limitations of this section. After the initial appointments, each board member shall be appointed to serve for a term of four (4) years.

As added by P.L.2-1993, SEC.5. Amended by P.L.35-1997, SEC.4; P.L.91-2002, SEC.5 and P.L.100-2002, SEC.5; P.L.80-2011, SEC.5; P.L.119-2012, SEC.134.

IC 16-22-2-8

County hospitals in counties with existing city hospital operating under IC 16-23-1; creation; board and association; membership; appointment; joint operation

Sec. 8. (a) This section applies to a county where a city hospital is operated under IC 16-23-1.

(b) A county hospital may be created by an order of the county executive without filing a petition or holding an election.

(c) The county executive may create a hospital association under IC 16-22-6.

(d) An appointing board shall be formed to appoint the members of the governing board of the county hospital. The appointing board shall consist of three (3) members, as follows:

(1) The executive of the city where the city hospital is located.

(2) The judge of the circuit court of the county.

(3) A member of the county executive chosen by the county executive of the county.

(e) Each member must take and subscribe an oath for the honest and faithful performance of the member's duties, which shall be filed in the auditor's office of the county.

(f) Subject to subsection (g), the governing board consists of seven (7) members with the following qualifications:

(1) At least five (5) members must be qualified voters in the county.

(2) Not more than two (2) members may be licensed physicians.

(3) One (1) member may be a registered nurse licensed to practice in Indiana.

(g) Not more than two (2) members of a governing board appointed under this section may reside in a county other than the county in which the hospital is located. A member who is not a resident of the county in which the hospital is located must:

(1) be an Indiana resident; and

(2) be appointed upon a submission made under section 11 of this chapter by the governing board of the hospital to the appointing authority.

(h) Initial and subsequent appointments to the hospital board shall be made for staggered terms ending on February 1 to coincide with the terms of members of the city hospital board of directors created by IC 16-23-1.

(i) The appointing board members may serve without bond. The regular meeting of the appointing board for the appointment of members to the hospital board shall be on the third Monday in January of each year following the year of the initial appointments. The meeting may adjourn periodically until the appointments for all expired or vacant memberships are made. Vacancies occurring on the hospital board may be filled at a special meeting of the appointing board called by the county auditor or by two (2) members of the appointing board on five (5) days notice to all appointing board members, or without notice if all of the appointing board members are present at the meeting. Each meeting of the appointing board shall be held at the county executive's room of the county, unless by unanimous consent the board determines to hold the meeting at another location.

(j) The county executive shall choose the board's member of the

appointing board each year following the year of initial appointments at the board's regular January meeting.

(k) The governing board may operate the county hospital jointly with the city hospital operated in the same county under IC 16-23-1. The joint operation may include joint employment of an administrator and other personnel, joint policies, joint purchases, joint services, and other programs to deliver health care at a reduced cost. The governing board of the county hospital may contract with the governing board of the city hospital to allocate revenues and expenditures and for the administration of the hospitals, but records must be kept that reflect the separate ownership, financial obligations, and existence of the county hospital and the city hospital.

As added by P.L.2-1993, SEC.5. Amended by P.L.91-2002, SEC.6 and P.L.100-2002, SEC.6; P.L.80-2011, SEC.6.

IC 16-22-2-9

Board organization; bond; meetings; quorum; compensation and reimbursements

Sec. 9. (a) Each governing board member shall not more than ten (10) days after appointment and before entering on official duties take an oath to support the Constitution of the United States and the Constitution of the State of Indiana and to faithfully discharge the duties of office. The board shall adopt bylaws that provide for the election of one (1) member as chairman, one (1) member as secretary, and other officers the board considers necessary or advisable.

(b) The county treasurer of the county in which the hospital is located shall be the treasurer of the governing board. Money in the hospital fund shall be disbursed only on warrants issued by the county auditor and countersigned by the county treasurer. However, the board, with the approval of the county executive, may elect a treasurer who shall also serve as the disbursing officer of the hospital. Checks drawn by the treasurer must be countersigned by a person selected by the board. Approval by the county executive for the board to elect a treasurer is permanent, and the treasurer may not be a member of the board.

(c) The executive director and all persons whose duty it is to handle funds of the hospital must execute a corporate surety bond in an amount and with conditions required by the board. If a treasurer is elected by the board, the treasurer shall be separately bonded in an amount fixed by the board but not less than twenty-five thousand dollars ($25,000). The board may elect an assistant treasurer who may not be a member of the board and who must be separately bonded in an amount fixed by the board greater than twenty-five thousand dollars ($25,000). The bond on all persons except the treasurer and assistant treasurer may be a blanket corporate surety bond conditioned for the faithful performance of duties. All bonds

required by this subsection must be approved by the board and filed with the county recorder. The premiums shall be paid out of hospital funds.

(d) A majority of the members of the governing board constitutes a quorum, and board action requires the affirmative vote of a majority of those members present at a regular or special meeting of the board at which a quorum is present. If a board member is absent from three (3) consecutive regular board meetings or is absent from four (4) regular board meetings during a year, upon recommendation by the board, the member may be removed from office by the county executive and, except as provided in section 7(b) of this chapter, the vacancy created shall be filled as provided in section 11 of this chapter.

(e) Each board member shall be reimbursed for expenditures made by the member in performing the duties of office, and an itemized statement of expenses must be filed with the secretary and allowed by the board. Each governing board member may receive annual compensation not to exceed six thousand dollars ($6,000), with compensation to be fixed by the board. The chair of the board may receive additional compensation not to exceed one thousand two hundred dollars ($1,200) annually, with compensation to be fixed by the board.

(f) The governing board shall hold at least ten (10) regular meetings each year, and special meetings of the board may be called at any time by the chairman or two (2) members of the board. The secretary of the board shall keep a complete record of all proceedings.

(g) A board member may receive group health and life insurance benefits paid by the hospital. Health and life insurance benefits are not considered compensation under subsection (e).

(h) A board member may attend meetings and seminars for the benefit of the hospital, with the cost of the meetings and seminars paid by the hospital. A payment made by the hospital under this subsection to a board member is not considered compensation under subsection (e).

As added by P.L.2-1993, SEC.5. Amended by P.L.35-1997, SEC.5; P.L.24-2016, SEC.1.

IC 16-22-2-10

Conflicts of interest; disclosure; abstention; removal

Sec. 10. (a) An individual is not prohibited from serving as a member of the governing board if the member:

(1) has a pecuniary interest in; or

(2) derives a profit from;

a contract or purchase connected with the hospital. However, the member shall disclose the interest or profit in writing to the board and provide a copy to the state board of accounts. The member shall abstain from voting on any matter that affects the interest or profit.

(b) The governing board shall adopt a written conflict of interest policy that meets the requirements of subsection (a). The written conflict of interest policy may contain other requirements as determined by the board.

(c) A member of a governing board who violates this section or the written conflict of interest policy described in subsection (b) may be removed from the governing board by action of the board.

(d) The county executive may not:

(1) reappoint to a governing board; or

(2) appoint to a governing board;

an individual who violates this section or the written conflict of interest policy described in subsection (b) while serving or after serving as a member of a governing board.

As added by P.L.2-1993, SEC.5. Amended by P.L.125-2006, SEC.3.

IC 16-22-2-11

Vacancies on governing board

Sec. 11. (a) Except as provided in section 12 of this chapter, whenever a vacancy occurs on the governing board, the existing governing board shall submit a list of the following:

(1) At least one (1) but not more than three (3) candidates for each vacancy to be filled to the appointing authority.

(2) Qualifications for assessment of a candidate for each vacancy.

(b) For each vacancy, the appointing authority may do one (1) of the following:

(1) Appoint one (1) of the candidates submitted by the governing board.

(2) Request and receive from the governing board a second list of at least one (1) but not more than three (3) candidates.

(3) Appoint an individual who meets the requirements concerning board members and who was not named in the initial list submitted by the governing board.

The appointing authority shall consider the list of qualifications submitted by the governing board under subsection (a)(2) when making an appointment.

(c) If the appointing authority requests and receives a second list of candidates under subsection (b)(2), the appointing authority may do one (1) of the following:

(1) Appoint one (1) candidate named in the second list.

(2) Appoint an individual who meets the requirements concerning board members and who was not named in the second list of candidates submitted by the governing board.

(d) The appointment for a vacancy shall be made not more than sixty (60) days after submission of the initial list of candidates under subsection (a).

(e) If the vacancy occurred due to the expiration of a member's term and the vacancy is not filled within sixty (60) days of the

expiration date, the member whose term expired is automatically reappointed for another term.

(f) Each candidate submitted by the governing board must meet the requirements concerning governing board members.

As added by P.L.2-1993, SEC.5. Amended by P.L.56-1995, SEC.4; P.L.80-2011, SEC.7.

IC 16-22-2-12

Vacancies on governing board for certain counties

Sec. 12. (a) This section applies to governing boards of a county hospital in a county having a population of more than:

(1) seventeen thousand three hundred fifty (17,350) but less than eighteen thousand (18,000);

(2) twenty-six thousand (26,000) but less than twenty-six thousand five hundred (26,500); and

(3) forty-two thousand three hundred (42,300) but less than forty-three thousand (43,000).

(b) The appointing authority shall appoint a member to fill a vacancy on the governing board within sixty (60) days after the vacancy occurs.

As added by P.L.56-1995, SEC.5. Amended by P.L.170-2002, SEC.104; P.L.119-2012, SEC.135.

IC 16-22-2-13

Governing board membership limitation

Sec. 13. Except as otherwise required by state law, a member of an appointing authority for the governing board of a hospital established and operated under this article, except a hospital established and operated under IC 16-22-8, may not serve on the hospital's governing board.

As added by P.L.100-2002, SEC.7.

IC 16-22-2.5

Chapter 2.5. Standards for Members of a Governing Board

IC 16-22-2.5-1

Discharge of duties

Sec. 1. (a) A member of a governing board shall, based on facts then known to the member, discharge the member's duties as follows:

(1) In good faith.

(2) With the care an ordinarily prudent person in a like position would exercise under similar circumstances.

(3) In a manner the member reasonably believes to be in the best interests of the hospital.

(b) In discharging the member's duties, a member may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by one (1) of the following:

(1) A person whom the member reasonably believes to be reliable and competent in the matters presented.

(2) Legal counsel, public accountants, or other persons as to matters the member reasonably believes are within the person's professional or expert competence.

(c) A member is not acting in good faith if the member has knowledge concerning a matter in question that makes reliance otherwise permitted by subsection (b) unwarranted.

As added by P.L.125-2006, SEC.4.

IC 16-22-2.5-2

Confidential information

Sec. 2. All proprietary and competitive information concerning the county hospital is confidential. A member of a governing board may not disclose confidential information concerning the county hospital to any person not authorized to receive this information.

As added by P.L.125-2006, SEC.4.

IC 16-22-2.5-3

Removal of member

Sec. 3. (a) A member of a governing board who violates this chapter may be removed from the governing board by action of the board.

(b) The county executive may not:

(1) reappoint to a governing board; or

(2) appoint to a governing board;

an individual who violated this chapter while serving or after serving as a member of a governing board.

As added by P.L.125-2006, SEC.4.

IC 16-22-2.5-4

Physician members

Sec. 4. (a) A licensed physician is eligible for appointment to a county hospital governing board only if the physician is an active member of the medical staff of the hospital or holds a position that is equivalent to being an active member of the medical staff of the hospital.

(b) A physician who is terminated from the medical staff of the hospital is removed from the governing board by operation of law.

(c) A physician whose clinical privileges or staff membership privileges have been significantly reduced shall be removed from the governing board by action of the board.

(d) If a hospital governing board has two (2) physician members under IC 16-22-2-7 or IC 16-22-2-8, only one (1) physician member must be an active member of the medical staff of the hospital or hold a position that is equivalent to being an active member of the medical staff of the hospital.

As added by P.L.125-2006, SEC.4.

IC 16-22-3

Chapter 3. Powers of Hospital Governing Boards

IC 16-22-3-1

General powers and responsibilities

Sec. 1. (a) The governing board is the supreme authority in a hospital and is responsible for the management, control, and operation of the hospital. The board has the powers and duties set forth in this chapter.

(b) The governing board has the powers granted to boards of nonprofit corporations under IC 23-17, including the powers to:

(1) join or sponsor membership in organizations and associations that benefit hospitals;

(2) enter into partnerships and joint ventures;

(3) incorporate other corporations; and

(4) offer to the general public products and services of any organization, association, partnership, or corporation described under this subsection;

except to the extent the powers are inconsistent with this article or are specifically prohibited by law.

(c) In construing subsection (b), the existence of the authority or a power shall be determined in favor of the hospital if generally authorized or existing under IC 23-17. A resolution of the governing board is presumptive evidence of the existence of the hospital's power under IC 23-17.

(d) The governing board may appoint and specify the privileges of the medical staff, with the advice and recommendations of the medical staff in accordance with section 9 of this chapter. The medical staff is responsible to the board for the clinical and scientific work of the hospital and shall advise the board regarding professional problems and policies.

As added by P.L.2-1993, SEC.5.

IC 16-22-3-2

Acquisition of real and personal property for hospital purposes

Sec. 2. (a) The governing board may purchase, construct, remodel, repair, enlarge, or acquire buildings and real or personal property for hospital purposes, upon terms and conditions acceptable to the board.

(b) The governing board may use hospital funds if adequate provision is made for working capital and other known and anticipated hospital needs.

As added by P.L.2-1993, SEC.5. Amended by P.L.56-1995, SEC.6; P.L.91-2002, SEC.7 and P.L.100-2002, SEC.8.

IC 16-22-3-3

Lease of property

Sec. 3. (a) The governing board may lease real or personal property, with or without an option to purchase, on reasonable terms

and conditions. If a lease agreement gives the hospital an option to purchase the property and if any part of the lease rental is to be applied on the purchase price if the option is exercised, the agreement shall be treated as a purchase and is subject to this chapter and other Indiana laws relating to purchases by county hospitals.

(b) The governing board may authorize the purchase or lease of a hospital building from the authority or an authority referred to in IC 5-1-16-1.

As added by P.L.2-1993, SEC.5. Amended by P.L.43-1993, SEC.19.

IC 16-22-3-4

Equipment and supplies acquisitions

Sec. 4. The governing board may purchase or acquire materials, services, equipment, and supplies required to operate and maintain the hospital at prices the board considers reasonable.

As added by P.L.2-1993, SEC.5.

IC 16-22-3-5

Bids, proposals, or quotations submitted by trust

Sec. 5. (a) This section applies to the award of a contract under this chapter for the procurement of property by acceptance of bids, proposals, or quotations.

(b) A bid, proposal, or quotation submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:

(1) beneficiary of the trust; and

(2) settlor empowered to revoke or modify the trust.

As added by P.L.2-1993, SEC.5.

IC 16-22-3-6

Contracts for services

Sec. 6. The governing board may contract for the following services on terms and conditions the governing board finds reasonable:

(1) The services of consultants, architects, engineers, or other professionals, including shared services or purchasing organizations.

(2) Services reasonably required to operate and maintain the hospital, including the management of the hospital.

As added by P.L.2-1993, SEC.5.

IC 16-22-3-7

Claims

Sec. 7. Claims against the hospital must be allowed and approved by the governing board before payment by the disbursing officer. However, the board may, subject to review and approval at the board's next regular meeting, authorize the following:

(1) Compensation of hospital employees upon certification of payrolls by the executive director.

(2) Payment of invoices for materials, services, equipment, and supplies required for the operation and maintenance of the hospital upon certification by the executive director of the following:

(A) The invoices are true and correct.

(B) The items were ordered and received by the hospital.

The claim or invoice furnished by the supplier need not contain the certificate provided for in IC 5-11-10-1.

As added by P.L.2-1993, SEC.5.

IC 16-22-3-8

Executive director

Sec. 8. The governing board shall appoint an executive director as the administrative head of the hospital. The executive director:

(1) is the executive agent of the board in the administration of the board's policies;

(2) is the liaison officer between the board and the medical staff;

(3) shall employ hospital personnel; and

(4) has the other powers and duties delegated to the executive director by the board or specifically assigned to the executive director in this article.

As added by P.L.2-1993, SEC.5.

IC 16-22-3-9

Medical staff appointment; eligibility; standards and rules; staff self-government

Sec. 9. (a) The governing board may determine appointments and reappointments to the medical staff and delineate privileges of the members of the medical staff.

(b) All licensed physicians are eligible for membership on the medical staff of the hospital, but the board may establish and enforce reasonable standards and rules concerning the qualifications for the following:

(1) Admission to the medical staff.

(2) Practice in the hospital.

(3) Retention of membership.

(4) The granting of medical staff privileges within the hospital.

(c) The standards and rules described in subsection (b) may not discriminate against a licensed physician of any school of medicine but may, in the interest of good patient care, consider the applicant's postgraduate medical education, training, experience, and other facts concerning the applicant that may affect the physician's professional competence. The rules may include a requirement for the following:

(1) The submission of proof that a medical staff member has qualified as a health care provider under IC 16-18-2-163.

(2) The performance of patient care and related duties in a manner that is not disruptive to the delivery of quality medical

care in the hospital setting.

(3) Standards of quality medical care that recognize the efficient and effective utilization of hospital resources as developed by the medical staff.

(d) The medical staff shall originate and the board must approve bylaws and rules for self-government. The bylaws must provide for a hearing for a physician whose medical staff membership the medical staff has recommended for termination.

As added by P.L.2-1993, SEC.5.

IC 16-22-3-10

Personnel; compensation; policies

Sec. 10. Upon the recommendation of the executive director, a governing board shall do the following:

(1) Fix the compensation, including incentives for productivity, of all hospital employees.

(2) Adopt personnel and management policies consistent with the governing boards of other hospitals in Indiana.

As added by P.L.2-1993, SEC.5.

IC 16-22-3-11

Permissible personnel programs and policies

Sec. 11. A governing board may do the following:

(1) Adopt an employee benefit program that may include a vacation policy and employee discounts.

(2) Authorize expenditure of hospital funds for payment of advertising and placement fees for personnel and physicians.

(3) Expend hospital funds in an amount not to exceed one-half percent (0.5%) of hospital revenues for the preceding calendar year for a program that directly contributes to the productivity or morale of personnel, volunteers, or physicians. However, this subdivision does not apply to:

(A) an employee benefit program under subdivision (1); or

(B) an employee compensation arrangement, including a productivity bonus.

(4) Adopt a plan that provides for hospital employee sickness or accident disability and contract for and purchase insurance plans from an insurance company licensed to transact business in Indiana.

(5) Contract for and purchase adequate pension and retirement plans for hospital personnel from the Indiana public retirement system or from any company authorized to do such business in Indiana.

(6) Enter into deferred compensation agreements with employees and other contractual personnel and fund deferred obligations by contracting with insurance companies licensed to transact business in Indiana.

(7) Expend hospital funds to pay dues of the executive director

and department heads for memberships in local, state, or national hospital or professional associations or organizations that the board determines are of direct benefit to the hospital.

(8) Establish and operate employee registries for part-time or temporary hospital employees.

(9) Pay a part or all of the costs of these plans out of hospital funds.

(10) Expend hospital funds for reasonable expenses incurred by persons and their spouses who are interviewed for employment or for medical staff appointment and for reasonable moving expenses for the persons and their spouses if employed or appointed to the hospital medical staff.

(11) Expend hospital funds, advance tuition payments, or establish a tuition refund program for the education or professional improvement of nurses and other professional or technical employees of the hospital for inservice training and attending seminars or other special courses of instruction when the board determines that the expenditures directly benefit the hospital.

(12) Conduct business in a state adjacent to Indiana.

As added by P.L.2-1993, SEC.5. Amended by P.L.56-1995, SEC.7; P.L.35-1997, SEC.6; P.L.35-2012, SEC.100.

IC 16-22-3-12

Hospital financial records; annual report

Sec. 12. (a) The state board of accounts:

(1) shall approve or prescribe the manner in which the hospital records are kept;

(2) except as provided in subsection (c), shall audit the records of the hospital; and

(3) may approve forms for use by all hospitals or groups of hospitals.

(b) The governing board may use the calendar year or a fiscal year for maintaining hospital financial records. A hospital that receives a financial subsidy from the county for hospital operations, excluding mental health or ambulance services, during the preceding calendar or fiscal year must file with the county executive and the county fiscal body an annual report showing the income and expenses of the operating fund for the preceding calendar or fiscal year by major classification according to the chart of accounts approved by the state board of accounts. If the hospital uses a calendar year for maintaining financial records, the report must be filed not later than the last Monday in March of each year. If the hospital uses a fiscal year for maintaining financial records, the report must be filed not later than ninety (90) days after the close of the fiscal year. The annual report shall be published one (1) time. Hospital financial records may be kept in hard copy, on microfilm, or via another data system acceptable to the state board of accounts.

(c) A hospital may elect to have an audit required under subsection (a) performed by an independent certified public accounting firm that is experienced in hospital matters. The audit report must be kept on file at the hospital and a copy must be provided to the state board of accounts. The audit engagement by a certified public accounting firm must be performed pursuant to guidelines established by the state board of accounts.

(d) If a hospital elects to use an independent certified public accounting firm under subsection (c), the hospital shall provide written notice to the state board of accounts not less than one hundred eighty (180) days before the beginning of the hospital's fiscal year in which the hospital elects to be audited by an independent certified public accounting firm. For that hospital fiscal year, and each following fiscal year until the hospital terminates the hospital's use of an independent certified public accounting firm, the hospital shall use an independent certified public accounting firm under subsection (c). A hospital shall terminate its use of an independent certified public accounting firm under subsection (c) by providing written notice to the state board of accounts not less than one hundred eighty (180) days before the beginning of the hospital's fiscal year in which the hospital elects not to be audited by an independent certified public accounting firm. For that hospital fiscal year, and each following fiscal year until the hospital elects to use an independent certified public accounting firm as provided under this subsection, the hospital must be audited by the state board of accounts for purposes of section 12(a)(2) of this chapter. For any fiscal year in which the hospital does not use an independent certified public accounting firm under subsection (c), the hospital shall be audited by the state board of accounts.

(e) Any information concerning the specific salaries paid to individual employees of a hospital may be withheld by the hospital from disclosure under IC 5-14-3. However, the information must be provided to the state board of accounts upon request. The state board of accounts shall maintain the confidentiality of the information as required under IC 5-14-3-6.5.

As added by P.L.2-1993, SEC.5. Amended by P.L.91-2002, SEC.8 and P.L.100-2002, SEC.9; P.L.208-2016, SEC.5.

IC 16-22-3-13

Patient charges; building and improvement funds

Sec. 13. (a) The governing board shall establish reasonable charges for patient care and other hospital services for the residents of the county and may provide patient care and other hospital services to nonresidents of the county upon terms and conditions the board establishes by rule.

(b) The governing board may give appropriate discounts of charges to patients.

(c) In establishing charges, the governing board may include a

reasonable charge for depreciation and obsolescence of property, plant, and equipment.

(d) The board may periodically transfer all or part of the charges for depreciation and obsolescence to a fund to be used by and at the discretion of the board only for the purpose of building, remodeling, repairing, replacing, or making additions to the hospital building or buildings. However, in any year in which there is a tax levy for the general operation and maintenance of the hospital, the board shall not make a transfer to the fund. In an emergency, the board may borrow from the fund for the operating fund of the hospital and shall reimburse the fund within two (2) years.

(e) The authority granted to establish the fund does not limit the power and authority of the board, the county executive, the county fiscal body, or other units of government to finance hospital buildings by other methods.

As added by P.L.2-1993, SEC.5.

IC 16-22-3-14

Hospital funds; authorized transfers

Sec. 14. (a) The governing board shall take, hold, disburse, and dispose of, for the benefit of the hospital, all real or personal property or other property that is a part of hospital funds in accordance with this article.

(b) The board may accept gifts, devises, bequests, or grants upon the conditions directed by the donor if the conditions are not contrary to law. However, if the hospital was constructed by a county building authority under IC 36-9-13, the powers of the board do not include those powers vested by IC 36-9-13 in the building authority.

(c) The board may transfer a part of the hospital funds to a nonprofit corporation organized under IC 23-7-1.1 (before its repeal on August 1, 1991) or IC 23-17 that is:

(1) a hospital foundation organized and operated for the exclusive benefit of the hospital; or

(2) a related or controlled entity;

if adequate provision is made for working capital and other known and anticipated hospital needs.

(d) If a transfer includes public funds of the hospital, the public funds transferred to the foundation or related or controlled entity may be audited by the state board of accounts unless:

(1) the hospital foundation or related or controlled entity files annually with the treasurer of the hospital a copy of an audit report prepared by an independent certified public accountant; and

(2) the audit report is on file at the hospital and is made available to the state board of accounts.

As added by P.L.2-1993, SEC.5.

IC 16-22-3-15

Patient refunds fund

Sec. 15. The governing board may establish a special fund for patient refunds in an amount not to exceed five thousand dollars ($5,000) if the money is deposited in a checking account in a depository designated for the deposit of money of the hospital and checks are issued by the person designated by the board. The special funds are supplemental to those otherwise permitted by law.

As added by P.L.2-1993, SEC.5.

IC 16-22-3-16

Deposit of funds

Sec. 16. Money in the hospital funds shall be deposited in the manner determined by the governing board.

As added by P.L.2-1993, SEC.5.

IC 16-22-3-17

Disposition and encumbrance of real and personal property; immunity from liability

Sec. 17. (a) The governing board may mortgage all or part of an interest in real or personal property owned by the hospital and may enter into a sale and leaseback of hospital property on terms and conditions acceptable to the board.

(b) The following property may be disposed of on terms and conditions acceptable to the board:

(1) Real or personal property subject to a mortgage or sale and leaseback arrangement.

(2) Real or personal property in which the hospital has an ownership interest as a participant in an organization or activity described in section 1(b) of this chapter.

(3) An arrangement in which at least two (2) hospitals participate for the provision of any hospital or related services, including participation or ownership as a tenant in common with other hospitals.

(c) Except as provided in subsection (b), real or personal property or an interest in real or personal property owned by the hospital may be disposed of as follows:

(1) Personal property:

(A) that has limited or no use to the hospital; and

(B) that:

(i) has value not exceeding thirty thousand dollars ($30,000); or

(ii) is traded upon purchase of other personal property;

may be disposed of without the necessity of advertising, auctioning, or requesting bids.

(2) Real property that the board considers no longer necessary for hospital purposes shall be sold after the following occur:

(A) The property is appraised by three (3) disinterested owners of taxable real property of the county.

(B) The board publishes notice of the sale one (1) time at least seven (7) days before the date of the sale.

(C) The sale is approved by the commissioners.

The board shall determine the time, terms, and conditions of the sale of property.

(3) Personal property other than property described in subdivision (1) shall be sold at public auction. The board shall publish notice of the sale one (1) time at least seven (7) days before the date of the sale. If sealed bids are solicited in the published notice of the sale, the bids must be opened in public on the date and time of the sale to satisfy the public auction requirement.

Upon the sale of real property under this subsection and the payment of the purchase price, the board and the commissioners shall execute a deed of conveyance to the purchaser. The proceeds of all sales are a part of the hospital funds to be held and used for the use and benefit of the hospital.

(d) If a trust (as defined in IC 30-4-1-1(a)) submits a bid in a sale or lease conducted under subsection (b), (c), or (e), the bid must identify each:

(1) beneficiary of the trust; and

(2) settlor empowered to revoke or modify the trust.

(e) If it is determined by the board, the county executive, and the county fiscal body, by joint resolution, that:

(1) the hospital should cease doing business as a county hospital;

(2) the hospital should be terminated and dissolved; and

(3) the entire hospital building or buildings should be sold or leased to a for-profit corporation, partnership, or entity;

the proposed sale or lease shall be considered publicly, and the board, the county executive, and the county fiscal body shall follow the procedures of IC 16-22-6-18 concerning notice and hearing on the terms and provisions of the sale or lease. The terms and provisions of the sale or lease shall be determined by the board, the county executive, and the county fiscal body and shall be presented at a hearing as required by IC 16-22-6-18.

(f) An individual who is a:

(1) board member in the member's capacity as a board member; or

(2) member of:

(A) the county executive; or

(B) the county fiscal body;

is immune from potential or actual liability attributable to the individual with respect to a sale or lease under subsection (e).

(g) In the event of a sale or lease under this section, the county is not liable for:

(1) any liabilities of the hospital that:

(A) were incurred on or before; or

(B) are incurred at any time after;

the sale or lease date; or

(2) any future liabilities incurred by the successor entity;

unless otherwise agreed to by the county at the time of the sale or lease in the sale or lease document. Any liabilities described in this subsection are the responsibility of the purchasing or leasing entity, unless agreed to otherwise in the sale or lease document.

(h) After the hearing on the proposed sale or lease, if it is determined by the board, the county executive, and the county fiscal body that the sale or lease should proceed, the hospital building or buildings shall be sold or leased in accordance with proposed terms and provisions.

(i) The board, the county executive, and the county fiscal body shall execute:

(1) a deed of conveyance upon payment of the purchase price if the buildings are sold; or

(2) a lease upon terms the board, the county executive, and the county fiscal body consider reasonable if the buildings are leased.

(j) The proceeds of the sale or lease of all of the hospital buildings must first be applied to outstanding indebtedness attributable to the hospital buildings. The commissioners shall deposit the balance of the proceeds from the sale or lease and any property in the hospital fund in:

(1) a nonexpendable interest bearing trust fund from which claims are paid for county hospital claims for the indigent or any other fund that the county executive and county fiscal body designate; or

(2) the county general fund.

As added by P.L.2-1993, SEC.5. Amended by P.L.35-1997, SEC.7; P.L.231-1999, SEC.13; P.L.80-2011, SEC.8.

IC 16-22-3-18

Transfer of assets to nonprofit corporation or related hospital entity; immunity from liability

Sec. 18. (a) If the board, the county executive, and the county fiscal body determine that the community the hospital serves can best be provided with hospital services through management, enlargement, remodeling, or renovation of the hospital by a nonprofit hospital corporation, the board, the county executive, and the county fiscal body may agree by joint resolution, and after following the procedures of IC 16-22-6-18 concerning notice and hearing, to transfer all of the assets of the hospital to a nonprofit corporation.

(b) The transfer of the hospital assets to the nonprofit corporation must be on terms and conditions and for consideration as appears reasonable. The transfer agreement must require the nonprofit corporation to assume and agree to pay any indebtedness attributable to the hospital buildings. The size, composition, and qualifications

of the membership and the board of directors of the nonprofit corporation must be set forth in the corporation's articles of incorporation.

(c) An individual who is a:

(1) board member, in the member's capacity as a board member; or

(2) member of:

(A) the county executive; or

(B) the county fiscal body;

is immune from potential or actual liability attributable to the individual with respect to a transfer under subsection (b).

(d) In the event of a transfer under this section, the county is not liable for:

(1) any liabilities of the hospital that:

(A) were incurred on or before; or

(B) are incurred at any time after;

the transfer date; or

(2) any future liabilities incurred by the successor entity;

unless otherwise agreed to by the county at the time of the transfer in the transfer document. Any liabilities described in this subsection are the responsibility of the entity to which the assets were transferred, unless agreed to otherwise in the transfer document.

(e) The board, the county executive, and the county fiscal body shall execute a deed of conveyance and other documents necessary to transfer the assets of the hospital to the nonprofit corporation. The county executive shall deposit the proceeds from the transfer in:

(1) a nonexpendable interest bearing trust fund from which claims are paid for county hospital claims for the indigent or any other fund that the county executive and county fiscal body designate; or

(2) the county general fund.

(f) If the nonprofit corporation described in this section ceases doing business, is terminated, or is dissolved, funds or property remaining after payment of all lawful debts become the property of the county. A provision to this effect must be included in the articles of incorporation of the nonprofit corporation and may not be amended or deleted without the written approval of the commissioners.

(g) The board may sell, convey, or otherwise transfer real or personal property from the hospital to an entity related to or controlled by the hospital for constructing buildings on behalf of the hospital. The transfer is not subject to the notice and appraisal requirements under this section. The board may make the transfer upon terms and conditions the board considers appropriate. The board shall issue a deed of conveyance to the transferee.

As added by P.L.2-1993, SEC.5. Amended by P.L.35-1997, SEC.8.

IC 16-22-3-18.5

Conveyance of real or personal property to state authority for lease back to hospital

Sec. 18.5. (a) Notwithstanding any requirement or restriction in this chapter on the transfer of real or personal property of the hospital, this section applies if the board determines to obtain financing for capital improvements through the state authority.

(b) The board may convey real or personal property of the hospital by sale or lease to the state authority for lease back to the hospital from the state authority.

As added by P.L.43-1993, SEC.13.

IC 16-22-3-19

Medical care trust board

Sec. 19. (a) This section applies to a medical care trust board appointed by a county executive to govern a nonexpendable trust fund established under section 17(j) or 18(e) of this chapter.

(b) The county executive may adopt an ordinance providing that the medical care trust board is subject to this section.

(c) After the effective date of an ordinance adopted under subsection (b), the medical care trust board may do the following:

(1) Approve and the treasurer may disburse payment of a claim against the trust for payment of hospital and medical services provided to an indigent person and reasonable administrative expenses, without the necessity of filing a claim with the county auditor for approval by the county executive.

(2) Invest the funds of the trust:

(A) in accordance with IC 5-13-9 and guidelines adopted by the board under IC 5-13-9-1; and

(B) without being subject to guidelines adopted by the county executive under IC 5-13-9-1.

As added by P.L.2-1993, SEC.5. Amended by P.L.35-1997, SEC.9.

IC 16-22-3-20

Investment of hospital funds

Sec. 20. (a) As used in this section, "financial institution" has the meaning set forth in IC 5-13-4-10.

(b) The board may invest money in the hospital funds within the county or the state as the board determines. The money may be invested in the following:

(1) Any account paying interest and subject to withdrawal by negotiable orders of withdrawal, unlimited as to amount or number (NOW accounts).

(2) Passbook savings accounts.

(3) Certificates of deposit.

(4) Money market deposit accounts.

(5) Any interest bearing account that is authorized to be set up and offered by a financial institution or brokerage firm registered and authorized to do business in Indiana.

(6) Repurchase or resale agreements involving the purchase and guaranteed resale of any interest bearing obligations issued or fully insured or guaranteed by the United States or any United States government agency in which type of agreement the amount of money must be fully collateralized by interest bearing obligations as determined by the current market value computed on the day the agreement is effective.

(7) Mutual funds offered by a financial institution or brokerage firm registered and authorized to do business in Indiana.

(8) Securities backed by the full faith and credit of the United States Treasury or fully insured or guaranteed by the United States or any United States government agency.

(9) Pooled fund investments for participating hospitals offered, managed, and administered by a financial institution or brokerage firm registered or authorized to do business in Indiana.

This subsection does not prevent the board from using money in the hospital funds to capitalize projects undertaken under section 1(b) and 1(c) of this chapter.

(c) Any interest derived from an investment under subsection (b) becomes a part of the hospital funds invested. Interest derived from the investment of money raised by bonded or other indebtedness in excess of funds needed for hospital buildings may be applied by the governing board to the appropriate bond redemption, interest, or sinking fund.

As added by P.L.2-1993, SEC.5.

IC 16-22-3-21

Insurance

Sec. 21. (a) The governing board may contract for and purchase, for the protection of the hospital, all types of insurance provided for in the Indiana insurance law in amounts and under terms and conditions the board considers reasonable and necessary. The insurance may include liability or malpractice coverage for the members of the board, the officers, employees, volunteers, and members of medical staff committees while performing services for the hospital. The board may, for the purpose of acquiring malpractice coverage, assist in the formation of a nonassessable mutual insurance company under IC 27-1-6 and IC 27-1-7-19.

(b) The governing board of a hospital organized or operated under this article may enter into a group purchasing agreement to purchase medical malpractice insurance with the following:

(1) One (1) or more hospitals organized or operated under this article.

(2) One (1) or more hospitals organized or operated under IC 16-23.

As added by P.L.2-1993, SEC.5. Amended by P.L.91-2002, SEC.9 and P.L.100-2002, SEC.10.

IC 16-22-3-22
Leases

Sec. 22. (a) The governing board may lease a part of the hospital buildings if the board determines that the use of the leased premises will aid the hospital in the performance of the hospital's services. A lease must:

(1) be in writing;
(2) be for definite periods; and
(3) require payment of lease rentals at least monthly.

(b) If the board enters into a lease or sublease contract with the state authority, the board may pledge as security for payment under the contract the funds that the governing board receives from a tax levy under section 27 of this chapter.

As added by P.L.2-1993, SEC.5. Amended by P.L.43-1993, SEC.14.

IC 16-22-3-23
Related facilities and services

Sec. 23. The governing board may do the following:

(1) Permit the hospital to provide services for the mentally disordered under IC 12-29 and may limit the services to short term care.
(2) Contract for or establish and maintain a training school for nurses and for paramedical personnel, with a curriculum that conforms to the requirements of the Indiana state board of nursing or other appropriate board.
(3) Acquire suitable facilities for housing graduate and student nurses in training or employed by the hospital.
(4) Provide suitable facilities for the temporary detention and examination of persons whose sanity is being officially inquired into preparatory to admission to hospitals for the insane.

However, a person known to be dangerously insane or who has been adjudged insane shall not be confined in or about the hospital unless specific facilities necessary for the temporary confinement of these patients, separate and apart from the other patients, have been provided in the hospital.

As added by P.L.2-1993, SEC.5.

IC 16-22-3-24
Legal status of board

Sec. 24. The board is a body corporate and politic with the style of "The Board of Trustees of _____ Hospital", to include the full name of the hospital. In that name and capacity, the board may do the following:

(1) Sue and be sued and plead and be impleaded but all actions against the board must be brought in the circuit or superior courts of the county in which the hospital is located.
(2) Possess the real and personal property of the hospital and the hospital funds in the hospital's corporate name for the

hospital's use and benefit.

(3) Exercise the other powers, duties, and responsibilities set forth in this article.

As added by P.L.2-1993, SEC.5.

IC 16-22-3-25

Eminent domain powers

Sec. 25. If the governing board and the owners of real property needed for hospital purposes cannot agree on the price to be paid for the real property, the board may report the facts to the commissioners who have the power of eminent domain, and condemnation proceedings shall be instituted by the county executive and prosecuted in the name of the county where the hospital is located or to be located by an attorney representing the county.

As added by P.L.2-1993, SEC.5.

IC 16-22-3-26

Loans; sale or factor of accounts receivable; federal loans or guaranties

Sec. 26. (a) The governing board may obtain loans for hospital expenses in amounts and on terms and conditions agreeable to the board and may secure the loans by pledging accounts receivable or other security in hospital funds. If the board enters into a loan agreement for the borrowing of funds from the state authority, the board may pledge as security for payment under the agreement the funds the board receives from a tax levy under section 27 of this chapter.

(b) The board may sell or factor accounts receivable on terms and conditions agreeable to the board.

(c) A county, city, or health and hospital corporation owning and maintaining or leasing at least one (1) hospital or related facilities, a county hospital association under IC 16-22-6, and a building authority under IC 36-9-13 may enter into an agreement with the United States or a department, an agency, or an instrumentality of the United States with respect to loans or guaranties for hospital or related purposes and may borrow money on the terms and conditions of the agreement.

(d) The loans may be:

(1) evidenced by bonds, notes, contractual agreements, or other evidences of indebtedness;

(2) secured in whole or in part by:

(A) pledge of the full faith and credit as a general obligation of the borrower;

(B) the income and revenues of the hospital or related facilities;

(C) rental from the lease of hospital facilities; or

(D) any combination of clauses (A) through (C); and

(3) additionally secured by a mortgage or deed of trust of all or

part of the real or personal property, or both, of the hospital.

(e) Bonds, notes, or other evidences of indebtedness issued in connection with a federal loan under this section may be sold and delivered at private sale without the necessity of public sale or public offering.

As added by P.L.2-1993, SEC.5. Amended by P.L.43-1993, SEC.15.

IC 16-22-3-27

Tax levy support of hospital

Sec. 27. (a) The governing board may request support from the county, either by appropriation from the county general fund or by a separate tax levy, by filing with the county executive on or before August 1 a written budget of the amount estimated to be required to maintain, operate, or improve the hospital for the ensuing year.

(b) If the county provides a direct financial subsidy to a hospital from a tax levy at the time the board exercises the powers under section 1(b) of this chapter, the board may not provide the funds from a tax levy to an entity created under section 1(b) of this chapter for more than three (3) years. After three (3) years, all funds, with interest, must be repaid within ten (10) years.

(c) If the board enters into a lease or sublease contract or a loan agreement with the state authority, the board may request the county to adopt a separate tax levy to support the board's obligation to make payments under that contract or agreement.

As added by P.L.2-1993, SEC.5. Amended by P.L.43-1993, SEC.16.

IC 16-22-3-27.5

Payment of lease or loan from taxes

Sec. 27.5. (a) This section applies in a county when:

(1) the board has authorized the hospital to enter into a lease or sublease contract or a loan agreement with the state authority under this chapter; and

(2) the lease or sublease contract or the loan agreement provides that a portion of the lease or loan payment is to be paid from taxes.

(b) The county council or the city-county council in the case of a county with a consolidated city shall annually levy a tax that is sufficient to produce each year along with other available funds an amount that is sufficient to pay the portion of the lease or loan payment that is required to be paid from taxes.

(c) The board shall transfer the following to a fund to be used to pay the portion of the lease or loan payment that is not required to be paid from taxes:

(1) Any net revenue of the hospital that is required to be used for the lease or loan payment.

(2) Any net revenue of the hospital that is required to be retained as a reserve for a purpose that the board determines if the board determines that the money is not needed in reserve for

additional construction, equipment, betterment, maintenance, or operation.

(d) In fixing and determining the levy that is necessary for the lease or loan payment that is payable from taxes, the county council shall consider the amounts that have been transferred from the net revenues of the hospital under subsection (c).

(e) If funds other than taxes are not available to pay the portion of the lease or loan payment that is required to come from taxes, a county is not relieved from the county's obligation to pay from taxes any lease or loan payment that is payable from taxes.

(f) The tax levy provided in this section is reviewable in the manner that other tax levies are reviewable to ascertain that the levy is sufficient to produce the amount of the lease or loan payment that is required to be paid from taxes.

(g) One-half (1/2) of the annual lease or loan payment shall be paid semiannually to the state authority after the semiannual settlement of tax collections.

As added by P.L.43-1993, SEC.17. Amended by P.L.56-1995, SEC.8.

IC 16-22-3-28

Other powers of board

Sec. 28. (a) The governing board may enter into agreements with credit card companies or organizations authorized to do business in Indiana and may accept credit card payments from patients for services provided.

(b) The board may, in the establishment and maintenance of hospital records, use automated data processing systems and purchase, lease, operate, or contract for the use of automated data processing equipment subject to section 6 of this chapter and section 22 of this chapter.

(c) In addition to IC 5-14-1.5-6.1(b), a hospital organized or operated under this article may hold executive sessions to do any of the following:

(1) Discuss and prepare bids, proposals, or arrangements that will be competitively awarded among health care providers.

(2) Discuss recruitment of health care providers.

(3) Discuss and prepare competitive marketing strategies.

(4) Engage in strategic planning.

(5) Participate in a motivational retreat with staff or personnel, if the hospital does not conduct any official action (as defined in IC 5-14-1.5-2(d)).

(d) IC 5-14-1.5-5, IC 5-14-1.5-6.1, and IC 5-14-1.5-7 apply to executive sessions held under subsection (c).

(e) A hospital organized or operated under this article may hold confidential, until the information contained in the records is announced to the public, records of a proprietary nature that if revealed would place the hospital at a competitive disadvantage, such as the following:

(1) Terms and conditions of preferred provider arrangements.
(2) Health care provider recruitment plans.
(3) Competitive marketing strategies regarding new services and locations.

As added by P.L.2-1993, SEC.5. Amended by P.L.35-1997, SEC.10; P.L.91-2002, SEC.10 and P.L.100-2002, SEC.11.

IC 16-22-3-29
Safekeeping of patient valuables

Sec. 29. (a) The governing board may establish a policy with regard to providing a place for the safekeeping of valuable personal property of patients. The patients or the responsible relatives of the patients shall be notified by posting a notice in a public and conspicuous place or manner at the admitting desk or office in the hospital that a place is provided.

(b) If the valuable personal property is not delivered to the person in charge of the place for deposit, the hospital and the hospital's officers, agents, or employees are not liable for any loss or damage to the property, unless an emergency admission occurs and the patient is unable to deliver the valuable personal property to the place for deposit and no responsible relative is present.

(c) If the personal property is delivered for safekeeping to the person in charge of the office for deposit, the hospital is not liable for loss or damage to the property from any cause in an amount exceeding six hundred dollars ($600), even if the property is of greater value.

As added by P.L.2-1993, SEC.5.

IC 16-22-3-30
Liberal construction of board powers

Sec. 30. The powers of the board described in this chapter shall be liberally construed to effect the purposes of this article and to enable the hospital to be maintained and operated as a first class hospital.

As added by P.L.2-1993, SEC.5.

IC 16-22-4

Chapter 4. Hospital Sinking Funds

IC 16-22-4-1

Authorization for cumulative building or sinking fund

Sec. 1. The county officers may establish a cumulative building fund under IC 6-1.1-41 or a sinking fund in compliance with the procedures for establishing a cumulative fund under IC 6-1.1-41 for the erection of new hospital buildings, the repairing, remodeling, and enlarging of old hospital buildings, and the equipment of new, enlarged, and old hospitals owned and operated by the county, a voluntary nonprofit association, or a nonprofit corporation.

As added by P.L.2-1993, SEC.5. Amended by P.L.17-1995, SEC.18.

IC 16-22-4-2

Repealed

(Repealed by P.L.17-1995, SEC.45.)

IC 16-22-4-3

Repealed

(Repealed by P.L.17-1995, SEC.45.)

IC 16-22-4-4

Tax levy

Sec. 4. The county officers may, in compliance with IC 6-1.1-41, levy a tax on all taxable property within the county to provide money for a fund established under this chapter.

As added by P.L.2-1993, SEC.5. Amended by P.L.17-1995, SEC.19.

IC 16-22-4-5

Repealed

(Repealed by P.L.17-1995, SEC.45.)

IC 16-22-4-6

Repealed

(Repealed by P.L.17-1995, SEC.45.)

IC 16-22-4-7

Repealed

(Repealed by P.L.17-1995, SEC.45.)

IC 16-22-4-8

Repealed

(Repealed by P.L.17-1995, SEC.45.)

IC 16-22-5

Chapter 5. Financing Hospital Buildings

IC 16-22-5-1

Methods authorized

Sec. 1. The methods set out in this chapter may be employed to establish, construct, enlarge, remodel, and acquire county hospital buildings.

As added by P.L.2-1993, SEC.5.

IC 16-22-5-2

Continuation of existing cumulative building funds

Sec. 2. Cumulative building funds established under the following statutes are continued in full force and effect, and the county officers authorized and empowered to levy the taxes to provide those funds may continue to do so in accordance with the proposal or plans establishing those funds:

(1) IC 16-12-16 (before its repeal on September 2, 1971).

(2) IC 16-12-15 (before its repeal on July 1, 1993).

(3) IC 16-12.1-4 (before its repeal on July 1, 1993).

As added by P.L.2-1993, SEC.5.

IC 16-22-5-3

Establishment of cumulative building funds; petition

Sec. 3. (a) A cumulative building fund for the establishment, enlargement, construction, acquisition, equipping, or remodeling of county hospital buildings may be established in accordance with this article.

(b) The board may petition the county executive to levy a tax to establish the fund, setting out in the petition the amount of the proposed tax levy and the number of years for which the tax is to be levied. The county executive shall approve or disapprove the petition and, if approved, establish the amount of the tax levy and the term to be levied.

As added by P.L.2-1993, SEC.5.

IC 16-22-5-4

Tax levy for cumulative building fund

Sec. 4. To provide for the cumulative building fund, a tax on all taxable property within the county may be levied annually for not more than twelve (12) years and may not exceed eleven and sixty-seven hundredths cents ($0.1167) on each one hundred dollars ($100) of assessed valuation of property in the county.

As added by P.L.2-1993, SEC.5. Amended by P.L.6-1997, SEC.167.

IC 16-22-5-5

Hearing on tax levy

Sec. 5. The county executive shall set a date for a hearing on the

approval of the tax levy and the county auditor shall publish a notice at least ten (10) days before the date of the public hearing. The notice shall state the date, time, and place of the hearing and the proposed tax levy and term to be levied.
As added by P.L.2-1993, SEC.5.

IC 16-22-5-6
Resolution for tax levy
Sec. 6. If approved following the hearing, the county executive shall by resolution determine the amount of the tax levy and the time to be levied and shall certify the resolution to the county fiscal body for review.
As added by P.L.2-1993, SEC.5.

IC 16-22-5-7
Filing of resolution for approval
Sec. 7. Upon review and approval by the county fiscal body, the county auditor shall file a copy of the resolution and the county fiscal body's action if any with the department of local government finance for approval.
As added by P.L.2-1993, SEC.5. Amended by P.L.90-2002, SEC.381.

IC 16-22-5-8
Notice of submitted resolution; petition of objectors
Sec. 8. The department of local government finance shall publish notice of the submission one (1) time. At least twenty-five (25) taxpayers in the county who will be affected by the proposed tax levy may file a petition with the county auditor not later than ten (10) days after publication, setting forth the taxpayers' objections to the proposed tax levy.
As added by P.L.2-1993, SEC.5. Amended by P.L.90-2002, SEC.382.

IC 16-22-5-9
Certification of objectors' petition
Sec. 9. Upon the filing of a petition, the county auditor shall immediately certify the petition to the department of local government finance.
As added by P.L.2-1993, SEC.5. Amended by P.L.90-2002, SEC.383.

IC 16-22-5-10
Notice of hearing on petition
Sec. 10. (a) The department of local government finance shall, within a reasonable time, fix a date for a hearing to be held in the county and give notice of the hearing to the following:
(1) The executive director of the hospital.
(2) The first twenty-five (25) taxpayers whose names appear on the petition.
(b) The notice must be in the form of a letter signed by the

secretary or any member of the department of local government finance and sent by mail with full prepaid postage to the executive director at the hospital and to each of the taxpayers at the taxpayer's last and usual place of residence at least five (5) days before the date fixed for the hearing.
As added by P.L.2-1993, SEC.5. Amended by P.L.90-2002, SEC.384.

IC 16-22-5-11
Department of local government finance action; appeal

Sec. 11. (a) After the hearing, the department of local government finance shall approve, disapprove, or modify the proposal and certify the department's action to the auditor of the county.

(b) A:

(1) taxpayer who signed a petition filed under section 8 of this chapter; or

(2) county against which a petition under section 8 of this chapter is filed;

may petition for judicial review of the final determination of the department of local government finance under subsection (a). The petition must be filed in the tax court not more than forty-five (45) days after the department's action under subsection (a).
As added by P.L.2-1993, SEC.5. Amended by P.L.90-2002, SEC.385; P.L.256-2003, SEC.34.

IC 16-22-5-12
Budgeting and levy of approved tax levy

Sec. 12. If a tax levy is approved by the department of local government finance, the following shall occur:

(1) The county auditor shall include the levy in the annual budget and tax levies of the county for the term fixed in the order of the department of local government finance.

(2) The county fiscal body shall annually levy the tax.

As added by P.L.2-1993, SEC.5. Amended by P.L.90-2002, SEC.386.

IC 16-22-5-13
Reduction or rescission of tax levy

Sec. 13. The county fiscal body may, upon request of the board of the hospital, reduce or rescind the tax levy.
As added by P.L.2-1993, SEC.5.

IC 16-22-5-14
Appeals to department of local government finance

Sec. 14. (a) Except when the county fiscal body reduces or rescinds the tax levy upon request of the board of the hospital, if the tax levy is reduced, rescinded, or not levied by the county fiscal body as fixed in the order of the department of local government finance, the board of the hospital may appeal to the department.

(b) An appeal shall be taken and heard in the same manner and

within the same time prescribed by law when appeals are taken by taxpayers or municipal corporations. The notice of the hearing shall be given to the county auditor and to the board of the hospital.

(c) Upon the conclusion of the hearing, the department of local government finance shall affirm the levy and the annual budget. The order of the department of local government finance is final.

As added by P.L.2-1993, SEC.5. Amended by P.L.90-2002, SEC.387.

IC 16-22-5-15

Uses of funds from tax levies for cumulative building fund

Sec. 15. As the tax is collected, the levies become a part of the hospital funds without further appropriation by the county fiscal body and may be invested in accordance with IC 16-22-3-20. The levies shall be separately accounted for as a hospital cumulative building fund and may not be used for any purposes other than that for which the cumulative building fund was established, except for the following:

(1) A lease entered into with an authority or the Indiana finance authority under IC 5-1-16 may provide that the lease agreement to pay lease rentals be paid in whole or in part from the hospital cumulative building fund.

(2) If a loan has been obtained for the same purposes for which the cumulative building fund was established, the fund may be used to pay principal and interest on the bonds, notes, or other evidences of indebtedness of the hospital.

As added by P.L.2-1993, SEC.5. Amended by P.L.43-1993, SEC.18; P.L.235-2005, SEC.194; P.L.162-2007, SEC.37.

IC 16-22-5-16

Hospital enlargement or remodeling; general obligation bonds

Sec. 16. After a hospital is established and the governing board appointed, the county executive may issue and sell general obligation bonds of the county to finance the costs of or the enlargement or remodeling of hospital buildings in an amount certified by the board to the county executive to be necessary for that purpose. The bonds shall be authorized, issued, and sold in accordance with laws governing the authorization, issuance, and sale of general obligation bonds by counties. The county fiscal body shall appropriate the proceeds of sale of the bonds to the board for the purposes for which the bonds have been sold. The county budget shall provide for payment of the bonds and the council shall annually levy a tax sufficient to produce each year the necessary funds for payment of the principal and interest on the bonds according to the terms of the bonds.

As added by P.L.2-1993, SEC.5.

IC 16-22-5-17

Loans

Sec. 17. (a) The governing board may borrow money and may secure the borrowing by a pledge of the following:

(1) Amounts from the cumulative building fund.

(2) Accounts receivable.

(3) A security interest in capital equipment for which the proceeds of the loan is used.

(4) Other security, including the excess of unobligated revenues over operating expenses.

(b) The term of a loan may not exceed thirty-five (35) years.

As added by P.L.2-1993, SEC.5.

IC 16-22-5-18

Appropriation, tax levy, or grant

Sec. 18. Funds may be received by appropriation, tax levy, or grant from any of the following:

(1) The county in which the hospital is located.

(2) An adjoining county or counties if permitted by law.

(3) The state.

(4) An agency or instrumentality of the United States government.

As added by P.L.2-1993, SEC.5.

IC 16-22-5-19

Federal funds

Sec. 19. The governing board, county executive, or county fiscal body may enter into agreements with the United States or a department, an agency, or an instrumentality of the United States:

(1) with respect to loans or loan guarantees in accordance with IC 16-22-3-26; or

(2) to permit the hospital or county to accept a subsidy or payment of all or part of the interest payable on obligations issued and sold for hospital purposes.

As added by P.L.2-1993, SEC.5.

IC 16-22-5-20

Gifts

Sec. 20. The governing board may accept contributions, gifts, devises, or bequests with any lawful limitations, provisions, or conditions for the use that the donor establishes.

As added by P.L.2-1993, SEC.5.

IC 16-22-6

Chapter 6. County Hospital Building Authorities

IC 16-22-6-1

Authority defined

Sec. 1. As used in this chapter, "authority" means the hospital association created by section 2 of this chapter.

As added by P.L.2-1993, SEC.5.

IC 16-22-6-2

Resolution for creation of authority; name; purpose

Sec. 2. The county executive of a county owning and operating only one (1) county hospital may, upon written request by the governing board of the hospital, adopt a resolution for the creation of an authority under this chapter. Upon the adoption of the resolution an authority is created which shall be a body corporate and politic known as the "_____ County Hospital Association". The name includes the name of the county. The authority is created for the purpose of financing, acquiring, constructing, renovating, equipping, and leasing to the county land and a building, including an existing building, for hospital purposes. The county auditor shall file a certified copy of the resolution with the clerk of the circuit court of the county in which the authority is created.

As added by P.L.2-1993, SEC.5.

IC 16-22-6-3

Appointment of directors; terms

Sec. 3. (a) Not more than sixty (60) days after the filing of the certified copy of the resolution described under section 2 of this chapter, the county executive shall appoint five (5) residents of the county as directors of the county hospital building authority.

(b) The initial terms of the members of the governing board as follows:

(1) One (1) member shall be appointed for a term of one (1) year.

(2) One (1) member for a term of two (2) years.

(3) One (1) member for a term of three (3) years.

(4) Two (2) members for terms of four (4) years.

(c) At the expiration of the respective terms of the members of the governing board the county executive shall appoint successors for four (4) year terms. Each member serves until a successor is appointed and qualified.

As added by P.L.2-1993, SEC.5.

IC 16-22-6-4

Vacancies

Sec. 4. If a member dies, resigns, ceases to be a resident of the county, or is removed as provided in this chapter, the county

executive shall appoint another person as a member of the governing board for the remainder of the term. If a person appointed as a member fails to qualify not more than ten (10) days after the mailing of notice of appointment, the county executive shall appoint another person as member.
As added by P.L.2-1993, SEC.5.

IC 16-22-6-5
Director's oath of office
Sec. 5. Each member, before entering office, shall take and subscribe an oath of office to be endorsed upon the certificate of appointment. The oath shall be filed with the clerk of the circuit court.
As added by P.L.2-1993, SEC.5.

IC 16-22-6-6
Removal of director from office
Sec. 6. (a) A member may be removed from office for neglect of duty, incompetency, inability to perform duties, or other good cause by an order of the circuit court, superior court, or probate court in the county in which the authority is located, subject to the procedure set forth in subsection (b).
(b) A complaint may be filed by any person against the director setting forth the charges preferred. The cause shall be placed on the advanced calendar and is tried as other civil causes are tried by the court without the intervention of a jury. If the charges are sustained, the court shall declare the office vacant. A change of venue from the judge shall be granted upon motion, but no change of venue from the county may be taken.
As added by P.L.2-1993, SEC.5. Amended by P.L.84-2016, SEC.85.

IC 16-22-6-7
Selection of officers; meetings; quorum
Sec. 7. (a) The members originally appointed shall hold an organizational meeting not more than thirty (30) days after appointment, at a time and place designated by the county executive. The members of the governing board shall elect from among the members a president, vice president, secretary, and treasurer. The officers serve until the expiration of the first term to expire and the members shall meet annually to reorganize and elect officers not more than thirty (30) days after the appointment of each successor member for a full term.
(b) Other regular and special meetings shall be held at the times and upon the notice that the members determine, by resolution or in accordance with the bylaws, rules, and regulations adopted.
(c) A majority of the members constitutes a quorum and the concurrence of a majority is necessary to authorize any action.
As added by P.L.2-1993, SEC.5.

IC 16-22-6-8
Bylaws, rules, and regulations

Sec. 8. The members may adopt bylaws, rules, and regulations necessary to conduct proceedings, carry out duties, and safeguard the funds and property of the authority.

As added by P.L.2-1993, SEC.5.

IC 16-22-6-9
Compensation and reimbursement

Sec. 9. A member serves without pay but is entitled to reimbursement for expenses necessarily incurred in the performance of the member's duties.

As added by P.L.2-1993, SEC.5.

IC 16-22-6-10
Conflicts of interest

Sec. 10. A member may not have a pecuniary interest in a contract, an employment, a purchase, or a sale made under the provisions of this chapter. A transaction in which a director has a pecuniary interest is void.

As added by P.L.2-1993, SEC.5.

IC 16-22-6-11
Preliminary expenses

Sec. 11. (a) All necessary preliminary expenses actually incurred by the governing board to make surveys, prepare estimates of costs and receipts, employ architects, engineers, attorneys, or other consultants, give notices, take options, and all other expenses that must be paid before the issue and delivery of bonds under this chapter may be paid by the county from funds on hand or derived from taxes levied that may be appropriated for that purpose or by the governing board of the hospital from revenues available for that purpose.

(b) The county or the governing board of the hospital shall be reimbursed for the preliminary expenses described under subsection (a) by the governing board of the authority out of the first proceeds of the sale of bonds by the authority provided for in this chapter and before any other disbursements are made.

As added by P.L.2-1993, SEC.5.

IC 16-22-6-12
Powers of governing board

Sec. 12. The governing board of the authority may do the following:

(1) Finance and construct or renovate a building for hospital use on land owned by the authority and lease the land and building to the county in which the authority has been created.

(2) Sue and be sued and plead and be impleaded. However, an

action against the authority shall be brought in a circuit or superior court of the county in which the authority is located.

(3) Condemn, appropriate, purchase, and hold real property useful in connection with a building constructed or renovated under this chapter.

(4) Acquire by gift, devise, or bequest real property and personal property, and hold, use, expend, or dispose of real and personal property for the purposes authorized by this chapter.

(5) Enter upon lots or lands to survey or examine the lots or lands and determine the location of a building.

(6) Design, order, contract for, and construct or renovate a building and make all necessary or desirable improvements to the grounds and premises that the board may acquire.

(7) Enter into a lease with the county and collect rentals payable under the lease.

(8) Make and enter into the contracts and agreements necessary or incidental to the performance of the board's duties and the execution of the board's powers under this chapter.

As added by P.L.2-1993, SEC.5.

IC 16-22-6-13
Leases

Sec. 13. Each county may lease land and a building from the authority for hospital purposes. A contract of lease on a particular building may not be entered into for more than forty (40) years but the contract may be renewed for a like or lesser time.

As added by P.L.2-1993, SEC.5.

IC 16-22-6-14
Anticipatory lease

Sec. 14. A county may, in anticipation of the construction, erection, or renovation of a building, including the necessary equipment and appurtenances, enter into a contract of lease with the authority before the acquisition of a site and the construction, erection, or renovation of the building. Rental payments under a contract of lease may not commence until construction is completed and the building is ready for occupancy. However, if a building is acquired and renovated, a county may, in anticipation of the acquisition and renovation, make and enter into a contract of lease upon terms and conditions agreed upon by the county and the authority, including terms and conditions permitting the county to continue to operate the building until completion of the renovation and the payment of a lease rental by the lessee during the period of renovation.

As added by P.L.2-1993, SEC.5.

IC 16-22-6-15
Payment of lease rental; sources

Sec. 15. A lease executed under this chapter may provide for the payment of the lease rental in one (1) of the following ways:

(1) Entirely from the levy of taxes.

(2) Entirely from the net revenues of the hospital of which the leased building or buildings are a part.

(3) In part from the levy of taxes and in part from the net revenues as fixed and set forth in the lease.

(4) From a cumulative building fund established by the lessee under any of the following:

(A) IC 16-12-16 (before its repeal on July 1, 1993).

(B) IC 16-12.1-4-4 (before its repeal on July 1, 1993).

(C) IC 16-22-5.

As added by P.L.2-1993, SEC.5.

IC 16-22-6-16

Payment of lease rentals from hospital net revenues; reserve fund

Sec. 16. (a) If a lease provides for the payment of lease rental in whole or in part from net revenues of the hospital, the lease may provide that the county and the governing board of the hospital establish a reserve fund for net revenues in excess of the amount required to pay lease rental payable from net revenues. The reserve fund:

(1) may not exceed an amount equal to the amount of lease rental payable from net revenues for two (2) years;

(2) shall be held and used only for the purpose of paying lease rental payable from net revenues if the net revenues at any time are insufficient for that purpose; and

(3) may be invested as provided in the lease and all interest or other income from investment becomes part of the reserve fund.

(b) If the fund contains the maximum amount and a part of the lease rental is payable from taxes, the interest or other income shall be transferred to the fund described in section 32 of this chapter to be used for the payment of the lease rental provided to be paid from taxes. If none of the rental is payable from taxes, the interest or other income becomes a part of the reserve fund.

As added by P.L.2-1993, SEC.5.

IC 16-22-6-17

Payment of lease rentals from a cumulative building fund

Sec. 17. (a) If a lease provides for the payment of lease rentals for a cumulative building fund, part or all of the cumulative building fund and the tax levied for the cumulative building fund may be committed and pledged to the payment of lease rental. To the extent the amount is insufficient to pay the lease rental, the lease must provide that the remaining lease rental be paid entirely from the net revenues of the hospital. As long as the lease remains in effect:

(1) the amount of the cumulative building fund committed and pledged may not be expended by the lessee for any other

purpose; and

(2) the tax levy for that cumulative building fund may not be reduced or rescinded by the county council.

(b) If a lease provides for payment of lease rental as provided in this section, the approval of the county fiscal body is not required for the lease or the sale of land by the county to the authority under section 16 of this chapter.

As added by P.L.2-1993, SEC.5.

IC 16-22-6-18

Hearing on terms of proposed lease; notice

Sec. 18. When the authority, the governing board of the hospital, the county executive, and a majority of the county fiscal body of the county have agreed upon the terms and conditions of a lease proposed to be entered into under the terms and conditions of this chapter and before the final execution of the lease, the county auditor shall publish notice of a public hearing to be held in the county by the county executive not less than ten (10) days after the publication of the notice. The notice of the hearing shall be published one (1) time in a newspaper of general circulation printed in the English language and published in the county. The notice must name the day, place, and hour of the hearing and must set forth a brief summary of the principal terms of the lease, including a description of the property to be leased, the lease rental, the term of the lease, and where the proposed lease, drawings, plans, specifications, and estimates may be examined. The proposed lease and the drawings, plans, specifications, and estimates of construction cost for the building shall be open to inspection by the public during the ten (10) day notice period and at the meeting. All persons have a right to be heard at the meeting on the necessity for the lease and whether the lease rental is fair and reasonable. The hearing may be adjourned to a later date or dates and to a place fixed before the adjournment.

As added by P.L.2-1993, SEC.5.

IC 16-22-6-19

Authorization and execution of lease

Sec. 19. Following the hearing the county executive may authorize the execution of the lease originally agreed on or make modifications agreed on with the authority, the governing board, and the county fiscal body. The authorization must be by an order entered in the official records of the county executive. The lease shall be executed:

(1) on behalf of the county by at least a majority of the members of the county executive; and

(2) on behalf of the authority by the president or vice president and secretary of the governing board of the authority.

As added by P.L.2-1993, SEC.5.

IC 16-22-6-20
Notice of execution of authorized lease; taxpayer objections

Sec. 20. (a) If the execution of the original or a modified lease is authorized, notice of the signing shall be published on behalf of the county one (1) time in a newspaper of general circulation and published in the county. Except as provided in subsection (b), at least ten (10) taxpayers in the county whose tax rate will be affected by the proposed lease may file a petition with the county auditor not more than thirty (30) days after publication of notice of the execution of the lease. The petition must set forth the objections to the lease and facts showing that the execution of the lease is unnecessary or unwise or that the lease rental is not fair and reasonable.

(b) The authority for taxpayers to object to a proposed lease described in subsection (a) does not apply if the authority complies with the procedures for the issuance of bonds and other evidences of indebtedness described in IC 6-1.1-20.

As added by P.L.2-1993, SEC.5. Amended by P.L.35-1997, SEC.11; P.L.146-2008, SEC.434.

IC 16-22-6-21
Submission of objections to department of local government finance

Sec. 21. On the filing of the petition the county auditor shall immediately certify a copy, together with other data necessary to present the questions involved, to the department of local government finance.

As added by P.L.2-1993, SEC.5. Amended by P.L.90-2002, SEC.388.

IC 16-22-6-22
Hearing by department of local government finance; notice

Sec. 22. On receipt of the certified petition and information, the department of local government finance shall fix a time and place in the county for the hearing that shall be not less than five (5) or more than fifteen (15) days after receipt. Notice of the hearing shall be given by the department of local government finance to the county executive and to the first ten (10) taxpayer petitioners by certified mail sent to the addresses listed on the petition at least five (5) days before the hearing date.

As added by P.L.2-1993, SEC.5. Amended by P.L.90-2002, SEC.389.

IC 16-22-6-23
Time for bringing action to contest or enjoin lease

Sec. 23. An action to contest the validity of the lease or to enjoin the performance of the terms and conditions of the lease may not be instituted more than thirty (30) days after publication of notice of the execution of the lease or, if an appeal is taken to the department of local government finance, not more than thirty (30) days after the decision of the board.

As added by P.L.2-1993, SEC.5. Amended by P.L.90-2002, SEC.390.

IC 16-22-6-24
Lease options; renewal or purchase

Sec. 24. (a) A lease:

(1) may provide that the lessee has an option to renew the lease for a like or lesser term; and

(2) must contain an option to purchase at any time after ten (10) years from the execution of the lease and before the expiration of the term of the lease on a date fixed in the lease at a price equal to the amount required to enable the authority to do the following:

(A) Redeem all outstanding securities payable out of the rentals provided for in the lease and all premiums and accrued and unpaid interest payable on that redemption.

(B) Pay all other indebtedness and obligations of the authority attributable to the acquisition, construction, renovation, and leasing of the buildings, including any cost of liquidation of the authority.

(b) The lease does not create an obligation for the county to purchase a leased building or an obligation to a creditor or bondholder of the authority.

(c) A county exercising an option to purchase may issue general obligation bonds to procure funds to purchase the building. The bonds shall be authorized, issued, and sold in accordance with the laws authorizing the issuance and sale of bonds for other county purposes.

As added by P.L.2-1993, SEC.5.

IC 16-22-6-25
Plans and specifications; approval

Sec. 25. Before the execution of a lease the governing board of the hospital and the county executive shall approve the plans, specifications, and estimates of cost for the building, equipment, and appurtenances that the authority proposes to lease to a lessee. The plans and specifications also shall be submitted to and approved by the state department, the division of fire and building safety, and other state agencies designated by law to pass on plans and specifications for public buildings.

As added by P.L.2-1993, SEC.5. Amended by P.L.1-2006, SEC.296.

IC 16-22-6-26
Sale of county land or building to authority; procedure

Sec. 26. (a) A county desiring to erect or renovate a building on land owned or to be acquired by the county may sell land or a building, or both to the authority. Before the sale may take place, the county executive, with the approval of the county fiscal body, shall file a petition with the circuit court of the county requesting the

appointment of:

(1) one (1) disinterested freeholder of the county as an appraiser; and

(2) two (2) disinterested appraisers licensed under IC 25-34.1; who are residents of Indiana to determine the fair market value of the land and buildings. One (1) of the appraisers described under subdivision (2) must reside not more than fifty (50) miles from the land. The appraisers shall fix the fair market value of the land and buildings and report not more than two (2) weeks after the date of the appraisers' appointment. The county may sell the land and buildings to the authority for an amount not less than the amount fixed as the fair market value by the appraisers. The amount shall be paid in cash upon delivery of the deed by the county to the authority.

(b) If a cumulative building fund exists at the time of the sale under IC 16-12-16 (before its repeal on July 1, 1993), IC 16-12.1-4-4 (before its repeal on July 1, 1993), or IC 16-22-5, the proceeds from the sale shall be placed in the fund. If a cumulative building fund does not exist at the time of the sale, the proceeds from the sale shall be paid into the county hospital fund and the principal and interest shall be used for the purposes set forth in IC 16-22-5. A sale of land or buildings, or both, by a county to the authority shall be authorized by the county executive by an order entered in the official records of the county executive. The deed shall be executed on behalf of the county by the county executive.

As added by P.L.2-1993, SEC.5. Amended by P.L.113-2006, SEC.10.

IC 16-22-6-27

Contiguous counties; agreements for county without hospital to reimburse county with hospital for portion of lease rental; procedure

Sec. 27. (a) As used in this section, "contributing county" means a county without a county hospital that is contiguous to a county with a county hospital.

(b) As used in this section, "lessee county" means a county with a county hospital.

(c) A contributing county may enter into an agreement with a lessee county to reimburse the lessee county for a part of the lease rental each year that is payable by the lessee county upon compliance with this section.

(d) If the county executive of the contributing county finds that the hospital of the lessee county serves the residents of the contributing county and provides needed hospital services to such residents, the county executive may prepare a contribution agreement. Before final execution of the agreement, the auditor of the contributing county shall publish notice of a public hearing to be held in the contributing county by the county executive not less than ten (10) days after publication of the notice. The notice shall be published one (1) time in a newspaper of general circulation and

published in the contributing county. The notice must name the day, place, and hour of the hearing and must set forth a summary of the provisions of agreement as to the amount to be paid each year during the term of the lease by the contributing county and where a copy of the proposed agreement may be examined. All persons interested are entitled to be heard at the time fixed on the necessity for the execution of the agreement. The hearing may be adjourned to a later date at a place fixed before adjournment.

(e) Following the hearing, if a majority of the county fiscal body of the contributing county approve the execution of the agreement, the county executive may authorize the execution of the original agreement or may make the modifications agreed upon with the county fiscal body. The authorization shall be by an order entered in the official records of the county executive. The agreement shall be executed:

(1) on behalf of the contributing county by at least a majority of the members of the county executive; and

(2) on behalf of the lessee county by at least a majority of the members of the county executive.

(f) If the execution of the original or modified contribution agreement is authorized, notice of the signing shall be published on behalf of the contributing county by publication one (1) time in a newspaper of general circulation and published in the contributing county. At least ten (10) taxpayers in the contributing county whose tax rate will be affected by the proposed agreement may file a petition with the county auditor of the contributing county not more than thirty (30) days after publication of notice of the execution of the agreement. The petition must set forth the objections to the contribution agreement and facts showing that the execution of the contribution agreement is unnecessary and unwise or that the amount of contribution is excessive. On the filing of the petition, the county auditor shall immediately certify a copy together with other data necessary to present the questions involved to the department of local government finance. The department of local government finance shall fix a time and place in the county for the hearing not less than five (5) or not more than fifteen (15) days after receipt of the certified petition and information. Notice of the hearing shall be given by the department of local government finance to the county executive and to the first ten (10) taxpayer petitioners by certified mail sent to the addresses listed on the petition, at least five (5) days before the date of the hearing.

(g) An action to contest the validity of the contribution agreement or to enjoin the performance of the agreement may not be instituted later than thirty (30) days after publication of notice of the execution of the agreement or, if an appeal has been taken to the department of local government finance, not more than thirty (30) days after the decision of the board.

(h) A contribution agreement may extend for the full term of the

lease or for any part and may provide for reimbursement by the contributing county to the lessee county of a part of the lease rental each year in an amount and upon terms and conditions agreed on between the contributing county and the lessee county. The contributing county shall annually levy a tax sufficient to produce each year the necessary funds sufficient to reimburse the lessee county as provided in the contribution agreement. The tax levies provided for in this section shall be reviewable by other bodies vested by law with the authority to ascertain that the levies are sufficient to raise the required payments under the contribution agreement. The annual contribution shall be paid semiannually to the lessee county before the date lease rental payments are due from the lessee county.

As added by P.L.2-1993, SEC.5. Amended by P.L.90-2002, SEC.391.

IC 16-22-6-28

Agreements between contiguous counties; rights of county citizens

Sec. 28. The citizens of a contributing county under section 27 of this chapter have the same rights and privileges in the hospital as the citizens of the county where the hospital is located.

As added by P.L.2-1993, SEC.5.

IC 16-22-6-29

Revenue bonds; authorization; legal investments; sale

Sec. 29. (a) The governing board may issue revenue bonds of the authority to procure funds to pay the cost of a building to be built, acquired, renovated, or acquired and renovated under this chapter, and to repay advances for preliminary expenses made to the authority by the county. The bonds are payable solely from the income and revenues of the particular building financed from the proceeds of the bonds issued.

(b) The revenue bonds must be authorized by resolution of the governing board. The resolution must provide the following:

(1) The rate of interest that the bonds will pay if the rate is fixed, and the manner in which the interest rate will be determined if rates are variable.

(2) The maturity date of the bonds, which may not exceed the term of the lease of the building for which the bonds were issued.

(3) The extent and the manner that bonds bearing variable interest rates may be converted to bonds bearing a fixed rate of interest.

(4) The terms of redemption, including a provision that bonds maturing later than ten (10) years after issuance are, at the option of the authority to be exercised by the board, redeemable before maturity at the par value together with premiums.

(5) The form of the bonds, including the interest coupons to be attached, if any.

(6) The denominations of the bonds.

(7) The time and places of payment of principal and interest of the bonds, which must be at least one (1) state or national bank or trust company.

(8) That the principal and interest may be paid in any lawful medium.

(c) Subject to registration provisions, the bonds have the qualities of negotiable instruments under IC 26 and the bonds are legal investments for a private trust fund and the funds of any banks, trust companies, insurance companies, building and loan associations, credit unions, banks of discount and deposit, savings banks, loan and trust safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, industrial loan and investment companies, and other financial institutions organized under the laws of the state.

(d) The bonds may be registered in the name of the owner. The bonds shall be executed by the president or vice president of the board of directors. The corporate seal of the authority shall be affixed and attested by the secretary of the board of directors, and the interest coupons attached to the bonds, if any, shall be executed by placing on the coupons the facsimile signature of the treasurer.

(e) Except as provided in subsection (f), the bonds shall be sold by the governing board at public sale under IC 5-1-11, but the notice of sale shall be published in the manner required for bonds of the county in which the authority is located. Notwithstanding IC 5-1-11-3(c), bonds bearing a variable rate of interest shall be awarded to the bidder offering the best bid in the judgment of the board.

(f) If the aggregate principal amount of bonds to be issued at any one (1) time exceeds ten million dollars ($10,000,000), the bonds may be sold at public or private sale at a price the governing board determines. If the bonds are sold at public sale, the governing board shall follow the guidelines set forth in subsection (e). If the bonds are sold at private sale, the governing board shall, before selecting a person with whom to negotiate the sale of the bonds:

(1) solicit and obtain written proposals from at least three (3) persons regularly engaged in the business of underwriting bonds; or

(2) publish notice of intent to receive written proposals one (1) time in a newspaper or financial journal having general circulation in Indianapolis and a newspaper or financial journal having national circulation.

(g) The governing board shall allow each person at least fourteen (14) days from the date of solicitation or publication to formulate, prepare, and submit a proposal. The board of directors shall select the proposal that the board, in the board's sole discretion, determines to be in the best interest of the authority.

As added by P.L.2-1993, SEC.5. Amended by P.L.42-1993, SEC.14.

IC 16-22-6-30
Application of bond proceeds

Sec. 30. The proceeds of bonds issued under this chapter, after reimbursement to the county for preliminary expenses as provided in section 11 of this chapter, shall be applied to the payment of the costs of acquisition, construction, or renovation of the building for which the bonds are issued, including incidental expenses and interest before acquisition or during construction or renovation. Until the proceeds are applied as required in this section, the proceeds are subject to a lien in favor of the bondholders or trustees.
As added by P.L.2-1993, SEC.5.

IC 16-22-6-31
Security for bonds; trust indenture

Sec. 31. (a) The governing board may secure the bonds by a trust indenture between the authority and a corporate trustee, which may be any trust company or national or state bank in Indiana having trust powers.

(b) The trust indenture may do the following:

(1) Mortgage the land or building, or both, for which the bonds are issued.

(2) Contain reasonable provisions for the following:

(A) Protecting and enforcing the rights and remedies of the bondholders, including covenants setting forth the duties of the authority and board in relation to the following:

(i) The construction or renovation of the building and the building's insurance.

(ii) The custody, safeguarding, and application of all money.

(B) Setting forth the rights and remedies of the bondholders and trustee.

(C) Restricting the individual right of action of bondholders.

(c) Except as otherwise provided in this chapter, the board of directors may determine by resolution or in the trust indenture the following:

(1) The officer, board, or depositary that shall have custody of the proceeds of the sale of the bonds.

(2) The method of disbursement of the proceeds, including safeguards and restrictions.

As added by P.L.2-1993, SEC.5.

IC 16-22-6-32
Tax levy

Sec. 32. (a) The county fiscal body of a county that has entered into a lease under this chapter shall annually levy a tax sufficient to produce, with other funds available, funds sufficient to pay the lease

rental provided to be paid from taxes.

(b) Net revenues of the hospital of which the leased building is a part shall, if any of the lease rental is payable from taxes, be transferred to a fund used for the payment of the lease rental to be paid from taxes unless those revenues are required:

(1) to pay lease rental under the lease;

(2) to be retained as a reserve for that purpose; or

(3) by the governing board of the hospital to be kept in reserve for additional construction, equipment, betterment, maintenance, or operation.

(c) In fixing and determining the amount of the levy necessary to pay lease rental payable from taxes, the county fiscal body shall consider the amounts transferred from the net revenues of the hospital as provided in this chapter. This chapter does not relieve the county from the obligation to pay from taxes any lease rental payable from taxes if other funds are not available. The tax levies provided for in this chapter are reviewable by other bodies with authority to ascertain that the levies, with other funds available, are sufficient to meet the rental under the lease that is payable from taxes. Lease rental shall be paid semiannually to the authority following settlements of tax collections.

As added by P.L.2-1993, SEC.5.

IC 16-22-6-33

Hospital revenues as source of lease rental payments

Sec. 33. (a) If:

(1) a county enters into a lease under this chapter, under which the lease rental is payable in whole or in part from the net revenues of the hospital of which the leased buildings are a part; and

(2) the governing board of the hospital covenants in the lease to establish and maintain rates, fees, and charges for the use of the hospital sufficient in each year to:

(A) pay the proper and reasonable expense of operation, repair, replacements, and maintenance of the hospital;

(B) pay the lease rental payable from the net revenues of the hospital; and

(C) establish the reserve fund provided for in the lease in the full amount in not less than five (5) years;

revenues collected are the revenues of the hospital. The rates, fees, and charges shall be increased as necessary to comply with this section.

(b) The authority may protect and enforce the rights granted under this chapter or under the lease and may enforce and compel performance of all duties required by this chapter or the lease to be performed by:

(1) the county executing the lease;

(2) the county executive;

(3) the governing board; or
(4) an officer of the county;
including setting and collecting reasonable and sufficient rates, fees, and charges for the use of the hospital.

(c) If there is a failure to pay lease rental payable solely from the net revenues of the hospital on the payment date, a court having jurisdiction of the action may appoint a receiver to administer the hospital on behalf of the county and the authority.

(d) The receiver may charge and collect rates sufficient to do the following:

(1) Pay the proper and reasonable expense of operation, repair, replacements, and maintenance of the hospital.
(2) Pay the lease rental payable from the net revenues of the hospital.
(3) Establish the full amount of the reserve fund provided for in the lease in not less than five (5) years.

As added by P.L.2-1993, SEC.5.

IC 16-22-6-34
Exemption from state taxation

Sec. 34. The following are exempt from state taxation except for the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1:

(1) Property owned by the authority.
(2) Revenues of the authority.
(3) Bonds or other securities and the interest on bonds and securities issued by the authority.
(4) Proceeds received by a holder from the sale of the bonds, to the extent of the holder's cost of acquisition.
(5) Proceeds received upon redemption at or before maturity and the interest on the proceeds.

As added by P.L.2-1993, SEC.5. Amended by P.L.254-1997(ss), SEC.23.

IC 16-22-6-35
Audit of funds; officer and employee bonds; records

Sec. 35. The state board of accounts may supervise and audit the funds of the authority. An officer or employee of the authority authorized to receive, disburse, or in any way handle funds or negotiable securities of the authority shall execute a bond payable to the state, with surety to consist of a surety or guaranty corporation qualified to do business in Indiana, in an amount determined by the board. The bond must be conditioned upon the faithful performance of the officer's or employee's duties and the accounting for all money and property that may come under the officer's or employee's control. The cost of the bonds shall be paid out of funds of the authority. The records of the authority are public records.

As added by P.L.2-1993, SEC.5.

IC 16-22-6-36
Liquidation of authority

Sec. 36. An authority may be liquidated after the authority's securities are redeemed, debts are paid, and leases are terminated if the board of directors files a report with the circuit court, superior court, or probate court showing the facts and stating that the liquidation is in the best public interest. The court shall find the facts and make an order book entry ordering the authority liquidated.

As added by P.L.2-1993, SEC.5. Amended by P.L.84-2016, SEC.86.

IC 16-22-6-37
Building additions; funding

Sec. 37. (a) A county or the governing board of the hospital may remodel or construct an addition to a hospital building leased under this chapter.

(b) To provide funds for that purpose, the county may issue general obligation bonds or appropriate money from the county's general fund or other funds available for that purpose if the hospital building is owned by the county. The governing board of a hospital may use funds available to the board if the hospital building is owned by the county.

As added by P.L.2-1993, SEC.5. Amended by P.L.252-2015, SEC.24.

IC 16-22-6-38
Agreements

Sec. 38. A county and an authority that have entered into or propose to enter into a lease under this chapter may enter into a party wall agreement or other agreement concerning the attaching of an addition to a hospital building if the agreement is approved by the governing board of the hospital and recorded with the recorder of the county in which the hospital is located. The agreement may provide for an easement or a license to construct a part of an addition over or above the existing hospital building.

As added by P.L.2-1993, SEC.5.

IC 16-22-6-39
Lease approval of county fiscal body

Sec. 39. For the purposes of this chapter, county executive action or approval for the appropriation and expenditure of county tax money includes approval by the county fiscal body. A lease entered into by the county executive with the hospital building authority or association is not valid or binding on the county unless the lease is approved by a majority vote of the county fiscal body.

As added by P.L.2-1993, SEC.5.

IC 16-22-6-40
Compliance with other laws

Sec. 40. In proceeding under this chapter, it is not necessary to

comply with any other law except as otherwise expressly provided in this chapter.
As added by P.L.2-1993, SEC.5.

IC 16-22-7

Chapter 7. Hospital Building Authorities in County With Hospital Operated Under IC 16-23-1

IC 16-22-7-1

Authority defined

Sec. 1. As used in this chapter, "authority" means the hospital association created by section 5 of this chapter.

As added by P.L.2-1993, SEC.5.

IC 16-22-7-2

Governing body defined

Sec. 2. As used in this chapter, "governing body" means the county executive of a county or the legislative and fiscal body of a city.

As added by P.L.2-1993, SEC.5.

IC 16-22-7-3

Net operating revenue defined

Sec. 3. As used in this chapter, "net operating revenue" means the revenues of the hospital, exclusive of any property tax levy remaining after provision for reasonable expenses of operation, repair, replacements, and maintenance of the hospital.

As added by P.L.2-1993, SEC.5.

IC 16-22-7-4

Recording officer defined

Sec. 4. As used in this chapter, "recording officer" when used in reference to a county means the county auditor and when used in reference to a city means the city clerk or clerk-treasurer.

As added by P.L.2-1993, SEC.5.

IC 16-22-7-5

Creation of authority; resolution

Sec. 5. (a) In a county where a city hospital is operated under IC 16-23-1, the county executive may, upon written request of the governing board of the city hospital, adopt a resolution for the creation of an authority under this chapter.

(b) The adoption of a resolution creates an authority, which is a body corporate and politic to be known as the "_____ County Hospital Association". The authority is created for the purpose of financing, acquiring, constructing, equipping, and leasing to the county or the city in which the authority is created land and buildings for the use and benefit of the city hospital.

(c) The county auditor shall file a certified copy of the resolution with the judge of the circuit court of the county in which the authority is created.

As added by P.L.2-1993, SEC.5.

IC 16-22-7-6
Governing board; appointment; terms

Sec. 6. (a) Not more than thirty (30) days after the adoption of the resolution, the county executive shall appoint five (5) residents of the county as the governing board of the hospital building authority. Written notice shall be sent to each appointee.

(b) The initial terms are as follows:

(1) One (1) member for a term of one (1) year.
(2) One (1) member for a term of two (2) years.
(3) One (1) member for a term of three (3) years.
(4) Two (2) members for a term of four (4) years.

(c) At the expiration of the term of a member, the county executive shall appoint a successor for a four (4) year term. Each member serves until a successor is appointed and qualified.

As added by P.L.2-1993, SEC.5.

IC 16-22-7-7
Disqualification or removal of appointee; successor

Sec. 7. If a member dies, resigns, ceases to be a resident of the county, or is removed, the county executive shall appoint another person as director for the remainder of the term. If a person appointed as a member fails to qualify not more than ten (10) days after the mailing of notice of appointment, the county executive shall appoint another person as member for that term.

As added by P.L.2-1993, SEC.5.

IC 16-22-7-8
Oath of office of director

Sec. 8. Each member, before entering upon the director's duties, shall take and subscribe an oath of office in the usual form to be endorsed upon the director's certificate of appointment. The oath shall be filed with the clerk of the circuit court.

As added by P.L.2-1993, SEC.5.

IC 16-22-7-9
Removal of member from office

Sec. 9. (a) A member of the governing board may be removed from office for neglect of duty, incompetency, inability to perform duties, or other good cause by an order of the circuit court, superior court, or probate court in the county in which the authority is located, subject to the procedure in subsection (b).

(b) A complaint may be filed by any person against a member setting forth the charges preferred. The cause shall be placed on the advanced calendar and be tried as other civil causes are tried by the court without the intervention of a jury. If the charges are sustained, the court shall declare the office vacant. A change of venue from the judge shall be granted upon motion, but a change of venue from the county may not be taken.

As added by P.L.2-1993, SEC.5. Amended by P.L.84-2016, SEC.87.

IC 16-22-7-10
Meetings of the governing board

Sec. 10. (a) The governing board originally appointed shall hold an organizational meeting not more than thirty (30) days after appointment at a time and place designated by the judge of the circuit court. The governing board shall elect a president, vice president, secretary, and treasurer from among the members. The officers serve until the expiration of the first term to expire.

(b) The governing board shall meet annually to reorganize not more than thirty (30) days after the appointment of each successor member for a full term.

(c) Other regular and special meetings shall be held at the times and on the notice that the governing board determines by resolution or in accordance with the bylaws, rules, and regulations adopted.
As added by P.L.2-1993, SEC.5.

IC 16-22-7-11
Bylaws, rules, and regulations

Sec. 11. The governing board may adopt bylaws, rules, and regulations to conduct proceedings, carry out duties, and safeguard the funds and property of the authority.
As added by P.L.2-1993, SEC.5.

IC 16-22-7-12
Quorum; reimbursement of expenses

Sec. 12. A majority of the governing board constitutes a quorum and the concurrence of a majority is necessary to authorize any action. Members serve without pay but are entitled to reimbursement for expenses necessarily incurred in the performance of the members' duties.
As added by P.L.2-1993, SEC.5.

IC 16-22-7-13
Conflicts of interest

Sec. 13. If a member of the governing board has any pecuniary interest in a contract, an employment, a purchase, or a sale made under this chapter, the director shall disclose that interest and shall not vote on the matter. If the member fails to disclose the interest, the transaction is voidable if a suit is filed in circuit court, superior court, or probate court in not less than thirty (30) days.
As added by P.L.2-1993, SEC.5. Amended by P.L.84-2016, SEC.88.

IC 16-22-7-14
Preliminary expenses

Sec. 14. (a) All necessary preliminary expenses actually incurred by the governing board to make surveys, prepare estimates of cost

and receipts, employ architects, engineers, attorneys, or other consultants, give notices, take options, and all other expenses necessary to be paid before the issue and delivery of bonds under this chapter may be paid by the:

(1) city hospital or city, from funds on hand or derived from taxes levied that may be appropriated for that purpose; or

(2) board of trustees or board of managers of the hospital from revenues available for such purposes.

(b) The city or the governing board of the hospital from which the payments are made shall be fully reimbursed by the governing board out of the first proceeds of the sale of bonds by the authority before any other disbursements are made.

As added by P.L.2-1993, SEC.5.

IC 16-22-7-15

Authority to finance and construct hospital building

Sec. 15. The governing board of the authority may finance and construct a hospital building for use by the city hospital operating under IC 16-23-1, on land owned or leased by the authority as set forth in section 28 of this chapter, and lease the land and buildings to the county or city for the use and benefit of the city hospital in accordance with this chapter.

As added by P.L.2-1993, SEC.5.

IC 16-22-7-16

Powers of governing board

Sec. 16. The governing board, acting in the name of the authority, may do the following:

(1) Sue and be sued and plead and be impleaded. Actions against the authority shall be brought in the circuit or superior courts of the county in which the authority is located.

(2) Condemn, appropriate, purchase, and hold real property needed or considered useful in connection with buildings constructed under this chapter.

(3) Acquire by gift, devise, or bequest real and personal property, and hold, use, expend, or dispose of the real and personal property for the purposes authorized by this chapter.

(4) Enter upon real property to survey or examine the real property and determine the location of a building.

(5) Design, order, contract for, and construct buildings and make improvements to the grounds and premises that are acquired.

(6) Enter into a lease with the county or city for the use and benefit of a city hospital operated under IC 16-23-1 and collect rentals payable under the lease.

(7) Make and enter into contracts and agreements necessary or incidental to the performance of the board's duties and the execution of the board's powers under this chapter.

As added by P.L.2-1993, SEC.5.

IC 16-22-7-17
Leasing land and buildings for hospital

Sec. 17. The county or city may lease land and buildings from the authority for the city hospital. A lease on the buildings may not be entered into for more than forty (40) years but the lease may be renewed for a like or lesser time.
As added by P.L.2-1993, SEC.5.

IC 16-22-7-18
Time for making leases

Sec. 18. The county or city may, in anticipation of the construction and erection of buildings, including necessary equipment and appurtenances, enter into a lease with the authority before the acquisition of a site and the construction and erection of the buildings. Rental payments under the lease may not begin until construction is completed and the building is ready for occupancy.
As added by P.L.2-1993, SEC.5.

IC 16-22-7-19
Source of lease rental payments

Sec. 19. (a) A lease from the authority to the county may provide for the payment of the lease rental from the levy of taxes reduced by net revenues of the hospital and other funds available as provided in section 37 of this chapter.

(b) A lease from the authority to the city may provide for the payment of lease rental from the net revenues of the hospital of which the buildings are a part.

(c) A lease from the authority to the city providing for the payment of a lease rental from net revenues of the hospital may provide that the board of trustees or board of directors of the hospital establish a reserve for net revenues in excess of the amount required to pay the lease rental payable from net revenues. The reserve fund may not exceed an amount equal to the amount of lease rental payable from net revenues for two (2) years. The reserve fund shall be held and used only for the purpose of paying lease rental payable from net revenues if the net revenues are insufficient for that purpose. The amount in the reserve fund may be invested as provided in the lease and all interest or other income from the investment becomes part of the reserve fund. If the fund contains the maximum amount the interest or income shall be transferred to the city hospital and be a part of the general revenues of that hospital.
As added by P.L.2-1993, SEC.5.

IC 16-22-7-20
Cumulative building fund as lease rental payment source

Sec. 20. Part or all of the cumulative building fund of the city

hospital in existence at the time of execution of the lease to the lessee, or during the term of the lease, may be used to pay lease rental or may be held as a reserve for the payment of future lease rentals. The reserve fund described in this section is distinct from a reserve fund established under section 19 of this chapter. The board of directors of the hospital may decrease or eliminate the reserve fund unless the lease provides otherwise. The reserve fund may not exceed an amount equal to the amount of lease rental payable from net revenues for two (2) years. Interest or income on the reserve fund shall be transferred to the cumulative building fund of the city hospital.

As added by P.L.2-1993, SEC.5.

IC 16-22-7-21

Notice and hearing on proposed lease

Sec. 21. (a) When the authority, the governing board of the hospital, the county executive, and the county fiscal body of the county or the city fiscal body have agreed on the terms and conditions of a proposed lease and before the final execution of the lease, the recording officer shall publish notice of a public hearing to be held in the county or city by the governing body of the proposed lessee. The hearing shall be held not earlier than ten (10) days after the date of publication of the notice. The notice must name the day, place, and hour of the hearing and must set forth a brief summary of the principal terms of the lease, including the character and location of the property to be leased, the lease rental to be paid, the lease term, and where the proposed lease, drawings, plans, specifications, and estimates may be examined.

(b) The proposed lease and the drawings, plans, specifications, and estimates of construction cost for the buildings are open to inspection by the public during the ten (10) days before the meeting and at the meeting.

(c) Interested persons are entitled to be heard at the meeting concerning the necessity for and fairness of the lease. The hearing may be adjourned to a later date and to a place fixed before adjournment.

As added by P.L.2-1993, SEC.5.

IC 16-22-7-22

Authorization and execution of lease

Sec. 22. Following the hearing the governing body may authorize the execution of the lease as originally agreed upon or make modifications as agreed upon with the authority. Authorization shall be by ordinance, order, or resolution entered in the official record of the hospital governing board and the governing body. The lease shall be executed as follows:

(1) On behalf of the county, by the county executive.

(2) On behalf of the city, by the city executive and the recording

officer.

(3) On behalf of the city hospital, by the president or vice president and secretary of the governing board.

(4) On behalf of the authority, by the president or vice president and secretary of the governing board.

As added by P.L.2-1993, SEC.5.

IC 16-22-7-23

Notice of execution of lease; petition of objectors; presentment to department of local government finance

Sec. 23. (a) If execution of the original or modified lease is authorized under section 38 of this chapter, notice of the signing shall be published.

(b) Ten (10) taxpayers in the county whose tax rate will be affected by the proposed lease and who believe the lease is unnecessary or the lease rental is not fair and reasonable may file a petition in the office of the county auditor not more than thirty (30) days after publication of notice of the execution of the lease, setting forth the objections and stating facts showing that the lease is unnecessary or unwise or that the lease rental is not fair and reasonable.

(c) On the filing of the petition, the county auditor shall immediately certify a copy, together with other data necessary to present the questions involved, to the department of local government finance.

As added by P.L.2-1993, SEC.5. Amended by P.L.90-2002, SEC.392.

IC 16-22-7-24

Notice and hearing on objections

Sec. 24. On receipt of the certified petition and information, the department of local government finance shall fix a time and place in the county for a hearing of the matter, which shall be not less than five (5) or more than fifteen (15) days after receipt of the certified petition and information. Notice of the hearing shall be given by the department of local government finance to the city hospital board and to the first ten (10) taxpayer petitioners on the petition by certified mail sent to the addresses listed on the petition, at least five (5) days before the date of the hearing.

As added by P.L.2-1993, SEC.5. Amended by P.L.90-2002, SEC.393.

IC 16-22-7-25

Time to contest or enjoin lease

Sec. 25. An action to contest the validity of the lease or to enjoin the performance of the terms and conditions of the lease may not be instituted later than thirty (30) days after publication of notice of the execution of the lease or, if an appeal is taken to the department of local government finance, not more than thirty (30) days after the decision of the board.

As added by P.L.2-1993, SEC.5. Amended by P.L.90-2002, SEC.394.

IC 16-22-7-26
Terms of lease

Sec. 26. (a) A lease may provide the lessee with an option to renew the lease, with approval of the board of directors of the city hospital, for a like or lesser term. The lease must contain an option for the city hospital to purchase at any time after ten (10) years from the execution of the lease and before the expiration of the lease on dates in each year fixed in the lease, at a price equal to the amount required to enable the authority to do the following:

(1) Redeem all outstanding securities payable out of the rentals provided in the lease and all premiums payable on the redemption and accrued and unpaid interest.

(2) Pay all other indebtedness and obligations of the authority attributable to the construction and leasing of the buildings, including the cost of liquidation of the authority.

(b) A lease may not create an obligation for the lessee or city hospital to purchase the leased buildings or create any obligation to creditors or bondholders of the authority.

As added by P.L.2-1993, SEC.5.

IC 16-22-7-27
Issuance of bonds

Sec. 27. The county fiscal body may issue general obligation bonds to procure funds to purchase the building. The bonds shall be authorized, issued, and sold in accordance with the laws authorizing the issuance and sale of bonds for other county purposes.

As added by P.L.2-1993, SEC.5.

IC 16-22-7-28
Approval of plans and specifications

Sec. 28. Before executing a lease, the governing board of the hospital shall approve the plans, specifications, and estimates of cost for the building, including equipment and appurtenances, that the authority proposes to lease to a lessee. The plans and specifications shall be submitted to and approved by the state department, the division of fire and building safety, and other state agencies designated by law to pass on plans and specifications for public buildings.

As added by P.L.2-1993, SEC.5. Amended by P.L.1-2006, SEC.297.

IC 16-22-7-29
Lease of land to authority by hospital, municipality, or county; option to purchase; price

Sec. 29. (a) The city hospital, city, or county desiring to erect buildings on land owned or acquired by the city hospital, city, or county may lease land to the authority for a nominal rental for the

same period, including renewal periods, that the lessee proposes to lease the particular land or buildings to be constructed from the authority. The city hospital, city, or county may grant an option to the authority to purchase the land not more than six (6) months after the expiration of the lease from the authority on the land or buildings if the city hospital or lessee does not exercise an option to purchase the buildings within the terms of the lease. If the option price on the land is not fixed in the original lease, the price shall be determined by an appraisal made by:

(1) one (1) disinterested freeholder residing in the county; and

(2) two (2) disinterested appraisers licensed under IC 25-34.1;

who are residents of Indiana appointed by the judge of the circuit court. One (1) of the appraisers appointed under subdivision (2) must reside not more than fifty (50) miles from the land.

(b) A lease of land by the city hospital, city, or county must be authorized by the city legislative body, the county executive, or governing board of the hospital, respectively, and a resolution, an order, or an ordinance must be entered in the official records of the governing body. Authorization may be given before or concurrently with the authorization of the lease from the authority to the lessee. The authorization to lease land to the authority is contingent upon the authorization to lease land from the authority. The lease to the authority shall be executed on behalf of the following:

(1) The city by the city executive and the recording officer.

(2) The county by the county executive and auditor.

(3) The authority by the president or vice president and secretary of the governing board.

As added by P.L.2-1993, SEC.5. Amended by P.L.113-2006, SEC.11.

IC 16-22-7-30

Sale of land to authority by hospital, municipality, or county

Sec. 30. (a) The city hospital, city, or county desiring to have buildings erected on land owned or acquired by the city hospital, city, or county may sell the land to the authority. Before the sale may take place, the legislative body of the city, the governing board of the hospital, or executive of the county having authorized the sale shall file a petition with the circuit court of the county requesting the appointment of:

(1) one (1) disinterested freeholder of the county as an appraiser; and

(2) two (2) disinterested appraisers licensed under IC 25-34.1;

who are residents of Indiana to determine the fair market value of the land. One (1) of the appraisers appointed under subdivision (2) must reside not more than fifty (50) miles from the land. Upon appointment, the appraisers shall fix the fair market value of the land and shall report not more than two (2) weeks after the date of the appraisers' appointment. The city hospital, city, or county may sell the land to the authority for an amount not less than the amount fixed

as the fair market value by the appraisers. The amount may be paid from proceeds of bonds of the authority.

(b) The city legislative body must authorize the sale of land owned by the city by resolution or ordinance and the deed shall be executed by the city executive and city clerk.

(c) The governing board must authorize the sale of land owned by the city hospital by resolution and the deed shall be executed by the president or vice president and the secretary of the governing board.

(d) The county executive must authorize the sale of land owned by the county by resolution or order, and the deed shall be executed by the county executive and the county auditor.

As added by P.L.2-1993, SEC.5. Amended by P.L.113-2006, SEC.12.

IC 16-22-7-31

Issuance of revenue bonds by authority

Sec. 31. (a) The governing board may issue revenue bonds of the authority to procure funds for buildings to be built or acquired under this chapter and to repay advances for preliminary expenses. The bonds are payable from the income and revenues of the buildings financed from the proceeds of the bonds.

(b) The revenue bonds must be authorized by resolution of the board. The resolution must provide the following:

(1) That the bonds bear interest, payable annually or semiannually.

(2) The maturity dates of the bonds, which may not exceed the term of the lease of the buildings for which the bonds are issued.

(3) The terms of redemption, including a provision that bonds maturing after ten (10) years from the date of issuance are, at the option of the authority, redeemable before maturity at the bonds' par value together with premiums.

(4) The form of the bonds, including the interest coupons attached, if any.

(5) The denominations of the bonds.

(6) The places of payment of principal and interest, which shall be at least one (1) state or national bank or trust company.

(7) That the principal and interest may be paid in any lawful medium.

As added by P.L.2-1993, SEC.5.

IC 16-22-7-32

Nature of revenue bonds

Sec. 32. The bonds are negotiable instruments under IC 26-1, and legal investments for private trust funds and the funds of any banks, trust companies, insurance companies, building and loan associations, credit unions, banks of discount and deposit, savings banks, loan and trust safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage

guaranty companies, small loan companies, industrial loan and investment companies, and other financial institutions organized under Indiana law. The bonds may be registered in the name of the owner as to principal alone.
As added by P.L.2-1993, SEC.5. Amended by P.L.42-1993, SEC.15.

IC 16-22-7-33
Execution of bonds

Sec. 33. The bonds shall be executed by signature or facsimile signature of the president of the governing board. The corporate seal of the authority or a facsimile shall be affixed and attested by the secretary. The interest coupons attached to the bonds shall be executed by facsimile signature of the treasurer.
As added by P.L.2-1993, SEC.5.

IC 16-22-7-34
Terms of bond sale

Sec. 34. The bonds shall be sold by the board at public sale in the manner described under IC 5-1-11-3(c). However, the bonds may not be sold for less than the bonds' par value. Notice of sale shall be published in the manner required for bonds of a county. Any premium received from the sale of the bonds shall be used solely for the payment of principal and interest on the bonds.
As added by P.L.2-1993, SEC.5.

IC 16-22-7-35
Disposition of bond proceeds

Sec. 35. The proceeds from bonds issued under this chapter, after reimbursement for preliminary expenses as provided in section 14 of this chapter and payment for land, shall be applied to the payment of the costs of the buildings on account of which the bonds are issued, including incidental expenses and interest during construction. Until the proceeds are applied as required in this section, the proceeds are subject to a lien in favor of the bondholders or the trustees.
As added by P.L.2-1993, SEC.5.

IC 16-22-7-36
Security for bonds; trust indenture

Sec. 36. (a) The governing board may secure the bonds by a trust indenture between the authority and a corporate trustee, which may be any trust company or national or state bank in Indiana having trust powers.

(b) The trust indenture may do the following:

(1) Mortgage all or part of the land or buildings, or both, for which the bonds are issued.

(2) Contain reasonable provisions for protecting and enforcing the rights and remedies of the bondholders, including covenants concerning the following:

(A) Construction of the buildings.
(B) Insurance for the buildings.
(C) Custody, safeguarding, and application of all money.
(3) Set forth the rights and remedies of the bondholders and trustee.
(4) Restrict the individual right of action of bondholders.

(c) Except as restricted by this chapter, the governing board may determine by resolution or in the trust indenture the officer, board, or depositary who shall have custody of the proceeds of the sale of bonds and the method of disbursement of the proceeds, including safeguards and restrictions.

As added by P.L.2-1993, SEC.5.

IC 16-22-7-37 Version a
Tax levy for lease rental payments

Note: This version of section effective until 1-1-2017. See also following version of this section, effective 1-1-2017.

Sec. 37. (a) The county fiscal body shall annually levy a tax sufficient to produce funds that, with other funds available, are sufficient to pay the lease rental provided to be paid from taxes.

(b) If the lease rental is payable from taxes, net revenues of the hospital of which the leased buildings are a part that are not required to be kept in reserve for additional construction, equipment, betterment, maintenance, or operation shall be transferred to a fund for the payment of the lease rental. To the extent that the transferred funds are insufficient to pay the lease rental, cumulative building funds reserved for lease rental payable from taxes under section 20 of this chapter shall be transferred.

(c) In fixing and determining the necessary levy to pay lease rentals payable from taxes, the county council shall consider the amounts transferred from the net revenues of the hospital and may appropriate and pay funds from any available sources, including revenues derived under IC 6-3.5. This subsection does not relieve the county from the obligation to pay from taxes any lease rental payable from taxes if other funds are not available. The tax levies are reviewable by other bodies vested by law with the authority to ascertain that the levies are sufficient to meet the rental under the lease contract that is payable from taxes. The lease rental shall be paid semiannually to the authority.

(d) A lease by the authority to the county may not provide for rentals payable from the levy of a tax by a county unless the lease is approved by a majority vote of the county fiscal body.

As added by P.L.2-1993, SEC.5.

IC 16-22-7-37 Version b
Tax levy for lease rental payments

Note: This version of section effective 1-1-2017. See also preceding version of this section, effective until 1-1-2017.

Sec. 37. (a) The county fiscal body shall annually levy a tax sufficient to produce funds that, with other funds available, are sufficient to pay the lease rental provided to be paid from taxes.

(b) If the lease rental is payable from taxes, net revenues of the hospital of which the leased buildings are a part that are not required to be kept in reserve for additional construction, equipment, betterment, maintenance, or operation shall be transferred to a fund for the payment of the lease rental. To the extent that the transferred funds are insufficient to pay the lease rental, cumulative building funds reserved for lease rental payable from taxes under section 20 of this chapter shall be transferred.

(c) In fixing and determining the necessary levy to pay lease rentals payable from taxes, the county council shall consider the amounts transferred from the net revenues of the hospital and may appropriate and pay funds from any available sources, including revenues derived under IC 6-3.6. This subsection does not relieve the county from the obligation to pay from taxes any lease rental payable from taxes if other funds are not available. The tax levies are reviewable by other bodies vested by law with the authority to ascertain that the levies are sufficient to meet the rental under the lease contract that is payable from taxes. The lease rental shall be paid semiannually to the authority.

(d) A lease by the authority to the county may not provide for rentals payable from the levy of a tax by a county unless the lease is approved by a majority vote of the county fiscal body.

As added by P.L.2-1993, SEC.5. Amended by P.L.197-2016, SEC.115.

IC 16-22-7-38

Lease rentals payable solely from hospital revenues

Sec. 38. (a) A city hospital that enters into a lease under this chapter under which the lease rental is payable solely from the net revenues of the hospital that contains the leased building shall covenant in the lease to establish and maintain rates, fees, and charges sufficient in each year to do the following:

(1) Pay the proper and reasonable expense of operation, repair, replacements, and maintenance of the hospital.

(2) Pay the lease rental.

(3) Establish the reserve fund provided for in the lease in the full amount within not less than five (5) years.

(b) Revenues collected are revenues of the hospital. Rates, fees, and charges shall be increased as necessary to comply with this section.

(c) The authority may protect and enforce the rights granted under this chapter or under the lease and may enforce and compel performance of all duties required under this chapter or under the lease, including setting and collecting reasonable and sufficient rates, fees, and charges. If there is a failure to pay lease rental on the

payment date named in the lease, any court having jurisdiction of the action may appoint a receiver to administer the hospital on behalf of the city and the authority. The receiver may charge and collect rates sufficient to do the following:

(1) Pay the proper and reasonable expense of operation, repair, replacements, and maintenance of the hospital.

(2) Pay the lease rental payable solely from the net revenues of the hospital.

(3) Establish the full amount of reserve fund provided for in the lease within not less than five (5) years as may be provided in the lease.

(d) A lease by the authority may not provide for rentals payable from net revenues of the city hospital unless the lease is approved by a majority of the board of directors of the city hospital.

As added by P.L.2-1993, SEC.5.

IC 16-22-7-39

Exemptions from state taxation

Sec. 39. The following are exempt from state taxation except the financial institutions tax and the state inheritance tax:

(1) All property owned by the authority.

(2) All revenues of the authority.

(3) All bonds or other securities issued by the authority and the interest on the bonds or other securities, the proceeds received by a holder from the sale of bonds to the extent of the holder's cost of acquisition, proceeds received upon redemption at or before maturity and the interest on the proceeds.

As added by P.L.2-1993, SEC.5.

IC 16-22-7-40

Audit of funds; bond of officers and employees

Sec. 40. The state board of accounts may supervise and audit the funds of the authority. Any officer or employee of the authority authorized to receive or disburse funds or negotiable securities of the authority shall execute a bond of a surety or guaranty corporation qualified to do business in Indiana and payable to the state in an amount determined by the board. The bond must be conditioned upon the faithful performance of the officer's or employee's duties and the accounting for all money and property under the officer's or employee's control. The cost of bonds shall be paid by the authority. The records of the authority are public records.

As added by P.L.2-1993, SEC.5.

IC 16-22-7-41

Liquidation of authority

Sec. 41. An authority may be liquidated after redemption of the authority's securities, payment of the authority's debts, and termination of the authority's leases if the governing board files a

report with the circuit court, superior court, or probate court showing the facts and stating that liquidation is in the best public interest. If the court finds the facts, the court shall make an order book entry ordering the authority liquidated.
As added by P.L.2-1993, SEC.5. Amended by P.L.84-2016, SEC.89.

IC 16-22-7-42
Remodeling and additions to hospital

Sec. 42. (a) The governing board of the hospital may remodel or construct an addition to a hospital building leased by the hospital under this chapter.

(b) To provide funds for that purpose, the county may issue general obligation aid bonds or the city hospital or city may appropriate money from the city hospital's or city's general fund or other funds available for that purpose if the hospital building is owned by the city hospital or city. The governing board of the hospital may use any funds available to the board if the hospital building is owned by the city.
As added by P.L.2-1993, SEC.5. Amended by P.L.252-2015, SEC.25.

IC 16-22-7-43
Party wall or other agreements for attaching additions

Sec. 43. A city hospital, city, or county and an authority may enter into a party wall agreement or other agreements concerning the attaching of an addition to a hospital building. The agreements shall be recorded in the office of the recorder of the county in which the hospital building is located. The agreements may provide for an easement or a license to construct a part of an addition over or above the existing hospital building.
As added by P.L.2-1993, SEC.5.

IC 16-22-8

Chapter 8. Health and Hospital Corporation of Marion County

IC 16-22-8-1

Administrative adjudication, decision, or order defined

Sec. 1. As used in this chapter, "administrative adjudication, decision, or order", means the administrative investigation, hearing, and determination of issues or cases applicable to a person, including the following:

(1) Revocation or suspension of a license or permit.

(2) Discharge of an official or employee, if that official or employee may only be discharged for cause.

As added by P.L.2-1993, SEC.5.

IC 16-22-8-2

Repealed

(As added by P.L.2-1993, SEC.5. Repealed by P.L.266-2001, SEC.17.)

IC 16-22-8-2.1

Board defined

Sec. 2.1. As used in this chapter, "board" refers to the board of a municipal corporation created under this chapter.

As added by P.L.184-2005, SEC.5.

IC 16-22-8-3

Division defined

Sec. 3. As used in this chapter, "division" means an administrative subdivision created by this chapter or by the board.

As added by P.L.2-1993, SEC.5. Amended by P.L.184-2005, SEC.6.

IC 16-22-8-4

Division director defined

Sec. 4. As used in this chapter, "division director" and "director of a division" mean the chief executive officer of a division.

As added by P.L.2-1993, SEC.5.

IC 16-22-8-5

Hospital defined

Sec. 5. As used in this chapter, "hospital":

(1) means a hospital (as defined in IC 16-18-2-179(b)) that is owned, operated, or managed by a municipality or political subdivision within the territorial jurisdiction of the corporation created by section 6 of this chapter; and

(2) does not include state or federal owned or operated hospitals.

As added by P.L.2-1993, SEC.5. Amended by P.L.184-2005, SEC.7.

IC 16-22-8-6
Creation; powers

Sec. 6. (a) There is created in a county containing a consolidated city a distinct municipal corporation known as "The Health and Hospital Corporation of _____ County".

(b) The municipal corporation, in its corporate name, may do the following:

(1) Sue and be sued in a court of competent jurisdiction.

(2) Enter into contracts.

(3) Acquire and dispose of real, personal, and mixed property by deed, purchase, gift, grant, devise, lease, condemnation, or otherwise.

(4) Make and adopt appropriate ordinances, regulations, orders, rules, and resolutions.

(5) Do all things reasonable or necessary to carry out the work and perform the corporation's duties under this chapter.

As added by P.L.2-1993, SEC.5.

IC 16-22-8-6.5
Other powers of the governing board

Sec. 6.5. (a) In addition to IC 5-14-1.5-6.1(b), the board may hold executive sessions concerning the division of public hospitals to do any of the following:

(1) Discuss and prepare bids, proposals, or arrangements that will be competitively awarded among health care providers.

(2) Discuss recruitment of health care providers.

(3) Discuss and prepare competitive marketing strategies.

(4) Engage in strategic planning.

(5) Participate in a motivational retreat with staff or personnel if the board does not conduct any official action (as defined in IC 5-14-1.5-2(d)).

(b) IC 5-14-1.5-5, IC 5-14-1.5-6.1, and IC 5-14-1.5-7 apply to executive sessions held under subsection (a).

(c) The corporation may hold confidential, until the information contained in the records is announced to the public, records of a proprietary nature that if revealed would place the corporation at a competitive disadvantage, including the following:

(1) Terms and conditions of preferred provider arrangements.

(2) Health care provider recruitment plans.

(3) Competitive marketing strategies regarding new services and locations.

As added by P.L.91-2002, SEC.11 and P.L.100-2002, SEC.12. Amended by P.L.184-2005, SEC.8.

IC 16-22-8-7
Governing board; exercise of powers

Sec. 7. The board shall exercise the executive and legislative powers of the corporation.

As added by P.L.2-1993, SEC.5. Amended by P.L.184-2005, SEC.9.

IC 16-22-8-8
Governing board; membership; qualifications

Sec. 8. (a) The board consists of seven (7) members chosen at large from the county in which the corporation is established.

(b) To be eligible to be selected or serve as a member of the board, an individual must have the following qualifications:

(1) Be a resident in the county.

(2) Have been a continued resident in the county for not less than three (3) years immediately preceding the first day of the member's term.

As added by P.L.2-1993, SEC.5. Amended by P.L.184-2005, SEC.10.

IC 16-22-8-9
Governing board; appointment of members; term

Sec. 9. (a) The executive of the consolidated city shall appoint three (3) board members, not more than two (2) of whom may belong to the same political party. One (1) member must be a licensed physician.

(b) The board of commissioners of the county in which the corporation is established shall appoint two (2) board members who may not belong to the same political party.

(c) The city-county legislative body shall appoint two (2) board members who may not belong to the same political party. One (1) member shall be appointed for a two (2) year term, and one (1) member shall be appointed for a four (4) year term.

(d) Except as provided in subsection (c), a board member serves a term of four (4) years from the beginning of the term for which the member was appointed until a successor has qualified for the office. Board members are eligible for reappointment.

As added by P.L.2-1993, SEC.5. Amended by P.L.184-2005, SEC.11.

IC 16-22-8-9.1
Governing board membership limitation

Sec. 9.1. A member of an appointing authority identified in section 9 of this chapter may not serve on the board.

As added by P.L.100-2002, SEC.13. Amended by P.L.184-2005, SEC.12.

IC 16-22-8-10
Governing board; vacancies; party affiliation

Sec. 10. (a) A vacancy occurs if a board member dies, resigns, changes residence from the county, or is impeached.

(b) If a vacancy occurs or upon the expiration of a term, a member's successor shall be appointed by the authority who originally appointed the member in accordance with this section.

(c) Not more than four (4) board members may belong to the same

political party.
As added by P.L.2-1993, SEC.5. Amended by P.L.184-2005, SEC.13.

IC 16-22-8-11
Governing board; impeachment of member
Sec. 11. A board member may be impeached under the procedure provided for the impeachment of county officers.
As added by P.L.2-1993, SEC.5. Amended by P.L.184-2005, SEC.14.

IC 16-22-8-12
Governing board; conflicts of interest
Sec. 12. An individual is not prohibited from serving as a board member if the member:
(1) has a pecuniary interest in; or
(2) derives a profit from;
a contract or purchase connected with the corporation. However, the member shall disclose the interest or profit in writing to the board. The member shall abstain from voting on any matter that affects the interest or profit.
As added by P.L.2-1993, SEC.5. Amended by P.L.184-2005, SEC.15.

IC 16-22-8-13
Governing board; employment conflicts
Sec. 13. A board member is ineligible to hold an appointive office or employment under the corporation.
As added by P.L.2-1993, SEC.5. Amended by P.L.184-2005, SEC.16.

IC 16-22-8-14
Governing board; compensation of members; waiver of compensation
Sec. 14. A board member is entitled to receive one thousand two hundred dollars ($1,200) each year and the member who is chairperson is entitled to receive an additional six hundred dollars ($600) each year. These payments shall be made quarterly from funds appropriated for that purpose in the regular budget of the corporation. A board member may waive compensation by filing a written notice with the corporation.
As added by P.L.2-1993, SEC.5. Amended by P.L.255-2003, SEC.46; P.L.184-2005, SEC.17.

IC 16-22-8-15
Governing board; regular and special meetings
Sec. 15. (a) The board shall by rule provide for regular meetings to be held at a designated interval throughout the year.
(b) The chairperson or a majority of the members of the board may call a special meeting. The board shall by rule establish a procedure for calling special meetings. The corporation shall publish notice of a special meeting one (1) time, not less than twenty-four

(24) hours before the time of the meeting, in two (2) newspapers of general circulation in the county in which the corporation is established.

(c) Regular and special meetings are open to the public. Public notice of meetings must be given as required by IC 5-14-1.5-5.

As added by P.L.2-1993, SEC.5. Amended by P.L.255-2003, SEC.47; P.L.184-2005, SEC.18.

IC 16-22-8-16

Governing board; annual meeting; selection of chairperson and vice chairperson; position vacancy

Sec. 16. (a) The board shall hold the annual meeting the second Monday in January of each year. At the meeting, the board shall select from among the members a chairperson and vice chairperson and shall make the appointments of personnel provided under this chapter.

(b) A vacancy occurs if the chairperson or vice chairperson of the board dies, resigns, or is impeached. If the office of chairperson or vice chairperson becomes vacant, the board shall select from among the members a successor chairperson or vice chairperson at the next meeting of the board.

As added by P.L.2-1993, SEC.5. Amended by P.L.255-2003, SEC.48; P.L.184-2005, SEC.19.

IC 16-22-8-17

Governing board; quorum; meeting records

Sec. 17. (a) A majority of the board members constitutes a quorum for a meeting. The board may act by an affirmative vote of a majority of the board.

(b) The corporation shall record memoranda from the meeting as required by IC 5-14-1.5-4.

As added by P.L.2-1993, SEC.5. Amended by P.L.184-2005, SEC.20; P.L.88-2006, SEC.1.

IC 16-22-8-18

Documents and records; public inspection

Sec. 18. The corporation shall keep the board's documents in the office of the corporation or in an electronic format. The corporation shall record the aye and nay vote on the final passage of any item of business and on any other item if two (2) board members request that the votes be recorded by ayes and nays.

As added by P.L.2-1993, SEC.5. Amended by P.L.184-2005, SEC.21; P.L.88-2006, SEC.2.

IC 16-22-8-19

Governing board; rules of procedure

Sec. 19. (a) The board shall adopt rules of procedure for board meetings. The board may suspend the rules of procedure by

unanimous vote of the members present at the meeting. The board shall not suspend the rules of procedure beyond the duration of the meeting at which the suspension of rules occurs.

(b) The board may exercise the powers to supervise internal affairs common to municipal legislative and administrative bodies.

As added by P.L.2-1993, SEC.5. Amended by P.L.184-2005, SEC.22.

IC 16-22-8-20

Ordinance; introduction of proposal

Sec. 20. A board member may introduce a proposed ordinance at a meeting of the board. The corporation shall prepare proposed ordinances in a standardized manner.

As added by P.L.2-1993, SEC.5. Amended by P.L.184-2005, SEC.23.

IC 16-22-8-21

Ordinance; notice of pendency of proposal

Sec. 21. (a) Not less than seven (7) days before a meeting considering the final passage of a proposed ordinance, the corporation shall publish a notice that the proposed ordinance is pending final action. The notice must be published one (1) time in two (2) newspapers with general circulation in the county. Notice of an ordinance establishing a budget must be in accordance with the general law relating to budgets of first class cities.

(b) The notice must state the following:

(1) The general subject matter of the proposed ordinance.

(2) The time and place of the meeting.

(3) The proposed ordinance is available from the corporation.

(c) The corporation may publish in one (1) notice the general subject matter of each ordinance pending final action for which notice has not been given.

(d) An ordinance is not invalid because the reference to the subject matter of the proposed ordinance was inadequate if the reference is sufficient to advise the public of the general subject matter.

As added by P.L.2-1993, SEC.5. Amended by P.L.255-2003, SEC.49; P.L.184-2005, SEC.24; P.L.88-2006, SEC.3.

IC 16-22-8-22

Ordinance; copies of proposal for public inspection

Sec. 22. On or before the date of notice of the introduction of a proposed ordinance, the corporation shall provide the proposed ordinance in the office of the corporation or in an electronic format for public inspection.

As added by P.L.2-1993, SEC.5. Amended by P.L.184-2005, SEC.25.

IC 16-22-8-23

Ordinance; scheduled meeting; action or postponement

Sec. 23. At a meeting for which notice has been given under

section 21 of this chapter, the board may take final action on the proposed ordinance or may postpone final consideration to a future designated meeting without giving additional notice.
As added by P.L.2-1993, SEC.5. Amended by P.L.184-2005, SEC.26.

IC 16-22-8-24
Ordinance; adoption at public meeting; hearing

Sec. 24. The board may adopt an ordinance only at a meeting open to the public. Before adopting an ordinance, any person present at the meeting may give testimony, evidence, or argument for or against the proposed ordinance in person or by counsel. The board may adopt rules concerning the number of persons who may be heard and time limits.
As added by P.L.2-1993, SEC.5. Amended by P.L.184-2005, SEC.27.

IC 16-22-8-25
Ordinance; designation of effective date

Sec. 25. The board shall designate the effective date of the ordinance at the meeting at which the ordinance is adopted.
As added by P.L.2-1993, SEC.5. Amended by P.L.184-2005, SEC.28.

IC 16-22-8-26
Ordinance; copies for public; codification; publication or electronic format

Sec. 26. (a) The corporation shall make each ordinance the board adopts available to the public. The board shall codify, revise, rearrange, or compile adopted ordinances under IC 36-1-5-3. Ordinances adopted by the board constitute the code of the health and hospital corporation of the county.

(b) The corporation may print or provide the code of the health and hospital corporation of the county in an electronic format for public inspection.
As added by P.L.2-1993, SEC.5. Amended by P.L.184-2005, SEC.29.

IC 16-22-8-27
Executive director; term; qualifications; service as board secretary

Sec. 27. (a) The board shall appoint an executive director of the corporation who is qualified by education and experience to serve for a term of four (4) years unless sooner removed. The executive director is eligible for reappointment. The executive director must reside in the county.

(b) In addition to the duties as executive director of the board, the executive director acts as secretary of the board.
As added by P.L.2-1993, SEC.5. Amended by P.L.255-2003, SEC.50; P.L.184-2005, SEC.30.

IC 16-22-8-28
Creation of divisions; functions

Sec. 28. (a) The board shall create the following:

(1) A division of public health.

(2) A division of public hospitals.

(3) Other divisions the board considers necessary.

(b) The division of public health shall serve as the county health department with powers and duties conferred by law upon local departments of health.

(c) The division of public hospitals shall operate the corporation's hospitals, medical facilities, and mental health facilities.

As added by P.L.2-1993, SEC.5. Amended by P.L.184-2005, SEC.31.

IC 16-22-8-29

Agreements to operate facilities

Sec. 29. The corporation may enter into an agreement with a qualified person or entity to operate a hospital, medical facilities, or mental health facilities.

As added by P.L.2-1993, SEC.5. Amended by P.L.184-2005, SEC.32.

IC 16-22-8-30

Public health division; director; term; qualifications

Sec. 30. The board shall appoint a director of the division of public health to serve for a term of four (4) years unless sooner removed for cause. The director is eligible for reappointment. The director must hold a license to practice medicine in Indiana.

As added by P.L.2-1993, SEC.5. Amended by P.L.184-2005, SEC.33.

IC 16-22-8-31

Public health division; director; powers; enforcement of orders; petition for isolation or quarantine; venue

Sec. 31. (a) The director of the division of public health has the powers, functions, and duties of a local health officer.

(b) Orders, citations, and administrative notices of violation issued by the director of the division of public health, the director's authorized representative, a supervisor in the division, or an environmental health specialist may be enforced by the corporation in a court with jurisdiction by filing a civil action in accordance with IC 16-42-5-28, IC 33-36-3-5(b), IC 34-28-5-1, IC 36-1-6-4, or IC 36-7-9-17.

(c) A public health authority may petition a circuit or superior court for an order of isolation or quarantine by filing a civil action in accordance with IC 16-41-9.

(d) Unless otherwise provided by law, a change of venue from the county may not be granted for court proceedings initiated under this section.

(e) A change of venue from a judge must meet the requirements in IC 34-35-3-3 for court proceedings initiated under this section.

As added by P.L.2-1993, SEC.5. Amended by P.L.184-2005, SEC.34; P.L.88-2006, SEC.4; P.L.138-2006, SEC.5; P.L.194-2007, SEC.3.

IC 16-22-8-32
Public hospitals division; director; term; qualifications

Sec. 32. The board shall appoint a director of the division of public hospitals to serve for a term of four (4) years unless sooner removed for cause. The director is eligible for reappointment. The director shall supervise the division of hospitals under the jurisdiction of the corporation and perform the duties prescribed by the board. The director must be qualified in the management of hospitals and in health care financing. The director may be engaged through a contractor managing the hospital under section 29 of this chapter.

As added by P.L.2-1993, SEC.5.

IC 16-22-8-33
Repealed

(As added by P.L.2-1993, SEC.5. Repealed by P.L.184-2005, SEC.38.)

IC 16-22-8-34
Powers of board or corporation

Sec. 34. (a) The board or corporation may do all acts necessary or reasonably incident to carrying out the purposes of this chapter, including the following:

(1) As a municipal corporation, sue and be sued in any court with jurisdiction.

(2) To serve as the exclusive local board of health and local department of health within the county with the powers and duties conferred by law upon local boards of health and local departments of health.

(3) To adopt and enforce ordinances consistent with Indiana law and administrative rules for the following purposes:

(A) To protect property owned or managed by the corporation.

(B) To determine, prevent, and abate public health nuisances.

(C) To establish isolation and quarantine regulations in accordance with IC 16-41-9.

(D) To license, regulate, and establish minimum sanitary standards for the operation of a business handling, producing, processing, preparing, manufacturing, packing, storing, selling, distributing, or transporting articles used for food, drink, confectionery, or condiment in the interest of the public health.

(E) To control:

(i) rodents, mosquitos, and other animals, including insects, capable of transmitting microorganisms and disease to humans and other animals; and

(ii) the animals' breeding places.

(F) To require persons to connect to available sewer systems and to regulate the disposal of domestic or sanitary sewage by private methods. However, the board and corporation have no jurisdiction over publicly owned or financed sewer systems or sanitation and disposal plants.
(G) To control rabies.
(H) For the sanitary regulation of water supplies for domestic use.
(I) To protect, promote, or improve public health. For public health activities and to enforce public health laws, the state health data center described in IC 16-19-10 shall provide health data, medical information, and epidemiological information to the corporation.
(J) To detect, report, prevent, and control disease affecting public health.
(K) To investigate and diagnose health problems and health hazards.
(L) To regulate the sanitary and structural conditions of residential and nonresidential buildings and unsafe premises.
(M) To regulate the remediation of lead hazards.
(N) To license and regulate the design, construction, and operation of public pools, spas, and beaches.
(O) To regulate the storage, containment, handling, use, and disposal of hazardous materials.
(P) To license and regulate tattoo and body piercing facilities.
(Q) To regulate the storage and disposal of waste tires.
(4) To manage the corporation's hospitals, medical facilities, and mental health facilities.
(5) To furnish health and nursing services to elementary and secondary schools within the county.
(6) To furnish medical care to insured and uninsured residents of the county.
(7) To furnish dental services to the insured and uninsured residents of the county.
(8) To establish public health programs.
(9) To adopt an annual budget ordinance and levy taxes.
(10) To incur indebtedness in the name of the corporation.
(11) To organize the corporation into divisions.
(12) To acquire and dispose of property.
(13) To receive charitable contributions and gifts as provided in 26 U.S.C. 170.
(14) To make charitable contributions and gifts.
(15) To establish a charitable foundation as provided in 26 U.S.C. 501.
(16) To receive and distribute federal, state, local, or private grants.
(17) To receive and distribute grants from charitable

foundations.

(18) To establish corporations and enter into partnerships and joint ventures to carry out the purposes of the corporation. This subdivision does not authorize the merger of the corporation with a hospital licensed under IC 16-21.

(19) To erect, improve, remodel, or repair corporation buildings.

(20) To determine operating procedures.

(21) To do the following:

(A) Adopt a schedule of reasonable charges for nonresidents of the county for medical and mental health services.

(B) Collect the charges from the patient, the patient's insurance company, or a government program.

(C) Require security for the payment of the charges.

(22) To adopt a schedule of and to collect reasonable charges for medical and mental health services.

(23) To enforce Indiana laws, administrative rules, ordinances, and the code of the health and hospital corporation of the county.

(24) To purchase supplies, materials, and equipment.

(25) To employ personnel and establish personnel policies.

(26) To employ attorneys admitted to practice law in Indiana.

(27) To acquire, erect, equip, and operate the corporation's hospitals, medical facilities, and mental health facilities.

(28) To dispose of surplus property in accordance with a policy by the board.

(29) To determine the duties of officers and division directors.

(30) To fix the compensation of the officers and division directors.

(31) To carry out the purposes and object of the corporation.

(32) To obtain loans for hospital expenses in amounts and upon terms agreeable to the board. The board may secure the loans by pledging accounts receivable or other security in hospital funds.

(33) To establish fees for licenses, services, and records. The corporation may accept payment by credit card for fees. IC 5-14-3-8(d) does not apply to fees established under this subdivision for certificates of birth, death, or stillbirth registration.

(34) To use levied taxes or other funds to make intergovernmental transfers to the state to fund governmental health care programs, including Medicaid and Medicaid supplemental programs.

(b) The board shall exercise the board's powers and duties in a manner consistent with Indiana law, administrative rules, and the code of the health and hospital corporation of the county.

As added by P.L.2-1993, SEC.5. Amended by P.L.1-1994, SEC.87; P.L.184-2005, SEC.35; P.L.1-2006, SEC.298; P.L.88-2006, SEC.5; P.L.145-2006, SEC.133; P.L.1-2007, SEC.132; P.L.121-2007,

SEC.2; P.L.194-2007, SEC.4; P.L.215-2007, SEC.2; P.L.3-2008, SEC.108; P.L.134-2008, SEC.11.

IC 16-22-8-34.5
Insurance

Sec. 34.5. The corporation may enter into a group purchasing agreement to purchase medical malpractice insurance with the following:

(1) One (1) or more hospitals organized or operated under this article.

(2) One (1) or more hospitals organized or operated under IC 16-23.

As added by P.L.91-2002, SEC.12 and P.L.100-2002, SEC.14. Amended by P.L.184-2005, SEC.36.

IC 16-22-8-35
Accounts and records

Sec. 35. The corporation shall keep accounts and records of receipts and disbursements as prescribed by the state board of accounts.

As added by P.L.2-1993, SEC.5. Amended by P.L.88-2006, SEC.6.

IC 16-22-8-35.5
Hospital employee salary information

Sec. 35.5. Any information concerning the specific salaries paid to individual employees of a hospital may be withheld by the hospital from disclosure under IC 5-14-3. However, the information must be provided to the state board of accounts upon request. The state board of accounts shall maintain the confidentiality of the information as required under IC 5-14-3-6.5.

As added by P.L.208-2016, SEC.6.

IC 16-22-8-36
Repealed

(As added by P.L.2-1993, SEC.5. Repealed by P.L.194-2007, SEC.14.)

IC 16-22-8-37
Territorial extent of corporate powers

Sec. 37. The powers, authority, and duties conferred on the corporation and the corporation's officers and employees under this chapter extend throughout the county and may extend outside the county on terms and conditions the board prescribes that are consistent with this chapter.

As added by P.L.2-1993, SEC.5. Amended by P.L.255-2003, SEC.51.

IC 16-22-8-38
Transfer of powers and duties from other political subdivision

Sec. 38. Whenever a power, an authority, or duty is imposed by this chapter upon the corporation or the corporation's officers that on July 1, 1952, was imposed on another municipal corporation or political subdivision or the corporation's or political subdivision's officers, power, authority, or duty shall be exercised exclusively by the corporation.
As added by P.L.2-1993, SEC.5.

IC 16-22-8-39
Privileges and use of hospital; discrimination

Sec. 39. (a) A hospital owned, operated, or managed by the corporation shall be for the benefit of the residents of the county and of every person who becomes sick, injured, or maimed within the county.

(b) A patient who is able to pay shall pay to the corporation a reasonable compensation for medicine or hospital services according to the rules prescribed by the board. The board or the board's authorized representative may exclude from the hospital a person who willfully violates the rules. On terms and conditions the board prescribes, the corporation may:

(1) extend the privileges and use of the hospital, the corporation's health care programs, and health care facilities to persons residing outside of the county; and

(2) own or operate nursing facilities located inside or outside of the county.

(c) There may not be discrimination against practitioners of any school of medicine holding unlimited licenses to practice medicine recognized in Indiana. The licensed practitioners are entitled to equal privileges in treating patients in the hospital.
As added by P.L.2-1993, SEC.5. Amended by P.L.91-2002, SEC.13; P.L.255-2003, SEC.52.

IC 16-22-8-40
Additional hospitals; improvements to existing hospitals

Sec. 40. Whenever the board determines that there is a need for an additional hospital or an addition or improvement to an existing hospital, the board may purchase suitable grounds, construct suitable buildings and improvements for hospital purposes, and do all that is necessary to acquire, establish, construct, erect, equip, and maintain the hospital, addition, or improvement.
As added by P.L.2-1993, SEC.5.

IC 16-22-8-41
Cumulative building fund

Sec. 41. (a) The board may provide a cumulative building fund under IC 6-1.1-41 to erect hospital buildings, additions, or other buildings, remodel buildings, or acquire equipment needed to carry out this chapter. The cumulative building fund may be funded by a

property tax levy under subsection (b), a transfer into the fund of other revenues of the hospital, or a combination of these two (2) methods.

(b) The board may levy a tax in compliance with IC 6-1.1-41 on all taxable property within the county where the corporation is established. However, the levy may not exceed six and sixty-seven hundredths cents ($0.0667) on each one hundred dollars ($100) of taxable property.

(c) All money in the cumulative building fund may be invested or reinvested in the following:

(1) Securities backed by the full faith and credit of the United States Treasury, including direct obligations of the United States government and obligations of a federal agency or a federal instrumentality that are fully guaranteed by the United States government.

(2) Participation in loans under the conditions and in the manner set forth in IC 5-13-10.5-12.

(d) The treasurer of the corporation may lend any securities in the cumulative building fund under the conditions and in the manner set forth in IC 5-13-10.5-12. Money collected and not invested in government obligations shall be deposited and withdrawn in the manner authorized by law for the deposit, withdrawal, and safekeeping of the general funds of municipalities.

As added by P.L.2-1993, SEC.5. Amended by P.L.57-1993, SEC.13; P.L.17-1995, SEC.20; P.L.18-1996, SEC.30; P.L.6-1997, SEC.168.

IC 16-22-8-42
Eminent domain

Sec. 42. If the corporation and the owner of real property desired for a hospital, a health care facility, or an administrative facility cannot agree on the price, the corporation has the right to condemn. Condemnation proceedings may be instituted in the name of the corporation under IC 32-24.

As added by P.L.2-1993, SEC.5. Amended by P.L.2-2002, SEC.67; P.L.194-2007, SEC.5.

IC 16-22-8-43
Bonds; sale and issuance

Sec. 43. (a) The corporation may issue general obligation bonds to procure funds to pay the cost of acquiring real property or constructing, enlarging, improving, remodeling, repairing, or equipping buildings for use as a hospital, a health care facility, or an administrative facility. The issuance of the bonds shall be authorized by a board resolution providing for the amount, terms, and tenor of the bonds, for the time and character of notice, and the mode of making the sale. The bonds shall be payable not more than forty (40) years after the date of issuance. The bonds shall be executed in the name of the corporation by the executive director.

(b) The executive director shall manage and supervise the preparation, advertisement, and sale of bonds, subject to the provisions of the authorizing resolution. Before the sale of the bonds, the executive director shall publish notice of the sale in accordance with IC 5-3-1, setting out the time and place where bids will be received, the amount and maturity dates of the issue, the maximum interest rate, and the terms and conditions of sale and delivery of the bonds. The bonds shall be sold to the highest and best bidder. After the bonds have been sold and executed, the executive director shall deliver the bonds to the treasurer of the corporation and take the treasurer's receipt, and shall certify to the treasurer the amount that the purchaser is to pay, together with the name and address of the purchaser. On payment of the purchase price, the treasurer shall deliver the bonds to the purchaser, and the treasurer and executive director shall report the actions to the board.

(c) IC 5-1 and IC 6-1.1-20 apply to the following proceedings:

(1) Notice and filing of the petition requesting the issuance of the bonds.

(2) Notice of determination to issue bonds.

(3) Notice of hearing on the appropriation of the proceeds of the bonds and the right of taxpayers to appeal and be heard.

(4) Approval by the department of local government finance.

(5) The right to:

(A) remonstrate in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or

(B) vote on the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a).

(6) Sale of bonds at public sale for not less than the par value.

(d) The bonds are the direct general obligations of the corporation and are payable out of unlimited ad valorem taxes levied and collected on all the taxable property within the county of the corporation. All officials and bodies having to do with the levying of taxes for the corporation shall see that sufficient levies are made to meet the principal and interest on the bonds at the time fixed for payment.

(e) The bonds are exempt from taxation for all purposes but the interest is subject to the adjusted gross income tax.

As added by P.L.2-1993, SEC.5. Amended by P.L.90-2002, SEC.395; P.L.192-2002(ss), SEC.158; P.L.1-2003, SEC.62; P.L.194-2007, SEC.6; P.L.146-2008, SEC.435.

IC 16-22-8-44

Bonds to fund or refund judgment

Sec. 44. The board may issue funding or refunding bonds to fund or refund a judgment, bonds, or other obligations of the corporation. The board is not required to file a petition requesting the issuance of funding or refunding bonds.

As added by P.L.2-1993, SEC.5.

IC 16-22-8-45
Tax anticipation warrants

Sec. 45. (a) Temporary loans may be authorized and made by the board of trustees in anticipation of the collection of taxes of the corporation actually levied and in course of collection for the fiscal year in which the loans are made. The loans shall be authorized by ordinance and evidenced by warrants in the form provided by the ordinance. The warrants must state the following:

(1) The total amount of the issue.
(2) The denomination of the warrant.
(3) The time and place the warrant is payable.
(4) The rate of interest not exceeding five percent (5%).
(5) The funds in anticipation of which the warrants are issued and out of which the warrants are payable.
(6) A reference to the ordinance authorizing the warrant and the date of the warrant's passage.

(b) The ordinance authorizing the temporary loans shall appropriate and pledge sufficient current revenue in anticipation of which the warrants are issued and out of which the warrants are payable. The warrants evidencing the temporary loans shall be executed, sold, and delivered as the bonds of the corporation.

As added by P.L.2-1993, SEC.5.

IC 16-22-8-46
Treasurer

Sec. 46. The board shall appoint a treasurer of the corporation to serve for a term of four (4) years unless sooner removed for cause. The treasurer shall give bond in the amount and with the conditions prescribed by the board and with surety approved by the board. All money payable to the corporation shall be paid to the treasurer and the treasurer shall deposit the money in accordance with Indiana law relating to the deposit of public funds by municipal corporations. However, if trust funds are received or managed under a trust indenture, the terms and conditions of the trust indenture shall be followed. The treasurer must be a resident of the county.

As added by P.L.2-1993, SEC.5. Amended by P.L.255-2003, SEC.53.

IC 16-22-8-47
Withdrawal of funds

Sec. 47. Money shall be drawn from the treasury of the corporation under Indiana law.

As added by P.L.2-1993, SEC.5.

IC 16-22-8-48
Auditor

Sec. 48. (a) The executive director is ex officio the auditor of the corporation. The executive director shall give bond in an amount and with conditions and surety prescribed and approved by the board.

The executive director shall keep an accurate account of appropriations made and taxes levied by the corporation and of money due to the corporation and received and disbursed. The executive director shall preserve all vouchers for payments and disbursements made.

(b) The auditor shall issue all warrants for the payment of money from the funds of the corporation, but no warrant shall be issued for the payment of any claim until the claim has been allowed by the board. All warrants shall be countersigned by the treasurer. Whenever the auditor issues a warrant, the auditor may require evidence that the amount claimed is justly due and in conformity with law. The auditor may summon any officer, agent, or employee of the corporation, or other person, administer an oath or affirmation to that person, and examine that person on oath or affirmation.

As added by P.L.2-1993, SEC.5.

IC 16-22-8-49

Auditor's report

Sec. 49. The auditor shall annually submit to the board, and more often if required by the board, a report of the accounts exhibiting the revenues, receipts, and disbursements, the sources of the revenues and funds, and how the funds have been disbursed.

As added by P.L.2-1993, SEC.5.

IC 16-22-8-50

Budget

Sec. 50. The board shall annually prepare a budget for the operating and capital expenditures of the corporation and shall calculate the tax levy necessary to provide money for the operating and capital expenditures of the corporation. The budget shall be prepared and submitted at the same time and in the same manner and with the notices and review procedures provided by Indiana law relating to budgets by consolidated cities.

As added by P.L.2-1993, SEC.5.

IC 16-22-8-51

Tax assessment and collection

Sec. 51. The tax levy approved by the department of local government finance shall be assessed and collected by the county treasurer of the county within which the corporation is located as other taxes are levied and collected. The county treasurer shall remit all taxes to the treasurer of the corporation.

As added by P.L.2-1993, SEC.5. Amended by P.L.90-2002, SEC.396.

IC 16-22-8-52

Board of finance functions

Sec. 52. The board shall act as a board of finance in accordance with Indiana law relating to the deposit of public funds by

municipalities.
As added by P.L.2-1993, SEC.5.

IC 16-22-8-53
Surety bond of officers and employees

Sec. 53. The board may require a bond on any of the officers or employees of the corporation in the amount and with the terms and conditions and surety approved by the board.
As added by P.L.2-1993, SEC.5.

IC 16-22-8-54
Repealed

(As added by P.L.2-1993, SEC.5. Repealed by P.L.184-2005, SEC.38.)

IC 16-22-8-55
Borrowing powers; use of funds; loan negotiations; appeal

Sec. 55. (a) The corporation may borrow money on promissory notes issued in the corporation's name, as a municipal corporation, from recognized lending institutions, and pledge as security unlimited ad valorem taxes levied by the corporation and collected on all taxable property within the jurisdiction of the corporation. It is the duty of all officials and bodies with control or discretion over the levying of taxes for the corporation to see that sufficient levies are made to meet the principal and interest on promissory notes. The promissory notes issued under this section shall be treated for taxation purposes the same as bonds issued by a municipal corporation in accordance with IC 6-8-5-1.

(b) Funds obtained by the method provided in this section shall be limited in use to the payment of lease rental for medical, surgical, and related equipment used by the corporation when the board determines that leasing the equipment is more practical and economical than purchasing. The decision to lease rather than purchase is within the sole discretion of the board.

(c) The length, terms, and conditions of promissory notes issued under this section are subject to negotiation between the board or the board's representative and the lending institutions bidding. Before entering into negotiations for the loan, the board of trustees shall publish a notice one (1) time in a newspaper of general circulation in the health and hospital corporation naming a date not less than seven (7) days after the publication of notice on which the board will receive and consider proposals from lending institutions for the making of the loan.

(d) After determination of the board to borrow and to issue promissory notes, and after a determination of the best proposal submitted by lending institutions, the board shall give notice of the board's determination to borrow and to issue promissory notes in the manner provided by IC 6-1.1-20. The taxpayers have the right to

appeal the determination to the department of local government finance in the manner and within the time provided in IC 6-1.1-20.
As added by P.L.2-1993, SEC.5. Amended by P.L.90-2002, SEC.397.

IC 16-22-9

Chapter 9. Power of Condemnation for Nonprofit General Hospitals in Certain Counties

IC 16-22-9-1

Application of chapter

Sec. 1. This chapter applies to a county containing any of the following:

(1) A second class city.

(2) A consolidated city.

As added by P.L.2-1993, SEC.5.

IC 16-22-9-2

General hospital defined

Sec. 2. As used in this chapter, "general hospital" means an inpatient facility open to the general public that admits any combination of maternity, acute, or long term medical or surgical patients and provides personal care, x-rays, laboratory, surgery, and other recognized hospital specialized diagnostic or treatment facilities and services for the purpose of furnishing inpatient medical or surgical care.

As added by P.L.2-1993, SEC.5.

IC 16-22-9-3

General hospital services defined

Sec. 3. As used in this chapter, "general hospital services" means hospital services furnished by a general hospital.

As added by P.L.2-1993, SEC.5.

IC 16-22-9-4

General hospital as public use

Sec. 4. General hospitals owned and operated by nonprofit hospital corporations are declared to be a public use.

As added by P.L.2-1993, SEC.5.

IC 16-22-9-5

Conditions for exercise of eminent domain

Sec. 5. The county executive or the city legislative body of a city in a county subject to this chapter may acquire by condemnation real property or an interest in real property, including any buildings, structures, or other improvements, immediately adjacent to and necessary for the expansion of a general hospital owned and operated by a nonprofit hospital corporation if the following conditions are met:

(1) The construction of hospital facilities is to begin not more than three (3) years after the date of acquisition by condemnation.

(2) The county executive or the city legislative body finds that

the acquisition and expansion is necessary.
As added by P.L.2-1993, SEC.5.

IC 16-22-9-6
Use and purposes of condemnation; reversion upon failure to commence hospital construction

Sec. 6. The condemnation and acquisition must be for the use and benefit of and at the expense of the nonprofit hospital corporation as set forth in section 9 of this chapter. If construction of hospital facilities is not commenced not more than three (3) years after the date of acquisition by condemnation, the title to the real property reverts to the person from which the property was acquired. The time for commencing construction is extended by delays caused by strikes, lockouts, fire, or causes beyond the control of the nonprofit hospital corporation.
As added by P.L.2-1993, SEC.5.

IC 16-22-9-7
Commencement of construction; filing of affidavit

Sec. 7. An officer of the corporation shall, not more than sixty (60) days after the commencement of construction, make and file with the county recorder an affidavit showing the date of commencement of construction. An action to effect reversion or to put in issue the commencement of construction within the required time must be commenced not more than two (2) years after the filing of the affidavit.
As added by P.L.2-1993, SEC.5.

IC 16-22-9-8
Terms and conditions of acquisition

Sec. 8. The acquisition and condemnation authorized by this chapter shall be made in accordance with IC 32-24-1 and IC 32-24-6.
As added by P.L.2-1993, SEC.5. Amended by P.L.2-2002, SEC.68.

IC 16-22-9-9
Payment of costs, attorney's fees, and damages to real estate owner

Sec. 9. The:

(1) costs and expenses incurred in the condemnation proceedings, including reasonable attorney's fees for the condemning authority; and

(2) award or damages due the owner of the real property taken in the condemnation proceedings;

shall be paid by the nonprofit hospital corporation to the owner of the real property or to the clerk of the court and possession taken by the nonprofit hospital corporation in accordance with IC 32-24-1-10.
As added by P.L.2-1993, SEC.5. Amended by P.L.2-2002, SEC.69.

IC 16-22-9-10

Abandonment of proceedings

Sec. 10. If the nonprofit hospital corporation elects to abandon the condemnation proceedings, the corporation shall pay the expenses or losses actually incurred by the condemning authority arising out of the condemnation proceedings. The nonprofit hospital corporation may enter into the defense against claims or demands arising out of the condemnation proceedings.

As added by P.L.2-1993, SEC.5.

IC 16-22-9-11

Transfer of acquired property

Sec. 11. When the nonprofit hospital corporation has paid the amount of the award or damages, and all costs and expenses incurred in the condemnation proceedings, including reasonable attorney's fees for the condemning authority, the condemning authority shall transfer, assign, and convey to the nonprofit hospital corporation the real property acquired in the condemnation proceedings.

As added by P.L.2-1993, SEC.5.

IC 16-22-9-12

Operation of benefited hospitals; discrimination; rates and charges; use by nonresidents

Sec. 12. A nonprofit hospital corporation for whose use and benefit condemnation proceedings are instituted shall be operated for the benefit of all the inhabitants of the county without discrimination. The rates and charges for services must be reasonable and be uniform for all inhabitants of the county. The governing body of the hospital may extend the privileges and use of the hospital to persons residing outside of the county upon terms and conditions the governing body prescribes.

As added by P.L.2-1993, SEC.5.

IC 16-22-9-13

Physician use of facilities

Sec. 13. The grant or exercise of the power of condemnation under this chapter for the use and benefit of a nonprofit hospital corporation does not control, limit, or alter the right of the nonprofit hospital corporation to determine the physicians that may practice in or admit patients to the hospital.

As added by P.L.2-1993, SEC.5.

IC 16-22-10

Chapter 10. Board of Managers or Trustees of Certain Nonprofit Hospital Associations in Certain Cities

IC 16-22-10-1

Nonsectarian and nonpolitical board

Sec. 1. A county may not appropriate money for the erection, construction, equipment, or maintenance for a nonprofit hospital unless the construction, maintenance, and management of the hospital is under the supervision of a board of managers or board of trustees that is nonsectarian and nonpolitical.

As added by P.L.2-1993, SEC.5.

IC 16-22-10-2

Selection of board members by county executive

Sec. 2. If a county appropriates money for the erection, construction, equipment, or maintenance for a nonprofit hospital, the county executive of the county may select at least one-half (1/2) of the members of the governing board.

As added by P.L.2-1993, SEC.5.

IC 16-22-10-3

Physician board member

Sec. 3. One (1) member of the governing board may be a licensed physician.

As added by P.L.2-1993, SEC.5.

IC 16-22-10-4

Conflict of interest of board member

Sec. 4. An individual is not prohibited from serving as a member of the board of managers or board of trustees if the member:

(1) has a pecuniary interest in; or

(2) derives a profit from;

a contract or purchase connected with the hospital. However, the member shall disclose the interest or profit in writing to the board and provide a copy to the state board of accounts. The member shall abstain from voting on any matter that affects the interest or profit.

As added by P.L.2-1993, SEC.5.

IC 16-22-10-5

Vacancies on board; submission of candidate list

Sec. 5. Whenever a vacancy occurs on the governing board, the existing governing board shall submit a list of three (3) candidates for each vacancy to be filled by the appointing authority.

As added by P.L.2-1993, SEC.5.

IC 16-22-10-6

Filling vacancies; procedure

Sec. 6. For each vacancy, the appointing authority may do one (1) of the following:

(1) Appoint one (1) of the three (3) candidates submitted by the governing board.

(2) Request and receive from the governing board a second list of three (3) candidates.

(3) Appoint an individual who meets the requirements concerning board members and who was not named in the initial list submitted by the governing board.

As added by P.L.2-1993, SEC.5.

IC 16-22-10-7

Filling vacancies; second list of candidates

Sec. 7. If the appointing authority requests and receives a second list of three (3) candidates under section 6(2) of this chapter, the appointing authority may do one (1) of the following:

(1) Appoint one (1) of the three (3) candidates named in the second list.

(2) Appoint an individual who meets the requirements concerning board members and who was not named in the second list of three (3) candidates submitted by the board of managers or trustees.

As added by P.L.2-1993, SEC.5.

IC 16-22-10-8

Time for filling vacancies

Sec. 8. The appointment for a vacancy shall be made not more than sixty (60) days after the submission of the initial list of candidates under section 5 of this chapter.

As added by P.L.2-1993, SEC.5.

IC 16-22-10-9

Qualification of candidates

Sec. 9. Each candidate submitted by the board of managers or trustees must meet the requirements concerning board members.

As added by P.L.2-1993, SEC.5.

IC 16-22-11

Chapter 11. Receipt by Certain Private or Municipal Hospitals of County Financial Aid for Construction, Equipment, and Improvement; Prohibition Against Discrimination

IC 16-22-11-1

Conditions for granting aid

Sec. 1. If the county executive and county fiscal body of a county without a general county hospital determine that the county has insufficient hospital facilities, the county may give financial aid for the construction, equipment, and improvement of a nonprofit hospital that meets the following conditions:

(1) Is operated for charitable purposes.

(2) Is owned and operated by at least one (1) hospital association or owned by a governmental unit in the county and operated by a hospital association.

(3) Does not limit the membership and officers of the hospital association to residents of a certain section of the county.

(4) Has a governing board of the hospital association that meets the following conditions:

(A) Is nonsectarian and nonpolitical.

(B) Is chosen by election by the members of the association.

(C) Includes the following:

(i) One (1) member designated by the county executive.

(ii) One (1) member designated by the county fiscal body.

(iii) One (1) member who may be a licensed physician.

As added by P.L.2-1993, SEC.5.

IC 16-22-11-2

Bond issue

Sec. 2. To provide funds for the purpose described in section 1 of this chapter, the county may issue bonds or make appropriations from the county treasury under the general laws governing the issuance of bonds and the making of appropriations by counties.

As added by P.L.2-1993, SEC.5.

IC 16-22-11-3

Conflict of interest of governing board members

Sec. 3. An individual is not prohibited from serving as a member of the governing board if the member:

(1) has a pecuniary interest in; or

(2) derives a profit from;

a contract or purchase connected with the hospital. However, the member shall disclose the interest or profit in writing to the board and provide a copy to the state board of accounts. The member shall abstain from voting on any matter that affects the interest or profit.

As added by P.L.2-1993, SEC.5.

IC 16-22-11-4

Conditions of hospital operation upon receipt of county aid

Sec. 4. A hospital that receives financial assistance under this chapter:

(1) shall be operated for the benefit of all of the inhabitants of the county without discrimination;

(2) must have reasonable rates and charges for service that apply to all inhabitants of the county; and

(3) may extend the privileges and use of the hospital to persons residing outside of the county upon terms and conditions the board prescribes by rules and regulations.

As added by P.L.2-1993, SEC.5.

IC 16-22-12

Chapter 12. Receipt by Certain Private or Municipal Hospitals of County Financial Aid for Operation, Maintenance, and Enlargement; Prohibition Against Discrimination

IC 16-22-12-1

Counties where chapter applies

Sec. 1. This chapter applies to a county that meets the following conditions:

(1) Has a hospital that meets the following conditions:

(A) Is established at a cost of at least five hundred thousand dollars ($500,000).

(B) Is:

(i) owned and operated by a corporation organized under IC 23-17; or

(ii) owned by a city within the county and operated, under the terms and conditions of a written lease, by a corporation organized under IC 23-17.

(C) The general corporate powers of the corporation are exercised by a board of directors that meets the following conditions:

(i) Is composed of residents of the county in which the hospital is located.

(ii) Has one (1) member who is a member of or a person designated by the county executive of the county.

(iii) May have one (1) member who is a licensed physician.

(iv) Is elected by the members of the corporation, who represent each organized church, religious association, labor union, and fraternal, charitable, military, and civic organization in the county.

(D) For which the revenue from the care of the hospital's patients and other sources is insufficient to pay the cost of the operation, maintenance, repair, alteration, enlargement, furnishing, and equipment of the hospital.

(2) Does not own and operate a hospital or provide adequate hospital care.

As added by P.L.2-1993, SEC.5.

IC 16-22-12-2

Conflict of interest of board members

Sec. 2. An individual is not prohibited from serving as a member of the board of directors if the member:

(1) has a pecuniary interest in; or

(2) derives a profit from;

a contract or purchase connected with the hospital. However, the member shall disclose the interest or profit in writing to the board and provide a copy to the state board of accounts. The member shall

abstain from voting on any matter that affects the interest or profit.
As added by P.L.2-1993, SEC.5.

IC 16-22-12-3
County appropriation and tax levy

Sec. 3. The county fiscal body may annually make an appropriation from the county treasury to pay a part of the cost of the operation, maintenance, repair, alteration, enlargement, furnishing, and equipment of the hospital and for that purpose may annually levy a special tax, in an amount to be fixed by the county fiscal body, on all taxable property located in the county.
As added by P.L.2-1993, SEC.5.

IC 16-22-12-4
Conditions of operation of recipient hospitals

Sec. 4. A hospital that receives financial assistance under this section:

(1) shall be operated for the benefit of all the residents of the county without discrimination;

(2) must have reasonable rates and charges for service that apply to all residents of the county; and

(3) may extend the privileges and use of the hospital to persons residing outside of the county on the terms and conditions the board of directors of the corporation that owns or leases the hospital prescribes.

As added by P.L.2-1993, SEC.5.

IC 16-22-12-5
Eligibility of organization operating hospital

Sec. 5. An organized church, a religious association, a labor union, and a fraternal, charitable, military, and civic organization referred to in section 1 of this chapter is one that meets the following conditions:

(1) Has adopted bylaws.

(2) A majority of the members are at least twenty-one (21) years of age.

(3) Has an elected presiding officer and secretary.

(4) Had at least four (4) regular meetings in the county during the preceding calendar year.

(5) Has a regular meeting place.

As added by P.L.2-1993, SEC.5.

IC 16-22-12-6
Submission of requests for aid

Sec. 6. A hospital corporation entitled under this chapter to receive aid shall, within the time fixed for townships to file budgets, file with the auditor of the county a written request addressed to the county fiscal body for aid. The request must include a statement of

the facts that entitle the hospital corporation to aid.
As added by P.L.2-1993, SEC.5.

IC 16-22-12-7
Payment of tax collections

Sec. 7. The taxes collected under this chapter shall be paid over to the hospital corporation without further action or proceeding when general taxes are paid over and distributed by the county.
As added by P.L.2-1993, SEC.5.

IC 16-22-12-8
Assistance to more than one hospital corporation

Sec. 8. The county fiscal body may grant the aid provided under section 3 of this chapter to as many hospital corporations in the county as may be entitled to aid.
As added by P.L.2-1993, SEC.5.

IC 16-22-13
Chapter 13. County Financial Aid to Benevolent Hospitals

IC 16-22-13-1
Application of chapter

Sec. 1. This chapter applies to a nonprofit hospital corporation that meets the following conditions:

(1) Is established in or within one (1) mile of a city.

(2) Has articles of incorporation or a constitution or bylaws that provide the following:

(A) The incorporators shall be the first board of trustees, which is the sole governing board, and which elects successors at stated periods from reputable citizens of the city and vicinity who meet the following conditions:

(i) Include one (1) licensed physician.

(ii) Are persons interested in the benevolent work of the hospital, chosen without reference to political or sectarian influence.

(iii) Receive no compensation for services.

(B) The corporation's general corporate powers will be exercised by a board of directors, who meet the following conditions:

(i) May include one (1) licensed physician.

(ii) Are residents of the county in which the hospital is located and elected by a board of electors consisting of representatives from each organized church, religious association, labor union and fraternal, charitable, military, patriotic, and civic organization in the city.

(3) The revenue derived from the care of persons able to pay for services and from all other sources is expended in the maintenance of the hospital and for the care of persons who are unable to pay, to the extent of the hospital's ability to assist, so that revenues are insufficient to support and maintain the hospital and enable the hospital to supply the demand for hospital care and nursing in the city and community.

As added by P.L.2-1993, SEC.5. Amended by P.L.91-2002, SEC.14 and P.L.100-2002, SEC.15.

IC 16-22-13-2
Conflicts of interest of board members

Sec. 2. An individual is not prohibited from serving as a member of the governing board if the member:

(1) has a pecuniary interest in; or

(2) derives a profit from;

a contract or purchase connected with the hospital. However, the member shall disclose the interest or profit in writing to the board and provide a copy to the state board of accounts. The member shall abstain from voting on any matter that affects that interest or profit.

As added by P.L.2-1993, SEC.5.

IC 16-22-13-3
Appropriations to aid hospital; authorization

Sec. 3. If there is no other city or public hospital in the county, the county may appropriate money to aid the hospital for the benefit of the people of the county. The county executive may contract with the governing board of the hospital for the nursing and care of the poor of the county who are sick, injured, or disabled, upon terms that the county officers determine to be just and proper.
As added by P.L.2-1993, SEC.5.

IC 16-22-14

Chapter 14. Levy for Emergency Medical Services

IC 16-22-14-1

"Qualified expenses" defined

Sec. 1. As used in this chapter, "qualified expenses" means expenses incurred by a county hospital to provide emergency medical services (as defined in IC 16-18-2-110).

As added by P.L.154-2006, SEC.67.

IC 16-22-14-2

Request by governing board to county for funding qualified expenses

Sec. 2. The governing board of a county hospital may request support from the county for qualified expenses, either by:

(1) appropriation from the county general fund; or

(2) a separate tax levy;

by filing with the county executive on or before August 1 a written budget of the amount estimated to be required to fund qualified expenses for the ensuing year.

As added by P.L.154-2006, SEC.67.

IC 16-22-14-3

County levy for county hospital

Sec. 3. Subject to sections 4 and 5 of this chapter, a county may establish a separate property tax levy for a county hospital to compensate the county hospital for the county hospital's qualified expenses.

As added by P.L.154-2006, SEC.67.

IC 16-22-14-4

Property tax rate limitation

Sec. 4. The property tax rate imposed under this chapter may not exceed the lesser of the following:

(1) Six cents ($0.06) on each one hundred dollars ($100) of assessed valuation.

(2) The property tax rate that is necessary to generate tax revenues in an amount equal to the county hospital's qualified expenses in the ensuing year, as estimated in the governing body's budget request under section 2 of this chapter.

As added by P.L.154-2006, SEC.67.

IC 16-22-14-5

Property taxes subject to levy limitation

Sec. 5. Property taxes imposed under this chapter are subject to the county's levy limitations imposed under IC 6-1.1-18.5-3.

As added by P.L.154-2006, SEC.67.

IC 16-22-14-6
Levy in addition to other amounts levied for hospital

Sec. 6. The amount levied under this chapter is in addition to any other amount levied for a county hospital.

As added by P.L.154-2006, SEC.67.

IC 16-22-14-7
Appropriation of amount levied; use of money

Sec. 7. An amount levied under this chapter:

(1) must be appropriated as other county funds are appropriated; and

(2) may be used only for qualified expenses.

As added by P.L.154-2006, SEC.67.

IC 16-23

ARTICLE 23. MUNICIPAL AND OTHER TYPES OF HOSPITALS

IC 16-23-1

Chapter 1. City Hospitals in Third Class Cities

IC 16-23-1-1

Application of chapter

Sec. 1. This chapter applies to the following:

(1) Each third class city that:

(A) adopted IC 16-12.2-5 (before its repeal on July 1, 1993); or

(B) adopts this chapter;

by ordinance.

(2) Each city to which IC 16-12.2-5 applied before September 1, 1981.

As added by P.L.2-1993, SEC.6.

IC 16-23-1-2

Appropriations and tax levies; conditions

Sec. 2. The city and county officers shall appropriate sufficient money annually and levy a tax annually on the taxable property in the county to meet a deficiency that exists, or is reasonably anticipated by the board of directors of the hospital, to maintain, equip, and operate the city hospital for the ensuing calendar year if the hospital meets the following conditions:

(1) Is established, maintained, and operated inside or within two (2) miles of and in the same county as a city subject to this chapter.

(2) Is established at a time when there is no other city, county, or public hospital maintained and operated in that county.

(3) Is open to all residents of the county without discrimination in the rates, facilities, and services.

As added by P.L.2-1993, SEC.6.

IC 16-23-1-3

Governing board; members

Sec. 3. (a) A governing board shall manage the hospital. The board consists of seven (7) members, all of whom must be qualified voters of the county in which the hospital is located.

(b) One (1) or two (2) of the members may be a licensed and practicing physician. One (1) member may be a registered nurse.

(c) The governing board is a separate legal entity under the name and style of "Board of Directors of _____ Hospital, _____, Indiana".

As added by P.L.2-1993, SEC.6. Amended by P.L.91-2002, SEC.15 and P.L.100-2002, SEC.16.

IC 16-23-1-4
Appointing board; members; oath

Sec. 4. (a) Appointments to the governing board shall be made by an appointing board consisting of the following:

(1) The city executive of the city in which the hospital is located.

(2) A member of the county fiscal body to be chosen by the county fiscal body of the county.

(3) A member of the county executive to be chosen by the county executive at the county executive's regular January meeting each year.

(b) The members of the appointing board shall take and subscribe an oath for the honest and faithful performance of the members' duties. The oath shall be filed in the office of the county auditor. The appointing board serves without bond.

As added by P.L.2-1993, SEC.6.

IC 16-23-1-4.1
Governing board membership limitation

Sec. 4.1. A member of an appointing authority for the governing board of a hospital established and operated under this article may not serve on the hospital's governing board.

As added by P.L.100-2002, SEC.17.

IC 16-23-1-5
Appointing board; meetings

Sec. 5. (a) The appointing board shall hold regular meetings to appoint members of the governing board on the third Monday of January in each year, but may adjourn from day to day until appointments are made for all expired or vacant memberships on the governing board.

(b) Except as provided in section 7 of this chapter, a vacancy existing on the governing board may be filled at a special meeting called by the county auditor or by any two (2) members of the appointing board, on five (5) days notice to all members not joining in the call or without notice when all of the appointing board are present.

(c) All meetings of the appointing board shall be held at the county executive's office unless by unanimous consent the appointing board determines to hold a meeting in the city executive's office.

As added by P.L.2-1993, SEC.6.

IC 16-23-1-6
Board of directors; conflicts of interest

Sec. 6. An individual is not prohibited from serving as a member of the board of directors if the member:

(1) has a pecuniary interest in; or

(2) derives a profit from;

a contract or purchase connected with the hospital. However, the member shall disclose the interest or profit in writing to the board and provide a copy to the state board of accounts. The member shall abstain from voting on any matter that affects the interest or profit.
As added by P.L.2-1993, SEC.6.

IC 16-23-1-7
Governing board; vacancies; candidates

Sec. 7. Whenever a vacancy occurs on the governing board, the existing governing board shall submit a list of three (3) candidates for each vacancy to be filled to the appointing authority. Each candidate submitted by the governing board must meet the requirements concerning board members.
As added by P.L.2-1993, SEC.6.

IC 16-23-1-8
Governing board; vacancies; appointments

Sec. 8. (a) For each vacancy, the appointing authority may do one (1) of the following:

(1) Appoint one (1) of the three (3) candidates submitted by the governing board.

(2) Request and receive from the governing board a second list of three (3) candidates.

(3) Appoint an individual who meets the requirements concerning board members and who was not named in the initial list submitted by the governing board.

(b) If the appointing authority requests and receives a second list of three (3) candidates under subsection (a)(2), the appointing authority may do one (1) of the following:

(1) Appoint one (1) of the three (3) candidates named in the second list.

(2) Appoint an individual who meets the requirements concerning board members and who was not named in the second list of three (3) candidates submitted by the governing board.

(c) The appointment for a vacancy shall be made within sixty (60) days of the submission of the initial list of candidates under section 7 of this chapter.
As added by P.L.2-1993, SEC.6.

IC 16-23-1-9
Governing board; terms

Sec. 9. (a) The directors shall be appointed on the third Monday of January.

(b) The initial terms of the governing board are as follows:

(1) Two (2) members for one (1) year.

(2) Two (2) members for two (2) years.

(3) One (1) member for three (3) years.

(4) Two (2) members for four (4) years.

(c) Each subsequent term is for four (4) years.

(d) The term of each member begins February 1 in the year of appointment at the expiration of the member's predecessor's term and continues four (4) years and until a successor is appointed and qualified. However, an interim member chosen to fill a vacancy begins tenure at the time specified in the member's certificate of appointment and serves the unexpired term of the member the interim member succeeds.

As added by P.L.2-1993, SEC.6.

IC 16-23-1-10

Governing board; time of appointments; continuation of appointing board membership

Sec. 10. (a) The appointments of members of the hospital governing board may not be made before the third Monday of January in the respective years and shall be made by the appointing board.

(b) If the county executive in any year fails to appoint one (1) of the board's members to the appointing board for the current year, the county executive who served on the appointing board in the preceding year, if the individual is still a member of the county executive, continues as a member of the appointing board until the county executive makes the board's annual appointment.

As added by P.L.2-1993, SEC.6.

IC 16-23-1-11

Board of directors; certificates of appointment; oaths and bonds

Sec. 11. (a) The appointing board established under section 4 of this chapter shall issue a certificate of appointment to each member of the board of directors chosen. The certificate shall be executed by a majority of the appointing board and attested by the county auditor who shall act as secretary of the appointing board.

(b) Each member of the governing board shall execute and file with the county recorder, including a copy in the office of the city clerk-treasurer, an oath and a bond in the amount of two thousand dollars ($2,000) for the honest and faithful performance of the member's duties. The bonds are subject to approval by the city executive. If a surety company bond is given, the cost of the bond shall be paid from hospital funds. The cost of recording the bond and oath shall also be paid from the proper hospital funds.

As added by P.L.2-1993, SEC.6.

IC 16-23-1-12

Governing board meetings; time and place; quorum

Sec. 12. (a) The governing board shall hold one (1) regular meeting each month at a time and place to be fixed by the board. The meeting must be held in a convenient place in the city in which the

hospital is located. Special meetings of the board may be held on written notice by the president, the secretary, or any three (3) members of the board to the remaining members. Personal attendance at a meeting constitutes a waiver of notice.

(b) A majority of all members of the board constitutes a quorum for the transaction of business at any regular or special meeting. A majority vote of all members of the board is required on all questions or business.

As added by P.L.2-1993, SEC.6.

IC 16-23-1-13

Treasurer; city clerk-treasurer

Sec. 13. (a) The city clerk-treasurer is ex officio treasurer of the board of directors, unless the board appoints a separate treasurer under section 14 of this chapter. The clerk-treasurer serves without additional compensation and does not have a vote on any matter or question coming before the board.

(b) A certificate of official character and additional oath or bond is not required of the clerk-treasurer, but the city fiscal body, in fixing the amount of the official bond as clerk-treasurer, shall take into consideration the amount of money under the clerk-treasurer's control for hospital purposes, as well as other city funds.

As added by P.L.2-1993, SEC.6.

IC 16-23-1-14

Separate treasurer

Sec. 14. (a) If the governing board desires to have a separate treasurer, the board shall adopt a resolution providing for a separate treasurer for the hospital and the governing board. The resolution must be adopted at least one hundred (100) days before the beginning of a calendar year and takes effect the first day of the next calendar year after the passage of the resolution. A true copy of the resolution of the board shall be certified, within ten (10) days after adoption by the board, to the city legislative body and shall be filed in the city clerk-treasurer's office. The city legislative body shall approve or disapprove the board's resolution, by ordinance or resolution of the city legislative body, at the next regular meeting held after the resolution is adopted by the board and after the deposit of a copy of the resolution in the city clerk-treasurer's office. The failure of the city legislative body to act at the next regular meeting is not a waiver of the right to do so, and the time provisions for the city legislative body's action are directory and not mandatory. The board resolution and city legislative body resolution or ordinance of approval must be adopted not later than November 1 of any given year to authorize the appointment of a separate treasurer for the board on January 1 of the following year.

(b) Upon the adoption of an ordinance or a resolution under subsection (a) by the city legislative body and the completion of the

board and city legislative body action, the governing board shall appoint a hospital treasurer to serve for the ensuing year in place of the city clerk-treasurer.

(c) The treasurer appointed each year may be a member of the board or any other competent person residing in the county in which the hospital is situated. The treasurer shall subscribe an oath and execute a bond in the amount required by the board for the proper and honest performance of duties, to the approval of the hospital board, with proper surety on the bond.

(d) The provision for a separate treasurer of the hospital and board remains in effect without further proceedings of the board or council, unless the board and city legislative body restore the ex officio status of the city clerk-treasurer for the board effective at the beginning of the next calendar year. The resolution of the board and resolution or ordinance of the city legislative body also must be adopted not later than November 1 before the change takes effect.

(e) The board shall fix the separate treasurer's compensation in an amount not exceeding six hundred dollars ($600) each year. If the treasurer is a member of the board, the compensation is in addition to the salary fixed for board members.

As added by P.L.2-1993, SEC.6.

IC 16-23-1-15
Duties of treasurer

Sec. 15. The treasurer shall receive, deposit, and pay out all money of the board and hospital as ordered and shall sign all checks or other evidences of indebtedness when authorized by board action.

As added by P.L.2-1993, SEC.6.

IC 16-23-1-16
Governing board officers

Sec. 16. (a) The governing board shall organize each year by the election of officers at the regular February meeting or the first called meeting in that month. The officers of the board are president, vice president, secretary, and treasurer. The officers must be board members, except that the board may appoint a separate treasurer from outside the board membership as provided by section 14 of this chapter.

(b) The officers serve from the date of election until February 1 of the next year and until respective successors are elected and qualified.

(c) If a vacancy exists in any office at a time other than the date for the annual election of officers, the governing board shall fill the vacancy for the unexpired term.

As added by P.L.2-1993, SEC.6.

IC 16-23-1-17
Duties of governing board officers

Sec. 17. (a) The president shall preside at the regular and special meetings of the governing board and shall perform all other duties that are authorized or required by the board or the board's bylaws, rules, and regulations.

(b) The vice president shall discharge the duties of the president if any of the following occurs:

(1) The president is incapacitated or absent.

(2) There is a vacancy in the office of president.

(3) The president relinquishes the president's duties as presiding officer at any meeting.

(c) The secretary serves as executive officer of the board, acting for the board and exercising the powers and performing the duties at board meetings and during the intervals between meetings that the board authorizes.

(d) At any meeting when only one (1) officer is present and the officer relinquishes the officer's duties or when the president and vice president are both absent, the members present shall choose a presiding officer from the members in attendance for that meeting.

As added by P.L.2-1993, SEC.6.

IC 16-23-1-18

Compensation of governing board members and officers

Sec. 18. (a) The governing board shall, by resolution, fix the compensation of the officers and board members in a reasonable amount and may fix a higher amount for the officers who perform additional duties outside board meetings. A certified copy of the resolution shall be submitted to the city fiscal body.

(b) The city fiscal body may approve or reject the compensation proposed by the board, but the city fiscal body may not increase or decrease the amount fixed by the board.

(c) If the board's resolution is confirmed and the salaries are approved by the city fiscal body, the compensation takes effect at the time fixed in the resolution.

(d) The compensation of board members may be fixed on an annual basis or on a specified amount for each meeting, but may not exceed the compensation of members of the city fiscal body. This limitation does not apply to the officers of the board who perform duties outside of the board meetings.

As added by P.L.2-1993, SEC.6.

IC 16-23-1-19

Duties of governing board

Sec. 19. (a) The governing board shall do the following:

(1) Control and manage the city hospital.

(2) Make and establish all necessary or proper bylaws and rules for the maintenance and operation of the hospital.

(3) Fix reasonable rates to patients for rooms, care, treatment, and service that are necessary or proper to fulfill the purposes

and functions of the hospital.

(b) In addition to IC 5-14-1.5-6.1(b), a hospital organized or operated under this article may hold executive sessions to do any of the following:

(1) Discuss and prepare bids, proposals, or arrangements that will be competitively awarded among health care providers.

(2) Discuss recruitment of health care providers.

(3) Discuss and prepare competitive marketing strategies.

(4) Engage in strategic planning.

(5) Participate in a motivational retreat with staff or personnel if the hospital does not conduct any official action (as defined in IC 5-14-1.5-2(d)).

(c) IC 5-14-1.5-5, IC 5-14-1.5-6.1, and IC 5-14-1.5-7 apply to executive sessions held under subsection (b).

(d) A hospital organized or operated under this article may hold confidential, until the information contained in the records is announced to the public, records of a proprietary nature that if revealed would place the hospital at a competitive disadvantage, including the following:

(1) Terms and conditions of preferred provider arrangements.

(2) Health care provider recruitment plans.

(3) Competitive marketing strategies regarding new services and locations.

As added by P.L.2-1993, SEC.6. Amended by P.L.91-2002, SEC.16 and P.L.100-2002, SEC.18.

IC 16-23-1-19.5

Insurance

Sec. 19.5. The governing board of a hospital organized or operated under this article may enter into a group purchasing agreement to purchase medical malpractice insurance with the following:

(1) One (1) or more hospitals organized or operated under this article.

(2) One (1) or more hospitals organized or operated under IC 16-22.

As added by P.L.91-2002, SEC.17 and P.L.100-2002, SEC.19.

IC 16-23-1-20

Nonprofit operation; rate reductions

Sec. 20. The board may not operate the hospital for profit, but shall attempt to make the revenues from patients and other income equal the expense of operation, maintenance, and equipment if practicable. The board may admit and care for the number of patients who are in need of hospitalization and are unable to pay for the hospitalization in whole or in part as the facilities of the hospital will permit. The board may reduce the rates to be charged for these patients or admit these patients without charge.

As added by P.L.2-1993, SEC.6.

IC 16-23-1-21
Discrimination prohibited

Sec. 21. (a) The hospital may not discriminate among patients due to the following:

(1) Race, color, or sex.

(2) Occupational, economic, or social status.

(3) Political or religious belief or the lack of political or religious belief.

(b) The hospital must also be open to all licensed physicians of the county and the patients of licensed physicians on equal terms and under uniform rules.

As added by P.L.2-1993, SEC.6.

IC 16-23-1-22
Equipment and personal property

Sec. 22. The governing board may do the following:

(1) Purchase or lease equipment, appliances, and other personal property for the operation and maintenance of the hospital.

(2) Sell or exchange equipment or personal property of the hospital or trade the equipment or personal property for other equipment or property to be purchased or acquired.

As added by P.L.2-1993, SEC.6.

IC 16-23-1-23
Procurement contracts; trust bids, proposals, and quotations

Sec. 23. (a) This section applies to the award of a contract under this chapter for the procurement of property by acceptance of bids, proposals, or quotations.

(b) A bid, proposal, or quotation submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:

(1) beneficiary of the trust; and

(2) settlor empowered to revoke or modify the trust.

As added by P.L.2-1993, SEC.6.

IC 16-23-1-24
Loans in anticipation of taxes

Sec. 24. (a) If the city fiscal body authorizes the borrowing by ordinance, the board of directors may borrow money by negotiating a temporary loan in anticipation of taxes already levied and in process of collection or distribution in the current year.

(b) The notes, warrants, or other evidences of indebtedness must:

(1) be executed by the city executive and attested by the clerk-treasurer; and

(2) be payable not later than the end of the calendar year in which the auditor of the county or the clerk-treasurer of the city will collect and distribute the taxes in anticipation of which the

temporary loan is made and the money borrowed.
As added by P.L.2-1993, SEC.6.

IC 16-23-1-25
Superintendent; personnel; business manager; pension or retirement plan; powers and duties

Sec. 25. (a) The governing board shall employ an experienced and a qualified person as superintendent of the hospital and other agents, employees, representatives, and servants that the board considers necessary. The board may fix salaries or compensation upon terms and conditions and with powers and duties the board considers proper. The board may delegate to the secretary or to the superintendent any of the board's powers under this section. The board, or the superintendent or secretary under authority granted by the board, may terminate the employment of a person appointed under this section at any time and with or without notice, except the superintendent and business manager.

(b) The governing board may also do the following:

(1) Appoint a business manager for the hospital.

(2) Give the manager powers and duties over the administration of the hospital.

(3) Pay the manager the compensation that the board considers proper.

(c) The governing board may, upon due investigation, authorize and place into effect a fair and reasonable pension or retirement plan for the hospital personnel with a reputable and an experienced company engaged in that business.

(d) All persons appointed or employed by the board under this section serve in the appointed or employed capacities, exercise the powers, and perform the duties that are authorized by the board or by the secretary of the board under authority granted by the board. However, the right of employment or termination of employment of the superintendent or business manager must be exercised by the board and may not be delegated to the secretary or any other person or officer.
As added by P.L.2-1993, SEC.6.

IC 16-23-1-26
Estimate and budget

Sec. 26. (a) Before August 2 of each year, the governing board shall do the following:

(1) Analyze, estimate, compute, and consider the following for the current year and the next year for which the budget is being prepared:

(A) The income from patients, trust funds, gifts, donations, and all other sources during the current year and receipts that the board may reasonably anticipate.

(B) The expenditures already made and that may reasonably

be anticipated for the hospital, including the following:

(i) The price trends in food, supplies, equipment, and other items of personal property required in the hospital.

(ii) The present and prospective number of patients using the hospital during the period for which the estimates are made.

(iii) Other facts, conditions, and circumstances that may probably affect the income or expenses of the hospital during the period.

(2) Determine whether there will be a deficiency in the funds necessary to maintain, equip, and operate the hospital in the next calendar year.

(b) The estimate and budget must be:

(1) in writing;

(2) signed in triplicate by at least a majority of the board; and

(3) certified by the secretary of the board.

(c) Before August 2 of each year, one (1) copy of the estimate and budget shall be filed in the office of the auditor of the county and one (1) copy shall be filed in the office of the clerk-treasurer of the city. The third copy must remain on file with the secretary of the board.
As added by P.L.2-1993, SEC.6.

IC 16-23-1-27
Tax levy without anticipated deficiency prohibited

Sec. 27. If the estimate and budget show no anticipated deficiency for the next calendar year, the city and the county may not levy any tax on the property of the city or county for the ensuing year.
As added by P.L.2-1993, SEC.6.

IC 16-23-1-28
Anticipated deficiency; tax levy

Sec. 28. (a) If the budget and estimate filed in the auditor's office of the county in any year shows an anticipated deficiency, the amount of the deficiency shall be set out in the copy of the budget and estimate filed, and the board shall request that the fiscal body of the county appropriate sufficient funds and levy a sufficient tax rate on the taxable property of the county to meet the deficiency. The county auditor shall, upon the basis of the request, compute the amount of money necessary to be appropriated and the amount of tax levy necessary to be made on the taxable property of the county to meet the estimated deficiency in the anticipated hospital funds for the ensuing calendar year. The auditor shall place the tax levy before the county fiscal body at the fiscal body's annual budget meeting in September of the same year the request is filed.

(b) The county fiscal body shall place the amount of the anticipated deficiency in the county budget for the next calendar year and shall levy a sufficient tax on all taxable property in the county to meet the anticipated deficiency. However, the tax rate fixed by the

county fiscal body in any one (1) year may not exceed three and thirty-three hundredths cents ($0.0333) on each one hundred dollars ($100) of taxable property in the county. The levy is known as the hospital aid tax.
As added by P.L.2-1993, SEC.6. Amended by P.L.6-1997, SEC.169.

IC 16-23-1-29
Appropriations; special hospital aid tax

Sec. 29. (a) If the county fiscal body is not authorized to appropriate sufficient funds under this chapter to meet an anticipated deficiency in any one (1) year reported and filed in the offices of the county auditor and city clerk-treasurer, the city fiscal body may appropriate a sufficient amount of funds for the next calendar year to meet the balance of the anticipated deficiency and levy a special hospital aid tax on all taxable property in the city for this purpose.

(b) The rate fixed by the city fiscal body for a hospital aid tax in any one (1) year may not exceed two and thirty-three hundredths cents ($0.0233) on each one hundred dollars ($100) of taxable property. The tax is in addition to any tax levied by the city for the retirement of bonds or other evidences of indebtedness and payment of interest charges for the alteration, repair, or improvement of the hospital, including the construction of additions and extensions to the hospital.
As added by P.L.2-1993, SEC.6. Amended by P.L.6-1997, SEC.170.

IC 16-23-1-30
Emergency appropriations

Sec. 30. The fiscal body of the county and the fiscal body of the city may make additional appropriations of funds during any calendar year to meet an emergency for hospital expenditures authorized under this chapter, payable out of any part of the general fund of the county or city not otherwise appropriated.
As added by P.L.2-1993, SEC.6.

IC 16-23-1-31
Appropriation approval; review; revision; annual reports

Sec. 31. (a) If the annual budget and appropriations, or any additional appropriations or transfers of money, made or proposed by the board of directors, excluding any cumulative building money:

(1) is not based upon or derived in part from a tax levy on property in the county or city; and

(2) involves only the funds of the hospital derived wholly from other sources than property taxes;

the board only needs to adopt a resolution for the approval of the budget appropriations, additional appropriations, or transfers and file a true copy of the budget appropriations, additional appropriations, or transfers and the resolution in the offices of the county auditor and city clerk-treasurer within seven (7) days after board action for the

information of the public.

(b) If the funds are not derived from taxation, the city fiscal body may review, consider, and file objections and take an appeal to the department of local government finance upon the following:

(1) An annual budget and any appropriations in the budget and request the reduction or elimination of any item.

(2) Additional appropriations or transfers of funds, or any part of additional appropriations or transfers of funds, within ten (10) days after the certificate has been filed in the clerk-treasurer's office.

The ruling and action of the department of local government finance is final and conclusive.

(c) The annual budget and appropriations may be revised by the board of directors by increasing or decreasing items in the budget based on revenues derived from sources other than property taxes and by transfer from any items of the budget and appropriations to other items of the budget, without giving legal notice or any public hearing. However, a copy of each resolution changing the budget or any appropriations or transfers of funds shall be filed with the city clerk-treasurer and county auditor within seven (7) days after the passage of each resolution. The resolution is subject to appeal by the city fiscal body to the department of local government finance for final action in the manner and within the period provided in this section.

(d) The governing board shall annually file a condensed annual report of receipts and expenditures of all hospital funds. Expenses or income items may be summarized in a fair and an accurate manner for the information of all taxpayers and citizens. A copy of the annual report covering the preceding calendar year shall be filed in the city clerk-treasurer's office and in the county auditor's office on or before the first Monday in March. Detailed information on the items must be available for inspection by the public at the hospital administrator's office.

As added by P.L.2-1993, SEC.6. Amended by P.L.90-2002, SEC.398.

IC 16-23-1-32

Hospital aid taxes; collection and deposit

Sec. 32. (a) The county treasurer shall collect all hospital aid taxes levied by the county fiscal body or city fiscal body as other taxes on property are collected, and the county auditor shall pay over the amount to the clerk-treasurer of the city. The amount shall be placed in the hospital fund of the city, subject to the order of the governing board, and is available for the payment of maintenance, equipment, supplies, and operating expenses of the city hospital and for any other purpose for which the current budget of the hospital provides.

(b) The clerk-treasurer shall keep the hospital aid money levied by the county fiscal body or the city fiscal body in separate items on the appropriation records of the city. The amount received from the

hospital aid levy of the county shall be considered appropriated for hospital purposes, without further appropriation by the city fiscal body.
As added by P.L.2-1993, SEC.6.

IC 16-23-1-33
Records, books, papers, and physical property; inspection and examination

Sec. 33. The business records, books, papers, and physical property of the hospital shall be kept open at all reasonable times to the inspection and examination of the following:

(1) The state board of accounts.

(2) The city executive, the city fiscal body, and the board of public works and safety of the city.

(3) The county legislative body, the county fiscal body, and the judge of the circuit court of the county.

(4) Any other authorized local or state officer, board, or commission.

As added by P.L.2-1993, SEC.6.

IC 16-23-1-33.5
Hospital employee salary information

Sec. 33.5. Any information concerning the specific salaries paid to individual employees of a hospital may be withheld by the hospital from disclosure under IC 5-14-3. However, the information must be provided to the entities described in section 33 of this chapter. Any entity shall maintain the confidentiality of the information as required under IC 5-14-3-6.5.
As added by P.L.208-2016, SEC.7.

IC 16-23-1-34
Gifts, donations, bequests, devises, and property in trust; acceptance and control

Sec. 34. (a) The governing board may accept gifts, donations, bequests, and devises, and property in trust for the use and benefit of the hospital. The board shall recommend and the city fiscal body, by resolution or ordinance, must approve the terms and acceptance of any trust. If no trust is involved and there is an unconditional gift or donation to the hospital or to the city for hospital purposes, the board may accept the gift on behalf of the hospital without referring the gift to the city fiscal body.

(b) The governing board shall control all trust funds or property and other donations, gifts, bequests, or devises belonging to the hospital or made to the city for hospital purposes. The board shall carry out terms and conditions of a trust involving acts or proceedings in connection with the hospital.
As added by P.L.2-1993, SEC.6.

IC 16-23-1-35
Facility construction, improvement, and repair by city legislative bodies

Sec. 35. (a) If the city legislative body of a city having a city hospital determines that the city hospital's buildings and facilities are or will soon become insufficient to serve the needs of the residents of the city and of the county in which the city is located, the city legislative body may, by ordinance, do any of the following:

(1) Provide for the construction of any of the following:

(A) Buildings at the same or a different location to replace or supplement the hospital building.

(B) An extension and addition to any hospital building.

(2) Provide for the alteration, improvement, remodeling, or repair of any hospital building and grounds.

(3) Provide for the acquisition by condemnation, purchase, or donation of additional real property.

(b) The city fiscal body may, by ordinance, appropriate or borrow the necessary money and issue bonds of the city. The city fiscal body shall annually levy a sufficient tax on all taxable property in the city to pay the principal of the bonds that will mature in the ensuing calendar year and the interest payments due in the ensuing calendar year on all outstanding bonds of that issue. The appropriations and bonds may include the cost of architects' services and any preliminary proceedings, legal services, and other incidental expense in connection with the project.

As added by P.L.2-1993, SEC.6.

IC 16-23-1-36
Bonds; terms; security

Sec. 36. (a) The ordinance specified in section 35 of this chapter shall provide for the following:

(1) The issuance, sale, execution date, and principal of each bond to be issued.

(2) The number of bonds and the aggregate principal of the bond issue.

(3) The payment of interest on the bonds annually or semiannually.

(4) A maturity date that is within twenty-five (25) years from the date of execution of the bonds.

(5) Any other terms authorized or required by statute.

(b) The city fiscal body also shall pledge the full faith and credit of the city, with the city's taxable property, to the redemption of the bonds on the respective maturity dates of the bonds and to the payment of all interest becoming due on the bonds.

As added by P.L.2-1993, SEC.6.

IC 16-23-1-37
Facility construction, improvement, and repair by governing board

Sec. 37. (a) The governing board may design, order, contract for, and execute the following:

(1) The construction of other buildings at the same or a different location to replace or supplement a hospital building.

(2) The construction of an adequate and a proper extension and addition to a hospital building.

(3) The alteration, improvement, repair, and remodeling of a hospital building and grounds.

(4) The acquisition by condemnation, purchase, or donation of additional real property.

(5) The purchasing, construction, remodeling, enlargement, or acquisition in any lawful manner of a building for a hospital purpose.

(b) The governing board shall perform duties and exercise powers authorized by ordinances adopted by the fiscal body of the city or county for the appropriation of adequate funds or the borrowing of money by issuance and sale of the bonds of the city or county.

(c) Except as provided in IC 36-1-12-1(c) or in this chapter, the governing board is governed by all applicable statutes for third class cities in the making of repairs, construction, improvement, extension, or addition of or to the hospital, including the acquisition or condemnation of real property.

As added by P.L.2-1993, SEC.6.

IC 16-23-1-38

Federal funds and grants; county funds

Sec. 38. The city and the governing board may, by the proper officers, do the following:

(1) Apply for, accept, and receive federal funds or grants available to aid the hospital project.

(2) Agree to and carry out the terms of the grant.

(3) Execute any necessary applications, contracts, and other instruments for this purpose.

(4) Accept and receive any funds appropriated and available from the county under this chapter and use the funds for the hospital project.

As added by P.L.2-1993, SEC.6.

IC 16-23-1-39

Emergency hospital construction, improvement, and repair; bonds

Sec. 39. (a) This section applies to the county fiscal body of a county in which a city hospital is located and maintained.

(b) The county fiscal body may issue and sell bonds and appropriate money, if the fiscal body finds the following:

(1) An emergency exists.

(2) To meet the medical needs of the county residents living inside and outside the corporate limits of the city it is necessary to aid in the following:

(A) The construction, improvement, repair, or remodeling of hospital buildings and grounds.

(B) The construction of an extension or addition to the hospital.

(C) The acquisition of real property for the hospital.

(3) An appropriation of county funds, borrowing of money, and issuance and sale of bonds by the county are in the best interests of all the citizens of the county.

(c) The county fiscal body may issue and sell bonds and appropriate the proceeds to meet the emergency:

(1) without regard to whether the city in which the hospital is located has issued and sold bonds for these purposes or contemplates the issuance and sale of bonds;

(2) as other county bonds are issued and sold under statute; and

(3) subject to approval of the department of local government finance.

(d) The principal derived from the sale of the bonds, upon due appropriation by the county according to statute, shall be paid to the clerk-treasurer of the city to assist in paying the cost of the improvement, repair, remodeling, or construction project of the hospital or for the acquisition of real property, without reappropriation by the fiscal body of the city.

As added by P.L.2-1993, SEC.6. Amended by P.L.90-2002, SEC.399.

IC 16-23-1-40

Cumulative hospital building fund; tax rate; investment

Sec. 40. (a) The governing board may request a cumulative hospital building fund and a tax rate upon all taxable property in the county in which the hospital is located to finance the fund. If a resolution is approved by majority vote of all members at a regular or special board meeting, the resolution shall be certified to the county auditor, who shall submit the resolution to the county executive for preliminary approval and recommendation. Upon the approval of the county executive, the county auditor shall publish notice of a public hearing before the county council on the establishment of a cumulative hospital building fund and tax rate in each year.

(b) The cumulative building tax rate begins in any calendar year when all proceedings to establish the tax rate have been completed before August 2 in that year. The rate is levied on each one hundred dollars ($100) of taxable property for that year, payable in the next year, and continues each year for a term not exceeding twelve (12) years. The resolution of the board must specify the following:

(1) The number of years.

(2) The effective date when the tax levy begins.

(3) The amount of rate on each one hundred dollars ($100) of taxable property.

(4) Any other pertinent facts considered advisable by the board.

(c) Except as provided in subsections (f) through (h), the rate on each one hundred dollars ($100) may be reduced but not increased by the department of local government finance in approving a cumulative building tax rate. The rate as finally fixed by the department of local government finance is final. However, the county fiscal body, by three-fourths (3/4) affirmative vote of the county fiscal body's members, may reduce the rate in any given year or years to meet an emergency existing in the county, but the temporary reduction affects the rate only in the year when the action is taken. The rate is automatically restored to the rate's original amount in each succeeding year of the established period except in any other year when another emergency reduction is made. The rate is subject to review each year by the county fiscal body, but the county tax adjustment board and department of local government finance may not reduce the rate below the original rate established and approved by vote of the county fiscal body unless the county fiscal body reduces the rate.

(d) The county fiscal body, city fiscal body, county tax adjustment board, or department of local government finance does not have power or jurisdiction over the annual budget and appropriations, additional appropriations, or transfer of money unless the action involves the expenditure or raising of money derived from property taxes. If the cumulative building fund is the only hospital fund raised by taxation, section 31 of this chapter controls.

(e) The cumulative building fund raised may be properly and safely invested or reinvested by the board to produce an income until there is an immediate need for the fund's use. The fund and any income derived from investment or reinvestment of the fund may be used as follows:

(1) To purchase real property and grounds for hospital purposes.

(2) To remodel or make major repairs on any hospital building.

(3) To erect and construct hospital buildings or additions or extensions to the buildings.

(4) For any other major capital improvements, but not for current operating expenses or to meet a deficiency in operating funds.

(f) Not later than August 1 of any year, ten (10) or more taxpayers in the county may file with the county auditor of the county in which the hospital is located a petition for reduction or rescission of the cumulative building tax rate. The petition must set forth the taxpayers' objections to the tax rate. The petition shall be certified to the department of local government finance.

(g) Upon receipt of a petition under subsection (f), the department of local government finance shall, within a reasonable time, fix a date for a hearing on the petition. The hearing must be held in the county in which the hospital is located. Notice of the hearing shall be given to the county fiscal body and to the first ten (10) taxpayers

whose names appear on the petition. The notice must be in the form of a letter signed by the secretary or any member of the department of local government finance, sent by mail with full prepaid postage to the county fiscal body and to the taxpayers at their usual places of residence at least five (5) days before the date fixed for the hearing.

(h) After the hearing under subsection (g), the department of local government finance shall approve, disapprove, or modify the request for reduction or rescission of the tax rate and shall certify that decision to the county auditor of the county in which the hospital is located.

As added by P.L.2-1993, SEC.6. Amended by P.L.41-1993, SEC.32; P.L.90-2002, SEC.400.

IC 16-23-1-41

Claims against hospitals

Sec. 41. All claims against the hospital for money payable for services provided, items furnished, or expenses incurred at or for the hospital shall be considered and allowed or disallowed, in whole or in part, as the board of directors considers proper. The allowance or disallowance shall be certified or attested by the secretary, president, or other member authorized by the board to endorse the action taken on claims. The claims shall then be filed in the clerk-treasurer's office of the city. If the claims are covered by proper appropriations in effect and unexpended and are in due form, or if no appropriation is required by statute and the claims are filed and allowed according to statute, the clerk-treasurer shall promptly pay the claims out of the hospital funds of the city to the individual, firm, corporation, or other legal entity to whom the claims are due.

As added by P.L.2-1993, SEC.6.

IC 16-23-1-42

Maintenance and operation of properties

Sec. 42. All property constructed, purchased, improved, repaired, remodeled, or acquired by the city or by the board of directors and used for hospital purposes shall be maintained and operated as and for a city hospital under the control of the board of directors, with equal representation on the board to the residents of the city and to the citizens of the county residing outside the city and with equal rights, facilities, service, and treatment available to citizens of the county residing inside and outside the corporate limits of the city.

As added by P.L.2-1993, SEC.6.

IC 16-23-1-43

City classification changes; effect

Sec. 43. If a city to which this chapter applies becomes a city of a different class, the hospital may continue to be maintained, operated, improved, remodeled, and enlarged, and real property acquired, as provided in this chapter as if the classification had not

changed.
As added by P.L.2-1993, SEC.6.

IC 16-23-1-44
Joint hospital operation

Sec. 44. A city hospital operating under this chapter may operate jointly with a county hospital in the same county created under IC 16-22-13. Joint operation may include joint employment of an administrator and other personnel, joint policies, joint purchases, joint services, and other programs to reduce the costs of health care. The board of directors of the city hospital may contract with the hospital board of the county hospital to provide for the manner of allocation of revenues and expenditures and the administration of the hospitals. Records must reflect the separate ownership, financial obligations, and existence of the city hospital and the county hospital.
As added by P.L.2-1993, SEC.6.

IC 16-23-1-45
Governing board; rights and powers; sale and lease of real property

Sec. 45. (a) The governing board has the same rights and powers as the hospital board of a county hospital under IC 16-22-2, except when those rights and powers are in conflict with the rights and powers granted to a city hospital under this chapter. However, a city hospital and the hospital's board of directors do not have authority to act inconsistently with the nature of the city hospital as a body of city government.

(b) The governing board may sell or lease real property to others by taking the same steps and procedures that the city served by the city hospital is required to take to sell or lease real property, except to the extent that this subsection conflicts with another statute authorizing the sale or lease of real property.
As added by P.L.2-1993, SEC.6.

IC 16-23-1-46
Sale of real property; trust bids; lease of real and personal property; loans

Sec. 46. (a) This section applies to the sale of real property by the governing board.

(b) If real property is sold by acceptance of bids, a bid submitted for the property by a trust (as defined in IC 30-4-1-1(a)) must identify the following:

(1) Each beneficiary of the trust.

(2) Each settlor empowered to revoke or modify the trust.

(c) The governing board may lease from others real or personal property, with or without an option to purchase, on terms and conditions and for times the board of directors considers reasonable.

(d) The governing board may borrow money and may secure the loan by a pledge of amounts from the cumulative building fund or other security. The loan may be made for a term of up to twenty (20) years.
As added by P.L.2-1993, SEC.6.

IC 16-23-1-47
Board of directors; authority and powers; direct financial subsidies

Sec. 47. (a) The board of directors has the authority and powers granted to boards of nonprofit corporations under IC 23-17, including the powers to do the following:

(1) Enter shared service agreements and other cooperative ventures.
(2) Join or sponsor memberships in organizations and associations that benefit the hospital.
(3) Incorporate other corporations.
(4) Allow members of the board or officers or administrators of the hospital to serve as directors of the following:
(A) Organizations or associations that benefit the hospital.
(B) Partnerships, limited liability companies, or other corporations.
(C) Shared service agreements and other cooperative ventures.
(5) Offer to the general public, directly or indirectly, products and services of any entity created under this subsection.
(6) Sue and be sued in the board's own name.
(7) Enter into contracts.
(8) Perform all other duties and exercise all other powers prescribed by law.

(b) The existence of authority or power under subsection (a) shall be determined in favor of the hospital if generally authorized or existing under IC 23-17. A resolution of the board of directors is presumptive evidence of a power.

(c) If a county or city fiscal body provides a direct financial subsidy to a hospital from a tax levy at the time a hospital exercises the hospital's powers under subsection (a), the hospital may not provide the funds from a tax levy to an entity created under subsection (a) for more than three (3) years. After three (3) years, all money, with interest, must be repaid in not more than ten (10) years.
As added by P.L.2-1993, SEC.6. Amended by P.L.8-1993, SEC.251.

IC 16-23-2

Chapter 2. Hospital Boards of Governors in Third Class Cities

IC 16-23-2-1

Creation

Sec. 1. The legislative body of a third class city may, by ordinance, create a board of governors of each hospital of the city.

As added by P.L.2-1993, SEC.6.

IC 16-23-2-2

Members

Sec. 2. A board of governors must consist of not less than five (5) and not more than nine (9) members who shall be appointed by the mayor with the advice and consent of the legislative body. One (1) member of the board may be a licensed physician. The executive of the city is an ex officio member of the board of governors.

As added by P.L.2-1993, SEC.6.

IC 16-23-2-3

Terms

Sec. 3. (a) The initial terms of a board of governors are as follows:

(1) One-third (1/3) of the members, as near as may be, shall be appointed for terms of one (1) year.

(2) One-third (1/3) of the members, shall be appointed for terms of two (2) years.

(3) One-third (1/3) of the members, shall be appointed for terms of three (3) years.

(b) All subsequent terms are for three (3) years.

As added by P.L.2-1993, SEC.6.

IC 16-23-2-4

Vacancies

Sec. 4. All vacancies in the membership of the board of governors shall be filled for the unexpired term by appointment as provided in section 2 of this chapter.

As added by P.L.2-1993, SEC.6.

IC 16-23-2-5

Compensation

Sec. 5. The members of the board of governors serve without compensation.

As added by P.L.2-1993, SEC.6.

IC 16-23-2-6

Oath

Sec. 6. Each member of the board of governors qualifies by taking an oath of office within ten (10) days after the member's

appointment. The oath shall be filed in the office of the clerk-treasurer of the city.
As added by P.L.2-1993, SEC.6.

IC 16-23-2-7
Conflicts of interest

Sec. 7. An individual is not prohibited from serving as a member of the board of governors if the member:

(1) has a pecuniary interest in; or
(2) derives a profit from;

a contract or purchase connected with the hospital. However, the member shall disclose the interest or profit in writing to the board of governors and provide a copy to the state board of accounts. The member shall abstain from voting on any matter that affects the interest or profit.
As added by P.L.2-1993, SEC.6.

IC 16-23-2-8
Control of hospitals

Sec. 8. The board of governors has exclusive control of each hospital of the city. On the effective date of an ordinance and the appointment of the board under the ordinance, the jurisdiction of the department of health over the hospitals ceases.
As added by P.L.2-1993, SEC.6.

IC 16-23-2-9
Hospital funds; duties of clerk-treasurer; deposits and payments

Sec. 9. The clerk-treasurer of a city having a board of governors is the custodian of and responsible for the clerk-treasurer's official bond for each hospital's funds, except as provided in section 11 of this chapter. The funds shall be paid over to the clerk-treasurer at least one (1) time each week, deposited in public depositories, and paid out on warrants drawn on the clerk-treasurer signed by the president and secretary of the board.
As added by P.L.2-1993, SEC.6.

IC 16-23-2-10
Budget and appropriations; reports

Sec. 10. (a) The governing board and the board's officers may not contract any obligation or pay out any money in excess of an annual budget and appropriations made for those purposes by the fiscal body of the city, as provided by statute.

(b) The board shall, before the time for the fixing of the city budget, annually present to the city fiscal body a detailed report of the receipts and expenditures of each hospital for the current year and a detailed estimate of the money needed for the next fiscal year. This must be done in the manner prescribed by statute or in the manner prescribed by the city fiscal body if a manner is not

prescribed by statute.

(c) This section does not apply to funds from donations and bequests, which shall be administered in accordance with section 11 of this chapter.

As added by P.L.2-1993, SEC.6.

IC 16-23-2-11

Donations and bequests

Sec. 11. (a) The governing board may, under the name fixed by the ordinance and consistent with the terms of any donations and bequests, do the following:

(1) Accept, hold, and administer donations and bequests for the hospital or hospitals.

(2) Invest the money in securities that the board considers proper.

(3) Use the money and assets for hospital purposes.

(4) Convey assets and pay out money without an appropriation, but only after the action is authorized by a majority vote of the members of the board.

(b) If the board desires to accept the donations or bequests, the board shall elect a treasurer from among the board who is custodian of the money and of the income from the money. The treasurer shall give bond in an amount fixed by and with surety to the approval of the board. The bond must be payable to the board, and suit may be brought on the bond by the board in the board's name.

(c) The board may not accept a donation or bequest that creates an obligation to the city unless the donation or bequest is first accepted and approved by the city fiscal body.

As added by P.L.2-1993, SEC.6.

IC 16-23-3

Chapter 3. Tax Levies and Appropriations for Hospital Associations by Third Class Cities

IC 16-23-3-1

Application of chapter

Sec. 1. This chapter applies to a third class city that meets the following conditions:

(1) Has no hospital facilities for the third class city's citizens.

(2) Has a nonprofit hospital corporation that meets the following conditions:

(A) Has the hospital corporation's principal office and place of business designated in the hospital corporation's articles of incorporation as located in, or within one (1) mile of the limits of, the city.

(B) Desires to construct or has constructed in the city, or within one (1) mile of the city, a nonprofit hospital to be operated for charitable purposes.

(C) Has a governing board that meets the following conditions:

(i) Manages the construction, maintenance, and operation of the hospital.

(ii) Is entirely nonsectarian and nonpolitical.

As added by P.L.2-1993, SEC.6.

IC 16-23-3-2

Construction and equipment of facilities; payment of obligations; contracts

Sec. 2. The city fiscal body may do the following:

(1) Appropriate money to aid in the construction and equipment of hospital buildings and purchase of suitable grounds, in an amount not more than the amount provided for the purchase and construction by the nonprofit hospital corporation under section 1 of this chapter.

(2) Appropriate money to pay the obligations of the nonprofit hospital corporation under section 1 of this chapter for the purchase of grounds and equipment for and the construction of the hospital.

(3) Enter into a contract, upon terms the city fiscal body considers advantageous to the citizens of the city, with the nonprofit hospital corporation under section 1 of this chapter and donors of a fund for the following purposes:

(A) To purchase grounds and construct and equip the hospital building.

(B) To name the hospital.

(C) To hold title to the hospital building and grounds.

(D) To receive donations and determine the terms upon which donations may be accepted.

As added by P.L.2-1993, SEC.6.

IC 16-23-3-3
Defrayment of deficiencies

Sec. 3. If the city has provided assistance to the nonprofit corporation under section 2 of this chapter and the revenues derived from patient fees in any one (1) year and all other income of the association are not sufficient to maintain the hospital and grounds, the city may appropriate and pay to the nonprofit hospital corporation annually a sufficient amount to defray the deficiency.
As added by P.L.2-1993, SEC.6.

IC 16-23-3-4
Hospital admittance

Sec. 4. A hospital described in this chapter must be open to all of the following:

(1) Persons on reasonable terms.
(2) Physicians on reasonable terms who desire to place patients in the hospital.
(3) Employees of the city, without charge, who are injured in the course of employment.
(4) Poor and indigent persons on reasonable rates to be paid by the proper officers having charge of the care of those persons.

As added by P.L.2-1993, SEC.6.

IC 16-23-3-5
Bonds; tax levy

Sec. 5. (a) The city fiscal body may issue and sell bonds of the city, under the regulations followed for the issuance and sale of bonds for the construction of other city buildings, to provide money to do the following:

(1) Aid in the purchase, equipment, and construction of the hospital buildings and grounds.
(2) Pay the obligations of the hospital association.

(b) The fiscal body may also levy and collect taxes to pay and satisfy bonds when due.
As added by P.L.2-1993, SEC.6.

IC 16-23-3-6
Maintenance tax

Sec. 6. The city fiscal body may annually levy and collect a tax of not more than two and sixty-seven hundredths cents ($0.0267) on each one hundred dollars ($100) of the taxable property in the city to provide money to aid in the maintenance of the hospital as provided in this chapter.
As added by P.L.2-1993, SEC.6. Amended by P.L.6-1997, SEC.171.

IC 16-23-4
Chapter 4. Tax Levies for Hospitals in Third Class Cities

IC 16-23-4-1
Application

Sec. 1. This section applies to a third class city that owns or controls a hospital.

As added by P.L.2-1993, SEC.6.

IC 16-23-4-2
Special maintenance tax

Sec. 2. The city fiscal body may levy a special tax for the maintenance of the hospital of not less than sixty-seven hundredths of one cent ($0.0067) and not more than one and sixty-seven hundredths cents ($0.0167) on each one hundred dollars ($100) of taxable property, to be levied and collected the same as other city taxes are levied and collected.

As added by P.L.2-1993, SEC.6. Amended by P.L.6-1997, SEC.172.

IC 16-23-4-3
Hospital fund

Sec. 3. The amount collected under section 2 of this chapter constitutes a separate fund for the maintenance of the hospital, known as the hospital fund. The fund is under the management and control of the city fiscal body.

As added by P.L.2-1993, SEC.6.

IC 16-23-5
Chapter 5. Aid to Nonprofit and Benevolent Hospitals

IC 16-23-5-1
Application of chapter

Sec. 1. This chapter applies to a nonprofit hospital corporation that meets the following conditions:

(1) Is established in or within one (1) mile of a city.

(2) Is located within a county without a city or other public hospital.

(3) Has insufficient revenues derived from the care of persons able to pay for services and from all other sources to support and maintain the hospital and enable the hospital to supply the demand for hospital care and nursing in the city and community.

As added by P.L.2-1993, SEC.6.

IC 16-23-5-2
Governing board; members

Sec. 2. A nonprofit hospital corporation described in section 1 of this chapter must have articles of incorporation, a constitution, or bylaws that provide that:

(1) the corporation's incorporators are the corporation's first board of trustees and the board:

(A) is the corporation's sole governing board; and

(B) elects the board's successors at stated periods from reputable citizens of the city and vicinity, who:

(i) may include one (1) licensed physician; and

(ii) must be persons interested in the benevolent work of the hospital, chosen without reference to political or sectarian influence, and who receive no compensation for their services; or

(2) the corporation's general corporate powers will be exercised by a governing board, whose members:

(A) may include one (1) licensed physician;

(B) must be residents of the city in which the hospital is located; and

(C) must be elected by a board of electors consisting of representatives from each organized church, religious association, fraternal, charitable, military, patriotic, civic organization, and labor union in the city.

As added by P.L.2-1993, SEC.6.

IC 16-23-5-3
Conflicts of interest

Sec. 3. An individual is not prohibited from serving as a member of the governing board if the member:

(1) has a pecuniary interest in; or

(2) derives a profit from;

a contract or purchase connected with the hospital. However, the member shall disclose the interest or profit in writing to the board and provide a copy to the state board of accounts. The member shall abstain from voting on any matter that affects the interest or profit.
As added by P.L.2-1993, SEC.6.

IC 16-23-5-4
Governing board vacancies; candidates

Sec. 4. Whenever a vacancy occurs on the governing board, the existing governing board shall submit a list of three (3) candidates for each vacancy to be filled to the appointing authority. Each candidate submitted by the governing board must meet the requirements concerning governing board members.
As added by P.L.2-1993, SEC.6.

IC 16-23-5-5
Governing board vacancies; appointments

Sec. 5. (a) For each vacancy, the appointing authority may do one (1) of the following:

(1) Appoint one (1) of the three (3) candidates submitted by the governing board.

(2) Request and receive from the governing board a second list of three (3) candidates.

(3) Appoint an individual who meets the requirements concerning board members and who was not named in the initial list submitted by the governing board.

(b) If the appointing authority requests and receives a second list of three (3) candidates under subsection (a)(2), the appointing authority may do one (1) of the following:

(1) Appoint one (1) of the three (3) candidates named in the second list.

(2) Appoint an individual who meets the requirements concerning board members and who was not named in the second list of three (3) candidates submitted by the governing board.

(c) The appointment for a vacancy shall be made within sixty (60) days of the submission of the initial list of candidates under section 4 of this chapter.
As added by P.L.2-1993, SEC.6.

IC 16-23-5-6
Hospital support and maintenance

Sec. 6. A city may provide for the support and maintenance of a hospital subject to this chapter as follows:

(1) Appropriate money to the hospital.

(2) Levy and collect a special tax not exceeding two and thirty-three hundredths cents ($0.0233) on each one hundred

dollars ($100) valuation of the taxable property of the city.

(3) Give other aid and support to the hospital that the city council considers proper.

As added by P.L.2-1993, SEC.6. Amended by P.L.6-1997, SEC.173.

IC 16-23-5-7

Contracts with townships

Sec. 7. The trustees of the townships of the county, with the consent of the township boards, may contract with the managers of the hospital for the nursing and care of the poor of the townships who are sick, injured, or disabled, upon terms that the township officers determine to be just and proper.

As added by P.L.2-1993, SEC.6.

IC 16-23-6

Chapter 6. Lease of Hospital Property by Cities to Nonprofit Associations

IC 16-23-6-1

Application of chapter

Sec. 1. This chapter applies to a city that:

(1) owns a hospital consisting of grounds, buildings, equipment, and furnishings; and

(2) is located within a county with a nonprofit hospital corporation, whose general corporate powers are exercised by a board of directors composed of residents of the county:

(A) one (1) of whom must be a member of or a person designated by the county executive;

(B) one (1) of whom may be a licensed physician; and

(C) all of whom are elected by the members of the corporation, who must be representatives of each duly organized church, religious association, labor union, fraternal, charitable, military, and civic organization in the county.

As added by P.L.2-1993, SEC.6.

IC 16-23-6-2

Conflicts of interest

Sec. 2. An individual is not prohibited from serving as a member of the board of directors if the member:

(1) has a pecuniary interest in; or

(2) derives a profit from;

a contract or purchase connected with the hospital. However, the member shall disclose the interest or profit in writing to the board and provide a copy to the state board of accounts. The member shall abstain from voting on any matter that affects the interest or profit.

As added by P.L.2-1993, SEC.6.

IC 16-23-6-3

Authorization

Sec. 3. If the city fiscal body determines by resolution adopted at a regular meeting that:

(1) the city should not operate the hospital; and

(2) it would be in the interests of the city to provide adequate hospital care and nursing for the sick, injured, and disabled by leasing the hospital grounds, buildings, equipment, and furnishings to the corporation;

the city fiscal body may, on behalf of the city, authorize the execution of a lease with the corporation of the property to be operated as a hospital for not more than fifty (50) years, upon terms and conditions agreed upon by the fiscal body and the corporation.

As added by P.L.2-1993, SEC.6.

IC 16-23-6-4
Qualified organizations

Sec. 4. A duly organized church, religious association, labor union, fraternal, charitable, military, or civic organization referred to in section 1 of this chapter is an entity that has the following:

(1) Duly adopted bylaws.
(2) A regular place of meeting in the county.
(3) A majority of its members are at least twenty-one (21) years of age.
(4) A duly elected presiding officer and secretary.
(5) Had at least four (4) regular meetings in the county during the calendar year preceding the annual meeting of the organization.

As added by P.L.2-1993, SEC.6.

IC 16-23-6-5
Lease provisions

Sec. 5. A lease authorized by section 3 of this chapter must provide that the corporation will do the following:

(1) Make all repairs to the property leased.
(2) Keep the property adequately insured.
(3) Maintain the property in as good condition as the property is in at the time of the execution of the lease, natural wear and tear excepted.

As added by P.L.2-1993, SEC.6.

IC 16-23-7

Chapter 7. Support of Nonmunicipal Hospitals in Evansville and South Bend

IC 16-23-7-1

Application of chapter

Sec. 1. This chapter applies to a nonprofit hospital corporation:

(1) in a city having a population of:

(A) more than one hundred ten thousand (110,000) but less than one hundred fifty thousand (150,000); or

(B) more than one hundred thousand (100,000) but less than one hundred ten thousand (110,000);

(2) in a city without a city hospital or other means for furnishing the city's citizens hospital care; and

(3) that owns property in the city that:

(A) is used for hospital purposes; and

(B) has a value of at least four hundred thousand dollars ($400,000).

As added by P.L.2-1993, SEC.6. Amended by P.L.170-2002, SEC.105; P.L.119-2012, SEC.136.

IC 16-23-7-2

Hospital support and maintenance

Sec. 2. A city may do the following:

(1) Appropriate money to the hospital for support and maintenance.

(2) Aid in the support of the hospital by the levy and collection of a special tax, not exceeding one cent ($0.01) on each one hundred dollars ($100) valuation of taxable property of the city.

(3) Give other aid and support in the maintenance of the hospital that the city fiscal body considers proper.

As added by P.L.2-1993, SEC.6. Amended by P.L.6-1997, SEC.174.

IC 16-23-7-3

Equality of appropriations

Sec. 3. If at least two (2) hospitals qualify under this chapter, all appropriations must be made to the hospitals in equal amounts.

As added by P.L.2-1993, SEC.6.

IC 16-23-8

Chapter 8. Support of Nonmunicipal Hospitals in Anderson and Terre Haute

IC 16-23-8-1

Application of chapter

Sec. 1. This chapter applies to a nonprofit hospital corporation:

(1) in a city having a population of:

(A) more than fifty-five thousand (55,000) but less than sixty thousand (60,000); or

(B) more than sixty thousand (60,000) but less than sixty-five thousand (65,000);

(2) in a county without a city or other public hospital;

(3) that admits persons for care and treatment without regard to race, color, or religious creed;

(4) the revenue of which derived from the care of persons able to pay and from all other sources is expended in the maintenance and operation of the hospital and for the care of persons who are unable to pay to the extent of the hospital's ability to do so;

(5) the revenue of which is insufficient to support and maintain the hospital and enable the hospital to supply the need and demand for hospital care and nursing in the city, either alone or in conjunction with other hospitals in the city; and

(6) in a city that has no city hospital under the city's control that is supported entirely by public money.

As added by P.L.2-1993, SEC.6. Amended by P.L.170-2002, SEC.106; P.L.119-2012, SEC.137.

IC 16-23-8-2

Hospital support and maintenance

Sec. 2. A city may do the following:

(1) Appropriate money to the hospital for support and maintenance.

(2) Aid in the support of the hospital by the levy and collection of a special tax, not exceeding two and thirty-three hundredths cents ($0.0233) on each one hundred dollars ($100) valuation of the taxable property of the city.

(3) Give other aid and support in the maintenance of the hospital in the manner that the city fiscal body considers proper.

As added by P.L.2-1993, SEC.6. Amended by P.L.6-1997, SEC.175.

IC 16-23-8-3

Appropriations; contracts

Sec. 3. The county fiscal body may appropriate money to aid in the support of the hospital. The county executive and township trustees of the county, with the consent of the township boards, may contract with the officers of the governing body of the hospital for

the medical care and nursing of the poor of the county and townships.

As added by P.L.2-1993, SEC.6.

IC 16-23-9

Chapter 9. Benevolent Hospitals in Certain Townships

IC 16-23-9-1

Application of chapter

Sec. 1. This chapter applies to a nonprofit hospital corporation that:

(1) is located in a township having a population of more than eight thousand (8,000) but less than ten thousand (10,000) located in a county having a population of more than forty-seven thousand (47,000) but less than forty-seven thousand five hundred (47,500);

(2) has a majority of members who are residents of the township;

(3) is managed by directors, a majority of whom are residents of the township and who serve without compensation;

(4) is free from political or sectarian influence and is required by the hospital's articles of incorporation to be so managed and maintained perpetually; and

(5) is unable to be maintained and supported and to perform the hospital service reasonably needed and required for the people of the township without assistance, as determined by the township trustee and township board.

As added by P.L.2-1993, SEC.6. Amended by P.L.170-2002, SEC.107; P.L.119-2012, SEC.138.

IC 16-23-9-2

Tax levies

Sec. 2. The township board may, at the request of the township trustee, levy annually and cause to be collected as other taxes are collected a tax upon all of the taxable property within the township. The tax may not exceed six and sixty-seven hundredths cents ($0.0667) on each one hundred dollars ($100) of assessed valuation. The tax is for the use of the hospital in defraying the expenses of the hospital's maintenance and support, for providing necessary additions, and for the payment of mortgage indebtedness.

As added by P.L.2-1993, SEC.6. Amended by P.L.6-1997, SEC.176.

IC 16-23-9-3

Tax collection

Sec. 3. The taxes levied under section 2 of this chapter shall be collected as provided by statute for the collection of other taxes upon property in the township. When the taxes are collected, the taxes shall be paid into the treasury of the nonprofit hospital corporation and used for the purposes set out in section 2 of this chapter.

As added by P.L.2-1993, SEC.6.

IC 16-23-9-4

Authority to borrow funds; bonds; tax levies; bond proceeds

Sec. 4. (a) This section applies if the township trustee and the township board of the township determine the following:

(1) That the hospital is indebted in an amount not exceeding five thousand dollars ($5,000), the payment of which is secured by a mortgage encumbering the buildings and grounds of the hospital.

(2) That an addition to the hospital structure or additional building or buildings, or equipment is required to enable the hospital to efficiently carry on the hospital's activities under the hospital's articles of incorporation.

(b) The township board may authorize the trustee, by special order entered and signed upon the township board's records, to borrow an amount on behalf of the township sufficient to pay the mortgage indebtedness, or to construct and equip an addition to a building or for an additional building. The township board may authorize the trustee of the township to issue bonds of the township to pay the debt created. The bonds:

(1) may run for a period not exceeding ten (10) years;

(2) may bear interest at any rate; and

(3) shall be sold by one (1) of the trustees, with the consent of the township board, for not less than par value.

(c) The township board shall annually levy sufficient taxes to pay at least one-tenth (1/10) of the township bonds, including interest, and the township trustee shall apply the tax levy collected each year to the retirement of the bonds and the payment of the interest on the bonds. The bonds issued under this section may not exceed an amount equal to one percent (1%) of the adjusted value of all the taxable property in the township, including that in a town, as determined under IC 36-1-15.

(d) This debt may not be created except by the township board in the manner specified in this section. A payment of an unauthorized debt by a trustee from public funds is recoverable upon the bond of the trustee.

(e) The township trustee shall pay the proceeds from the borrowing and the sale of bonds into the treasury of the hospital. The hospital may use the money only to pay the mortgage indebtedness for which bonds had been sold or for construction and equipment of buildings or additions to buildings.

As added by P.L.2-1993, SEC.6. Amended by P.L.6-1997, SEC.177.

IC 16-23-9-5

Ex officio board membership by township trustees

Sec. 5. A township may not exercise the powers under this chapter, raise money by taxation, or incur debt of the township on behalf of a hospital unless the trustee of the township is an ex officio member of the board of directors or other governing board of the hospital throughout the term of the expenditure of all public money.

As added by P.L.2-1993, SEC.6.

IC 16-23.5

ARTICLE 23.5. MEDICAL CENTERS; INDIANA UNIVERSITY HOSPITALS

IC 16-23.5-1

Chapter 1. General Provisions; Definitions

IC 16-23.5-1-1

Applicability

Sec. 1. The definitions in this chapter apply throughout this article.

As added by P.L.2-2007, SEC.191.

IC 16-23.5-1-2

"Agency"

Sec. 2. "Agency" means a medical center development agency.

As added by P.L.2-2007, SEC.191.

IC 16-23.5-1-3

"Board of commissioners"

Sec. 3. "Board of commissioners" includes, in the case of a county having a consolidated city, the city-county council.

As added by P.L.2-2007, SEC.191.

IC 16-23.5-1-4

"Board of trustees"

Sec. 4. "Board of trustees", for the purposes of IC 16-23.5-4 and IC 16-23.5-5, refers to the board of trustees of Indiana University.

As added by P.L.2-2007, SEC.191.

IC 16-23.5-1-5

"Comprehensive plan"

Sec. 5. "Comprehensive plan" refers to a comprehensive plan that is developed by an executive board for the development of a medical center.

As added by P.L.2-2007, SEC.191.

IC 16-23.5-1-6

"County council"

Sec. 6. "County council" includes, in the case of a county having a consolidated city, the city-county council.

As added by P.L.2-2007, SEC.191.

IC 16-23.5-1-7

"Executive board"

Sec. 7. "Executive board" refers to the executive board of an agency.

As added by P.L.2-2007, SEC.191.

IC 16-23.5-1-8
"Gift"

Sec. 8. "Gift", for purposes of IC 16-23.5-5, refers to the gift of William H. Coleman described in IC 16-23.5-5-1.

As added by P.L.2-2007, SEC.191.

IC 16-23.5-1-9
"Hospital"

Sec. 9. "Hospital":

(1) for purposes of IC 16-23.5-4, refers to the James Whitcomb Riley Hospital for Children; and

(2) for purposes of IC 16-23.5-5,refers to the William H. Coleman Hospital for Women.

As added by P.L.2-2007, SEC.191.

IC 16-23.5-1-10
"Indiana University hospitals"

Sec. 10. "Indiana University hospitals" refers to the hospitals described in IC 16-23.5-3-1.

As added by P.L.2-2007, SEC.191.

IC 16-23.5-1-11
"Medical center"

Sec. 11. "Medical center" includes a hospital building or complex of buildings in which medical education, internship programs, medical research, paramedical training, and any related or equivalent activities are systematically carried on in addition to the usual functions of hospitals.

As added by P.L.2-2007, SEC.191.

IC 16-23.5-2

Chapter 2. Medical Center Development Agencies

IC 16-23.5-2-1

Medical center development agency; creation

Sec. 1. The board of commissioners of a county may create a medical center development agency as a public agency and instrumentality of the county to be known as the _____ County Medical Center Development Agency.

As added by P.L.2-2007, SEC.191.

IC 16-23.5-2-2

Medical center development agency; appointments

Sec. 2. (a) The board of commissioners of the county may appoint in writing five (5) residents of the county as members of the executive board of the agency. Original appointments to the executive board must be made in the following manner:

(1) One (1) member for a term of two (2) years.

(2) Two (2) members for a term of three (3) years.

(3) Two (2) members for a term of four (4) years.

(b) The county council may appoint in writing two (2) residents of the county as members of the executive board. Original appointments to the executive board must be made in the following manner:

(1) One (1) member for a term of two (2) years.

(2) One (1) member for a term of four (4) years.

(c) All persons subsequently appointed serve a term of four (4) years. A person may be reappointed for a subsequent term or terms. If a member of the executive board who was appointed by the board of commissioners dies, resigns, is removed, or ceases to be a resident of the county, the board of commissioners shall appoint another qualified person to fill the remainder of the unexpired term. If a member of the executive board who was appointed by the county council dies, resigns, is removed, or ceases to be a resident of the county, the county council shall appoint another qualified person to fill the remainder of the unexpired term.

(d) Persons appointed to the executive board must be knowledgeable and interested in the community health and medical care needs of the county and other areas of concern related to the development of a county medical center. However, only two (2) of the five (5) board members who are appointed under subsection (a) may be medical practitioners, administrators of a medical or health facility in the county, or on the faculty of a medical institution in the county.

(e) A member of the executive board may be removed from office for neglect of duty, incompetence, inability to perform the member's duties, or any other good cause by an order of the circuit court, superior court, or probate court in the county in which the agency is

located, subject to the following procedure:

(1) A complaint may be filed by any person against the member setting forth the charges preferred.

(2) The cause shall be placed on the advanced calendar and tried as other civil causes are tried by the court without a jury.

(3) If the charges are sustained, the court shall declare the office and term vacant.

(4) A change of venue from the judge may be granted upon motion, but a change of venue from the county may not be taken.

As added by P.L.2-2007, SEC.191. Amended by P.L.84-2016, SEC.90.

IC 16-23.5-2-3

Medical center development agency; executive board; meetings; bylaws; quorum

Sec. 3. (a) Executive board members originally appointed shall meet to organize within thirty (30) days after their appointment at a time and place designated by the board of commissioners. The executive board may elect from among their number the officers that are considered necessary for the conduct of business, but including at a minimum a president and vice president. The terms of office must be established by rules, regulations, or bylaws.

(b) Executive board members may adopt the bylaws, rules, and regulations that they consider necessary to carry out the powers and duties imposed upon the agency by this chapter. The rules, regulations, and bylaws are public records, and a copy of them must be available at all reasonable times in the circuit court clerk's office for inspection by the public.

(c) In addition to the organizational meeting, other regular and special meetings must be held at the times and with notice that the executive board fixes. A majority of the members constitutes a quorum, and the concurrence of a majority of the full membership is necessary to authorize any action. Board members serve without pay but are entitled to reimbursement for necessary expenses in amounts that are approved by the board of commissioners and the county council.

As added by P.L.2-2007, SEC.191.

IC 16-23.5-2-4

Fiscal officer; powers of county treasurer

Sec. 4. The county treasurer shall act as the fiscal officer for the agency without additional compensation. The treasurer shall receive all funds provided for the agency and deposit the funds in a separate account. The funds shall be paid out on an order of the executive board by the treasurer after any necessary approvals stipulated in this chapter.

As added by P.L.2-2007, SEC.191.

IC 16-23.5-2-5
Contracts; prohibition of pecuniary interest of board members

Sec. 5. An executive board member may not have a pecuniary interest in any contract, employment, purchase, or sale made under this chapter. A transaction made in which a member has such an interest is void, and the member is subject to removal as provided in this chapter.

As added by P.L.2-2007, SEC.191.

IC 16-23.5-2-6
Executive board powers; actions in compliance with statewide plan

Sec. 6. The executive board must act in accordance with any statewide plan for medical education directed by the general assembly.

As added by P.L.2-2007, SEC.191.

IC 16-23.5-2-7
Executive board powers and duties; generally

Sec. 7. The executive board has the following powers and duties:

(1) To devise a comprehensive plan for the development of a medical center within the county. The comprehensive plan must be recommended to and approved by the board of commissioners and the county council, if applicable, but only after the plan has been reviewed at one (1) or more public hearings within the county. The plan shall be developed through:

(A) consultation with the respective local plan commissions;

(B) surveys of existing public and private medical facilities;

(C) studies of land use plans for the county;

(D) identification of countywide medical or health services that are deficient and that could be provided by a medical center;

(E) identification of sources of medical, paramedical, and other personnel to staff or augment the staff of a medical center; and

(F) study and identification of any other pertinent factors, problems, and needs to be resolved within the plan.

(2) To hire or contract with qualified persons to assist the board in carrying out the executive board's powers and responsibilities. The executive board may hire a director who may hire qualified persons or contract with them with the approval of the executive board. The number of persons hired, their compensation, and the terms of contracts are subject to review in advance by the county council, who may alter the contracts and fix the number of the persons and their compensation.

(3) To apply for, receive, and expend federal, state, private, local, or other funds that may be made available for the

purposes of the agency and to meet any conditions that may be attached to the expenditure of funds, all with the prior approval of the county council, and subject to all state statutes and regulations governing them. The county council may appropriate to the agency the proceeds of a tax levied to fund a medical center cumulative building fund or equivalent fund established under statute.

(4) To inform the board of commissioners, county council, and other interested parties at least once every three (3) months of the progress of plans for development, construction, or improvement of medical center facilities.

(5) To make and enter into all contracts and agreements necessary or incidental to the performance of the duties and execution of powers provided in this chapter on behalf of the county, with the approval of the county council.

As added by P.L.2-2007, SEC.191.

IC 16-23.5-2-8

Executive board powers and duties; compliance with comprehensive plan for development of a medical center

Sec. 8. After approval of and in compliance with the comprehensive plan for development of a medical center, the executive board of the agency has the following powers and duties:

(1) To condemn, appropriate, purchase, and hold any real estate needed or useful in connection with a building or buildings constructed or to be constructed for the purposes of this chapter, on behalf of the county, all with the prior approval of the board of commissioners and the county council.

(2) To design, order, contract for, and have constructed, or to make all necessary and desirable improvements in, facilities for use as a medical center, all with the approval of the county council.

(3) To provide for the equipment of the medical center and any appurtenant facilities, with the approval of the county council.

(4) To do all things with respect to its assigned responsibilities and jurisdiction that may additionally be required by the county council, both before and after adoption of the comprehensive plan.

(5) To develop annual budgets to be submitted to the county council for inclusion in the county budget.

As added by P.L.2-2007, SEC.191.

IC 16-23.5-2-9

Comprehensive plan for development of a medical center; procedures for adoption or rejection of plan

Sec. 9. (a) The comprehensive plan must be proposed to the board of commissioners. The board of commissioners may, upon receipt of the plan, reject the plan or direct its amendment by ordinance or

resolution.

(b) The comprehensive plan may be officially adopted only by ordinance or resolution of the board of commissioners and approval by the county council. After official adoption, the agency shall implement the plan under the general guidance and approval of the board of commissioners and county council.

(c) Rejection of all or any part of a comprehensive plan by the board of commissioners is not a final rejection, but the agency may propose additional comprehensive plans to the board of commissioners for further action under this chapter.

As added by P.L.2-2007, SEC.191.

IC 16-23.5-2-10

Restriction on powers of the agency

Sec. 10. This chapter does not give the agency the power to levy taxes or issue bonds or confer upon the agency the status of a municipal corporation. The agency may act only on behalf of the county, as approved by the board of commissioners or county council under this chapter, and is considered to be an administrative instrumentality of the county.

As added by P.L.2-2007, SEC.191.

IC 16-23.5-3

Chapter 3. Indiana University Hospitals

IC 16-23.5-3-1

Applicability of chapter

Sec. 1. This chapter applies to the following:

(1) Robert W. Long Hospital.

(2) James Whitcomb Riley Hospital for Children.

(3) William H. Coleman Hospital for Women.

(4) Any other hospitals that are under the control and management of Indiana University.

As added by P.L.2-2007, SEC.191.

IC 16-23.5-3-2

Name of hospitals

Sec. 2. The hospitals described in section 1 of this chapter shall collectively be known as Indiana University hospitals.

As added by P.L.2-2007, SEC.191.

IC 16-23.5-3-3

Hospitals; unit

Sec. 3. Each of the Indiana University hospitals is a unit.

As added by P.L.2-2007, SEC.191.

IC 16-23.5-4

Chapter 4. James Whitcomb Riley Hospital for Children

IC 16-23.5-4-1

Board of trustees; establishment

Sec. 1. The board of trustees shall establish, in Indianapolis, a hospital, to be known as the James Whitcomb Riley Hospital for Children, for the treatment of children afflicted with any disease, defect, or physical deformity that may be relieved or improved by proper medical and surgical attention.

As added by P.L.2-2007, SEC.191.

IC 16-23.5-4-2

Buildings

Sec. 2. The board of trustees may construct and equip the necessary buildings for the hospital with:

(1) accommodations for not less than two hundred (200) patients; and

(2) offices, quarters for officers, nurses, and employees, and other necessary appurtenances.

The buildings must be specially designed and equipped for the application of the most approved methods in the diagnosis and medical and surgical treatment of afflicted children.

As added by P.L.2-2007, SEC.191.

IC 16-23.5-4-3

Direction and control of the hospital

Sec. 3. The hospital is:

(1) a department of Indiana University; and

(2) under the direction and control of the board of trustees of Indiana University.

As added by P.L.2-2007, SEC.191.

IC 16-23.5-4-4

Powers of the board of trustees

Sec. 4. The board of trustees may:

(1) adopt and apply rules and regulations for proper management of the hospital;

(2) employ, discharge for sufficient cause, and fix the compensation of a superintendent of the hospital, who is responsible to the board of trustees for the proper administration of the hospital and the care and treatment of the afflicted children committed to the hospital;

(3) fix the number and compensation of the assistant medical and executive officers, nurses, and employees of the hospital; and

(4) provide the food, heat, light, and medical and surgical equipment, appliances, and supplies necessary for the proper

and best treatment of the afflicted children committed to the hospital.

As added by P.L.2-2007, SEC.191.

IC 16-23.5-4-5

Patient eligibility

Sec. 5. Any child:

(1) less than sixteen (16) years of age;

(2) having a legal settlement in any county of Indiana; and

(3) either:

(A) afflicted with a defect, disease or deformity, presumably curable or improvable by skilled medical and surgical treatment; or

(B) needing special study for diagnosis;

may be admitted to, treated at, and discharged from the hospital under the rules and regulations adopted by the management of the hospital and approved by the board of trustees.

As added by P.L.2-2007, SEC.191.

IC 16-23.5-4-6

Acceptance of donations; bequests

Sec. 6. The board of trustees may receive, accept, hold, and apply any donations or bequests of funds or property from individual citizens, societies, and organizations that may be tendered in good faith to assist in the construction, extension, equipment, and maintenance of the hospital to the end that the benefits of the hospital may be extended to the largest possible number of afflicted children of Indiana.

As added by P.L.2-2007, SEC.191.

IC 16-23.5-4-7

Powers of board of trustees; consideration of advice tendered by the James Whitcomb Riley Memorial Association

Sec. 7. The hospital is under the direction of the board of trustees. In the construction, equipment, and direction of the hospital, the board of trustees shall receive and consider the suggestions and advice that is tendered by the James Whitcomb Riley Memorial Association.

As added by P.L.2-2007, SEC.191.

IC 16-23.5-4-8

Training school for child nursing; outpatient and social service department; establishment and maintenance

Sec. 8. The board of trustees may establish and maintain, in connection with the hospital:

(1) a training school for child nursing; and

(2) an outpatient and social service department;

to conserve the health of the children of Indiana.

As added by P.L.2-2007, SEC.191.

IC 16-23.5-4-9
Management and operation of hospital; nonprofit corporations

Sec. 9. An Indiana public interest nonprofit corporation to which the board of trustees, with the approval of the governor, delegates authority to manage and operate the hospital is not subject to an audit by the state board of accounts, notwithstanding IC 5-11-1-9. However, Indiana University is subject to an audit by the state board of accounts.

As added by P.L.2-2007, SEC.191.

IC 16-23.5-5

Chapter 5. William H. Coleman Hospital

IC 16-23.5-5-1

Gift

Sec. 1. The gift of William H. Coleman:

(1) for the establishment and maintenance of a hospital in Marion County; and

(2) for the provision of clinical facilities for students in connection with the Indiana University School of Medicine;

contained in the proposal set forth in Acts 1927, c.213, s.1 is accepted by the state for the uses and purposes named in Acts 1927, c.213, s.1.

As added by P.L.2-2007, SEC.191.

IC 16-23.5-5-2

Administration

Sec. 2. The board of trustees:

(1) may accept the control and management of the gift; and

(2) shall administer the affairs of the hospital in accordance with the terms and conditions imposed by the donor of the gift.

As added by P.L.2-2007, SEC.191.

IC 16-23.5-5-3

Name of hospital

Sec. 3. (a) In consideration of the gift and on the condition that the gift be made effectual, the hospital must forever bear the name of "William H. Coleman Hospital for Women, of Indiana University".

(b) The state pledges that the name is the permanent designation of the hospital, without addition or modification. The state pledges to carry out the objects for which the gift is made, as contained in the proposal of the donor.

(c) The general assembly covenants that this chapter will not be repealed or amended to change the terms and conditions under which the gift is made.

As added by P.L.2-2007, SEC.191.

IC 16-23.5-5-4

Board of trustees powers; erection and maintenance of hospital

Sec. 4. The board of trustees may erect and maintain the hospital upon the ground belonging to the state for the use of Indiana University in Indianapolis, near the Robert W. Long Hospital.

As added by P.L.2-2007, SEC.191.

IC 16-24

ARTICLE 24. TUBERCULOSIS HOSPITALS

IC 16-24-1

Chapter 1. County Tuberculosis Hospitals; Power of County Board; Board of Managers

IC 16-24-1-1

Treatment of nontubercular patients; tuberculosis funds restricted

Sec. 1. A hospital organized under:

(1) this article; or

(2) IC 16-11 (before its repeal on July 1, 1993);

may treat patients with chronic diseases other than tuberculosis. However, funds from the state contributed for tuberculosis cases are available only to individuals with tuberculosis.

As added by P.L.2-1993, SEC.7.

IC 16-24-1-2

Establishment of hospital; powers of county executive

Sec. 2. The county executive of a county may establish a county hospital for the care and treatment of persons with tuberculosis. When the county executive votes to establish a hospital, the county executive may do the following:

(1) Purchase or lease real property or acquire the real property and easements by condemnation proceedings.

(2) Erect buildings, make improvements, repairs, and alterations, subject to approval by the state department.

(3) With the approval of the county fiscal body, and based upon estimates of the governing board, assess, levy, and collect money necessary for suitable lands, buildings, improvements, maintenance, and other necessary expenditures for the hospital.

(4) Borrow money to erect, furnish, and equip the hospital and to purchase a site on the credit of the county and issue county obligations as the county executive may do for other county purposes.

(5) Accept and hold in trust for the county, and to comply with the terms of, any of the following:

(A) A grant or devise of land.

(B) A gift or bequest of money or other personal property.

(C) A donation for the benefit of the hospital.

As added by P.L.2-1993, SEC.7.

IC 16-24-1-3

Annual funding; taxation; additional appropriations

Sec. 3. The board annually shall make an estimate for and recommend to the county fiscal body a tax rate and levy to provide funds for the operation and maintenance of the hospital. The county fiscal body shall adopt a budget and fix a levy and tax rate that, when

added to estimated hospital revenues, will provide the amounts appropriated for the hospital. The county fiscal body may make additional appropriations from the county general fund to make up deficits in estimated revenue or for emergencies.
As added by P.L.2-1993, SEC.7.

IC 16-24-1-4
Qualification of hospitals under Medicare and Medicaid programs in certain counties; superintendent

Sec. 4. (a) The county executive of a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000) may use the county's tuberculosis hospitals to treat patients with tuberculosis and for other purposes necessary to qualify under the Medicare and Medicaid programs. At the discretion of the county executive, tuberculosis hospitals may become affiliated with a hospital in the community to enable the tuberculosis hospital to be fully utilized under all programs available.

(b) The superintendent of hospitals located in a county described under subsection (a) must be a qualified hospital administrator or an experienced physician selected by the governing board. The board shall delegate to the superintendent and all other personnel the duties of the board's respective positions.
As added by P.L.2-1993, SEC.7. Amended by P.L.119-2012, SEC.139.

IC 16-24-1-5
Governing board; membership; terms of office

Sec. 5. (a) When the county executive establishes a hospital for the care and treatment of persons with tuberculosis, the county executive shall appoint a governing board of the hospital. The board consists of four (4) members who are residents of the county, and at least two (2) of whom must be licensed physicians.

(b) The initial appointments are as follows:
(1) One (1) member for a term of four (4) years.
(2) One (1) member for a term of three (3) years.
(3) One (1) member for a term of two (2) years.
(4) One (1) member for a term of one (1) year.

(c) Appointments of successors are for terms of four (4) years. However, appointments to fill vacancies are for the unexpired term.
As added by P.L.2-1993, SEC.7.

IC 16-24-1-6
Absences creating vacancy; excuse

Sec. 6. Failure of a member of the governing board to attend three (3) consecutive meetings of the board creates a vacancy in the member's office unless the absence is excused by formal action by the governing board.

As added by P.L.2-1993, SEC.7.

IC 16-24-1-7
Compensation; expenses

Sec. 7. The members of the governing board are not entitled to compensation for their services and are allowed their actual and necessary traveling and other expenses to be audited and paid in the same manner as the other expenses at the hospital by the county executive.
As added by P.L.2-1993, SEC.7.

IC 16-24-1-8
Removal for cause; hearing

Sec. 8. A member of the governing board may be removed from office by the county executive for cause after the manager is given an opportunity to be heard.
As added by P.L.2-1993, SEC.7.

IC 16-24-1-9
Board of managers in certain counties; membership; terms of office

Sec. 9. (a) This section applies to a county having a population of:
(1) more than three hundred thousand (300,000) but less than four hundred thousand (400,000); or
(2) more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000).

(b) The board of managers of the hospital consists of seven (7) members chosen by the county executive. The members must:
(1) be chosen without regard for political affiliation;
(2) be citizens of the county; and
(3) include at least two (2) licensed physicians.

(c) The term of office of each member of the board is four (4) years. The terms of not more than two (2) of the managers expire annually. The terms of the members of the board may not be altered. The initial appointments are for the respective terms of three (3) years, two (2) years, and one (1) year. Appointments of successors are for terms of four (4) years. Appointments to fill vacancies are for the unexpired term.
As added by P.L.2-1993, SEC.7. Amended by P.L.119-2012, SEC.140.

IC 16-24-1-10
Conflicts of interest

Sec. 10. A board member may not have a personal pecuniary interest in the furnishing of services to the hospital.
As added by P.L.2-1993, SEC.7.

IC 16-24-1-11

President; vice president

Sec. 11. The board of managers shall elect from its members a president and at least one (1) vice president.

As added by P.L.2-1993, SEC.7.

IC 16-24-1-12

Powers and duties of board of managers

Sec. 12. The board of managers has the following powers and duties:

(1) To appoint a superintendent of the hospital as an executive officer who shall manage the hospital on behalf of the board of managers. A superintendent appointed:

(A) after January 1, 1982, must:

(i) be experienced in administration and qualified by training to manage the hospital;

(ii) have a baccalaureate degree and at least three (3) years experience in administration in a hospital or related health care facility; and

(iii) have a graduate degree in health facility administration and have completed at least one (1) year residency in a hospital or equivalent experience; and

(B) on or before January 1, 1982, must:

(i) be experienced in administration and qualified by training to manage the hospital; and

(ii) have a graduate degree in health facility administration and have completed at least one (1) year residency in a hospital or an equivalent experience, or have a baccalaureate degree and at least three (3) years experience in administration in a hospital or related health care facility.

(2) To fix the salaries of the superintendent, the business manager, and other officers and employees within the limits approved by the county executive or the county fiscal body. The salaries are compensation in full for all services rendered.

(3) To determine the time required to be spent at the hospital by the superintendent in the discharge of the superintendent's duties.

(4) To supervise, manage, and control the hospital, and the hospital's grounds, buildings, officers, employees, and patients, and all matters relating to the government, discipline, contracts, and fiscal concerns of the hospital, and to make rules to carry out the purpose of the hospital.

(5) To inspect the hospital and be informed of the affairs and management of the hospital.

(6) To keep a proper record of the board's proceedings open at all times to the inspection of members, the county executive, the county fiscal body, and authorized representatives of the state department.

(7) To allow bills and accounts, including wages and salaries, without advertising the filing of claims, and to certify and transmit the bills and accounts to the county auditor for payment from appropriations made for that purpose by the county fiscal body.

(8) To make a detailed report to the county executive annually, and at the time as the executive directs, that includes the following:

(A) Information on the operations of the hospital.

(B) The number of patients received and the methods and results of treatment.

(C) Detailed estimates of the money required during the ensuing year for all purposes, including maintenance, direction of buildings, repairs, renewals, extensions, improvements, betterments, replacements, and other necessary purposes.

(D) Other matters the county executive requires.

(9) To receive, administer, and hold for the benefit of the hospital, gifts, donations, bequests, and trusts of property of any nature or kind made or given to a hospital, and to agree to conditions and terms specified by the donor. The board is not required to account to any municipal, county, or state official concerning the disposition or use of this property or the income derived from the property except that the funds are subject to examination by the state board of accounts or the county executive. Gifts, donations, bequests, or trusts made or given before March 6, 1947, that are not administered by the board, come within the jurisdiction of the board for administration. Funds received from donors or income from gifts or bequests shall not be taken into account for expenditure in the preparation of the hospital budget.

(10) To determine, as of January 1 and July 1 of each year, whether the hospital is fully utilized by tuberculosis patients. If the board finds that the demand for care of tuberculosis patients does not warrant the full utilization of the hospital, the board may authorize the hospital to furnish care to persons suffering from chronic illnesses other than tuberculosis, upon terms and conditions of admission, treatment, care, and payment as the board prescribes.

(11) To meet at least one (1) time each month at a designated place in the county where the hospital is located, and at least one (1) time each year on the hospital premises.

(12) To expend hospital funds, advance tuition payments, or establish a tuition refund program for the education or professional improvement of nurses and other professional or technical employees for inservice training, seminars, or special courses of instruction, for the direct benefit to the hospital.

(13) To contract for the sharing or purchase of services with

other hospitals when considered economically feasible by the board.

(14) To contract for services reasonably required for the operation and maintenance of the hospital, including the management of the hospital, on terms and conditions considered reasonable by the board.

(15) Upon the recommendation of the superintendent, to fix the compensation of hospital employees and adopt personnel and management policies that may include the following:

(A) An employee benefit program that provides for paid vacations, sick leave, paid holidays, paid personal leave, and paid leave for purposes of attending educational seminars.

(B) Payment of advertising and placement fees for personnel and physicians.

(C) Programs for the benefit of the personnel, volunteers, or physicians that directly contribute to productivity or morale, at an annual cost not to exceed the lesser of the following:

(i) One quarter of one percent (0.25%) of total hospital revenues for the preceding calendar year.

(ii) Four thousand dollars ($4,000).

(D) Except as provided in section 15 of this chapter, a plan to provide coverage for the illness or accidental disability of hospital employees and insurance plans for hospital personnel from any insurance company licensed to transact business in Indiana.

(E) Pension and retirement plans for hospital personnel from any company authorized to do business in Indiana.

(F) Participation in the public employees' retirement fund subject to IC 5-10.3-6.

(G) Deferred compensation agreements with employees and other personnel. Deferred obligations may be funded by contracting with insurance companies licensed to transact business in Indiana.

(H) Payment of dues of the superintendent and department heads for membership in local, state, or national hospital or professional organizations if the board determines that those expenditures directly benefit the hospital.

(I) Operation of employee registries for part-time or temporary hospital employees.

Planned expenditures and programs shall be incorporated in the annual hospital budget subject to the approval of the county executive and the county fiscal body.

(16) To purchase insurance coverage for the protection of the hospital in amounts and under conditions the board considers reasonable and necessary, including liability or malpractice coverage for board members, the officers, employees, volunteers, and members of medical staff committees for omissions or acts committed in the performance of services for

the hospital. The board may for the express purpose of acquiring malpractice coverage assist in the formation of a mutual insurance company that does not issue assessable policies.

(17) To expend hospital funds for the following:

(A) Reasonable expenses incurred by persons and their spouses who are interviewed for employment or for medical staff appointment.

(B) Reasonable moving expenses if the persons are employed or appointed.

(18) To use automated data processing systems to keep hospital records and to purchase, lease, operate, or contract for the use of any automated data processing equipment subject to IC 5-17-1. Any major purchases or lease of data processing equipment or systems must be reviewed with the county data processing board.

(19) To dispose of the following:

(A) By sale or otherwise, personal property of limited or no use to the hospital without advertising, auctioning, or requesting bids if the salvage value does not exceed two thousand five hundred dollars ($2,500).

(B) Other personal property that the board considers no longer necessary for hospital purposes at public auction after an appraisal by three (3) disinterested owners of taxable real property in the county.

The board shall publish notice of the sale one (1) time at least seven (7) days before the date of the sale. The board shall determine the time, terms, and conditions of the sale.

(20) To enter into agreements with credit card companies or organizations authorized to do business in Indiana and to accept credit card payments for services provided.

(21) To contract for services of consultants, architects, or other professional persons or firms, including shared services or purchasing organizations, when considered necessary by the board or when not in conflict with this chapter.

(22) To purchase, construct, remodel, repair, enlarge, or acquire, including the leasing of county real property with lease back provisions for carrying out this chapter, a building within or outside the county for hospital purposes. If the building is located outside of the county, the board must receive the approval of the county executive and the county fiscal body of the county in which the hospital or building is located.

As added by P.L.2-1993, SEC.7.

IC 16-24-1-13
Compliance with IC 36-1-12

Sec. 13. In the construction, alteration, remodeling, or repair of any building or other structure, a governing board shall comply with

IC 36-1-12.
As added by P.L.2-1993, SEC.7.

IC 16-24-1-14
Bids, proposals, or quotations submitted by trusts; requirements

Sec. 14. If a board of managers disposes of real property or awards a contract for the procurement of property by acceptance of bids, proposals, or quotations, a bid, proposal, or quotation submitted by a trust (as defined in IC 30-4-1-1(a)) must identify the following:

(1) The beneficiary of the trust.

(2) The settlor empowered to revoke or modify the trust.

As added by P.L.2-1993, SEC.7.

IC 16-24-1-15
Group insurance

Sec. 15. (a) This section applies to a county having a population of any of the following:

(1) More than one hundred seventy-five thousand (175,000) but less than one hundred eighty-five thousand (185,000).

(2) More than one hundred twenty-five thousand (125,000) but less than one hundred thirty-five thousand (135,000).

(3) More than one hundred eighty-five thousand (185,000) but less than two hundred fifty thousand (250,000).

(4) More than one hundred fifteen thousand (115,000) but less than one hundred twenty-five thousand (125,000).

(b) The board of managers of a hospital for the treatment of patients afflicted with tuberculosis or other diseases, including chronic diseases and those requiring convalescent care, that contracts with other counties for the treatment of the citizens of other counties, may provide not more than one-half (1/2) of the cost of a program of group life insurance and group health, accident, and hospitalization insurance for the hospital's employees. The members of the families and dependents of the employees may participate in a program of group health, accident, and hospitalization insurance at no cost to the hospital.

As added by P.L.2-1993, SEC.7. Amended by P.L.170-2002, SEC.108; P.L.119-2012, SEC.141.

IC 16-24-1-16
Business manager

Sec. 16. (a) The governing board shall appoint a business manager for a tuberculosis hospital located in the following counties:

(1) Having a consolidated city.

(2) Having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000).

(3) Having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000).

(b) The business manager is directly responsible to and serves at the pleasure of the governing board. The governing board shall prescribe the duties of the business manager.
As added by P.L.2-1993, SEC.7. Amended by P.L.119-2012, SEC.142.

IC 16-24-1-17
Powers and duties of business manager

Sec. 17. A business manager has the following powers and duties:

(1) To do the following:

(A) Keep proper and accurate daily accounts and records of the business and operations of the hospital in books and records provided for that purpose.

(B) Present the accounts and records to the board of managers, who shall incorporate the accounts and records in the governing board's annual report to the county executives.

(2) To do the following:

(A) Collect, receive, and keep accounts for all money due the hospital.

(B) Report these matters at the monthly meetings of the board of managers.

(C) Transmit the money to the treasurer of the county within ten (10) days after each monthly meeting.

(3) Before entering upon the business manager's duties, to give a bond in the amount and with the sureties that the governing board determines to secure the faithful performance of the business manager's duties.

(4) To purchase, from the lowest and best bidder and within the hospital budget, all items or articles used in the hospital for the maintenance and subsistence of the patients, including food, groceries, meat, milk, medicine, and medical supplies. The governing board shall certify the bills for the purchases to the county executive and to the county auditor for payment as other claims against the county are paid. Payment shall be made from the funds appropriated for the hospital.

As added by P.L.2-1993, SEC.7.

IC 16-24-1-18
Superintendent; powers and responsibilities

Sec. 18. The superintendent is the chief executive officer of the hospital and subject to the bylaws and rules of the hospital and to the powers of the board of managers. The superintendent has the following powers and responsibilities:

(1) To do the following:

(A) Equip the hospital and other necessary facilities for the following:

(i) The care and treatment of patients.

(ii) Use of officers and employees.

(B) In counties without a business manager or purchasing agent for the hospital, to purchase all necessary supplies.

(2) To do the following:

(A) Supervise and control the records, accounts, and buildings of the hospital and the hospital's internal affairs.

(B) Maintain discipline and enforce all rules, bylaws, and regulations adopted by the board of managers for the government, discipline, and management of the hospital and the hospital's employees and patients.

(3) To do the following:

(A) Appoint officers and employees for the efficient performance of hospital business.

(B) Prescribe officer and employee duties.

(C) For cause stated in writing, after an opportunity to be heard, discharge any officer or employee.

(4) To do the following:

(A) Keep proper accounts and records of the business and operations of the hospital.

(B) Make an annual report to the board of managers, who shall incorporate the hospital records in the board's report to the county executive.

(5) To receive into the hospital, under the general direction of the board of managers, in the order of application, a person with tuberculosis in any form who meets either of the following conditions:

(A) Has resided in the county for at least one (1) year before applying for admission to the hospital.

(B) Is a resident of another county as provided in this chapter.

(6) To keep proper accounts and records of patient admissions, including name, age, sex, race, nationality, marital status, residence, occupation, and place of last employment.

(7) To do the following:

(A) Cause a careful examination to be made of the physical condition of persons admitted to the hospital.

(B) Provide for appropriate treatment of each patient.

(C) Keep records of the condition and treatment of each patient.

(8) To discharge from the hospital any patient who meets any of the following conditions:

(A) The patient willfully or habitually violates the rules.

(B) The patient does not have tuberculosis or who has recovered.

(C) The patient is no longer a suitable patient for treatment.

The superintendent shall make a full report of a patient's discharge at the next meeting of the board of managers.

(9) Before discharging the superintendent's duties, to give a bond in an amount and with sureties that the board of managers

determines to secure the faithful performance of the superintendent's duties.

(10) If the hospital does not have a business manager, to do the following:

(A) Collect and receive money due to the hospital, except taxes and state-aid funds.

(B) Keep an accurate account of money due to the hospital and report the accounting at the monthly meetings of the board of managers.

(C) Transmit the money to the treasurer of the county within ten (10) days after each board meeting.

As added by P.L.2-1993, SEC.7.

IC 16-24-1-19

Custodian of hospital money; receipts and disbursements

Sec. 19. The county treasurer is custodian of hospital money collected by the treasurer or deposited with the treasurer by the superintendent and shall disburse the money only upon warrant issued by the county auditor. The hospital money shall be known as the county tuberculosis hospital fund.

As added by P.L.2-1993, SEC.7.

IC 16-24-1-20

Admission to hospital; applications; discrimination; payment for services

Sec. 20. (a) Any resident of the county in which the hospital is located who desires treatment in the hospital may apply in person to the superintendent or to a physician for examination. If the physician finds that the person has tuberculosis in any form, the physician may apply to the superintendent of the hospital for the person's admission. The superintendent shall forward application forms without charge to any physician in the county, upon request. If practicable, application for admission to the hospital shall be made upon the forms. Upon receipt of the application, if it appears that the patient has tuberculosis and if there is a vacancy in the hospital, the superintendent shall notify the person to appear at the hospital. The superintendent shall admit a person to the hospital if, after an examination, the superintendent is satisfied that the person has tuberculosis.

(b) All applications must meet the following conditions:

(1) State whether, in the judgment of the physician, the person is able to pay in whole or in part for the person's care and treatment.

(2) Be filed and recorded in a book kept for that purpose in the order of receipt.

(c) When the hospital is completed and ready for the treatment of patients, or whenever there are vacancies, admission shall be made in the order in which the names of applicants who are certified by the

superintendent to have tuberculosis appear in the application book.

(d) A patient shall not be discriminated against because the patient or the patient's relatives contribute to the cost of the patient's maintenance, in whole or in part. A patient may not pay more for the patient's maintenance than the average per capita cost of maintenance, including a reasonable allowance for the interest on the cost of the hospital. An officer or employee of the hospital may not accept from any patient any fee, payment, or gratuity for services.

As added by P.L.2-1993, SEC.7.

IC 16-24-1-21

Payment for care and treatment; liability

Sec. 21. (a) Whenever a patient is admitted to the hospital from the county in which the hospital is located, the superintendent shall inquire:

(1) as to the patient's circumstances; and

(2) of the relatives of the patient legally liable for the patient's support.

(b) If the patient or the patient's relatives are able to pay for the patient's care and treatment in whole or in part, the patient or the patient's relatives shall be directed to pay the treasurer of the hospital for the patient's support in proportion to the patient's or relatives' financial ability, but not to exceed the actual per capita cost of maintenance.

(c) The superintendent has the same authority to collect the sum from the estate of the patient or the patient's relatives legally liable for the patient's support as is possessed by the township trustee as administrator of township assistance in similar circumstances. If the superintendent finds that the patient or the patient's relatives are not able to pay either in whole or in part the patient becomes a charge upon the county.

As added by P.L.2-1993, SEC.7. Amended by P.L.73-2005, SEC.165.

IC 16-24-1-22

Care and treatment of county nonresidents

Sec. 22. (a) If a county does not have a county tuberculosis hospital, the county executive may, by contract, arrange for the care and treatment of the county's citizens in a tuberculosis hospital in another county. The contract must state the minimum number of patients to be sent to the institution for any one (1) year and the amount of compensation to be paid by the county executive.

(b) The county fiscal body contracting for the care and treatment of tuberculosis patients shall appropriate out of that county's general fund sufficient money for the care and treatment of tuberculosis patients. The fund constitutes a special fund for the care and treatment of tuberculosis patients if the county has the right to levy a tax for that purpose.

(c) Any person residing in a county without a tuberculosis

hospital who desires treatment in the hospital of another county may apply in writing to the county auditor of the county in which the person resides, on a form provided by the superintendent of the institution of the other county, with a physician's certificate stating that the physician has within ten (10) days examined the person, and that in the physician's judgment the person is suffering from tuberculosis. The auditor shall forward the application and certificate to the county executive. If the county executive finds that the facts in the application are true, the county executive shall record the county executive's findings and send the application to the superintendent of a county tuberculosis hospital with whom the county executive has contracted. After the patient is accepted, the county executive shall provide for transportation to and maintenance at the hospital.
As added by P.L.2-1993, SEC.7.

IC 16-24-1-23
Care and treatment of county nonresidents; payment; liability

Sec. 23. (a) Whenever a superintendent receives an application for the admission of a patient with tuberculosis from the county executive of any other county, the superintendent shall notify the person to appear at the hospital if there is:

(1) a vacancy; and

(2) no pending application from a resident of the county in which the hospital is located.

(b) If the superintendent is satisfied that the patient has tuberculosis, the superintendent shall admit the patient to the hospital. The patient is a charge against the county executive of the county sending the patient, at a rate to be fixed by the board of managers. The rate may not exceed the per capita cost of maintenance, including a reasonable allowance for interest on the costs of the hospital. The bill shall, when verified, be audited and paid by the auditor of that county.

(c) The county executive shall investigate the circumstances of the patient and of the patient's relatives legally liable for the patient's support, and has the same authority as the township trustee as administrator of township assistance to collect the cost of the patient's maintenance according to the patient's relatives' financial ability.
As added by P.L.2-1993, SEC.7. Amended by P.L.73-2005, SEC.166.

IC 16-24-1-24
Donations conditioned upon life annuity

Sec. 24. (a) This section applies as follows:

(1) Whenever the county executive of a county secures a site for a county tuberculosis hospital.

(2) When a citizen offers to donate United States bonds or other marketable bonds or securities readily convertible into money

to the county for the purpose of erection of proper buildings, or providing equipment for the hospital upon the condition that the county pay an annuity to the donor or a designated member of the donor's family, annually, during the life of the donor or the designated member in an amount:

(A) equal to the annual interest on bonds or securities donated; or

(B) not to exceed five percent (5%) interest, annually, money donated.

(b) The county executive, with the consent of the county fiscal body, may contract with the donor, binding upon the county, for the annuity described in subsection (a) upon the delivery of the bonds, securities, or money to the county, if:

(1) the donor or designated family member is at least sixty (60) years of age at the time of the contract; and

(2) the county executive and county fiscal body finds that it is in the interest of the county to accept the donation and enter into the contract.

(c) If the donation is made by husband and wife jointly, the annuity may be paid to the husband and wife jointly so long as they both live, and to continue to the survivor if either dies, and if both the husband and wife were at least sixty (60) years of age at the time of entering into the contract.

As added by P.L.2-1993, SEC.7.

IC 16-24-1-25

Inspection of hospitals; duties of resident officers

Sec. 25. (a) The resident officer of the hospital shall do the following:

(1) Admit the managers and the county executive or representatives of the managers and the county executive into every part of the hospital.

(2) Give the managers and the county executive access on demand to all hospital accounts and records and shall furnish copies, abstracts, and reports whenever required by the managers and the county executive.

(b) Hospitals established or maintained under this chapter are subject to inspection by an authorized representative of the county executive of the county. The resident officers shall do the following:

(1) Admit these representatives into every part of the hospital and the hospital's buildings.

(2) Give the representative access on demand to all records, reports, books, papers, and accounts pertaining to the hospital.

As added by P.L.2-1993, SEC.7.

IC 16-24-1-26

Joint county hospitals; apportionment of costs; board; admissions

Sec. 26. (a) Two (2) or more counties may agree to establish and

maintain a tuberculosis hospital.

(b) The county executives of counties proposing to cooperate may enter into an agreement to establish the hospital and shall apportion the cost among the counties cooperating according to the ratio of taxable property in the counties.

(c) The county executives of the counties constitute a board for the control of the tuberculosis hospital. The admission of patients must be based upon the population of the respective counties, but if there are not as many applications for admission as a county is entitled to, admission must be made in the order in which the applications are received.

As added by P.L.2-1993, SEC.7.

IC 16-24-1-27

Application of IC 5-4-1, IC 5-4-5, IC 5-22, and IC 36-1-10 through IC 36-1-12

Sec. 27. IC 5-4-1, IC 5-4-5, IC 5-22, IC 36-1-10, IC 36-1-11, and IC 36-1-12 do not apply to this article unless this article specifies that the statute applies.

As added by P.L.2-1993, SEC.7. Amended by P.L.49-1997, SEC.50.

IC 16-24-2

Chapter 2. Operation of County Tuberculosis Hospitals in Allen, St. Joseph, Vanderburgh, and Madison Counties

IC 16-24-2-1

Application of chapter

Sec. 1. (a) As used in this section, "county" refers to any of the following:

(1) A county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000).

(2) A county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000).

(3) A county having a population of more than one hundred seventy-five thousand (175,000) but less than one hundred eighty-five thousand (185,000).

(4) A county having a population of more than one hundred twenty-five thousand (125,000) but less than one hundred thirty-five thousand (135,000).

(b) This chapter applies to a county, if the county meets the following conditions:

(1) The county owns a hospital for the treatment of patients with tuberculosis or other diseases, including chronic diseases and diseases requiring convalescent care.

(2) The county contracts with other counties for the treatment of the citizens of those other counties.

As added by P.L.2-1993, SEC.7. Amended by P.L.170-2002, SEC.109; P.L.119-2012, SEC.143.

IC 16-24-2-2

"Contracting county" defined

Sec. 2. As used in this chapter, "contracting county" means a county that contracts with a county having a hospital for the care of patients.

As added by P.L.2-1993, SEC.7.

IC 16-24-2-3

Board of managers; qualifications; terms of office; compensation; expenses

Sec. 3. (a) The county executive of the county owning the tuberculosis hospital shall appoint a board of managers for the hospital consisting of four (4) residents of the county. Two (2) of the members must be licensed and practicing physicians. Not more than two (2) of the members may belong to the same political party. The board is a body corporate and politic.

(b) The term of office of each member of the board is four (4) years and until a successor is appointed and qualified. However, the

first term of one (1) of the members expires annually. The members of the governing board are entitled to receive annual salaries not to exceed six hundred dollars ($600) each and payment for actual and necessary traveling and other expenses.
As added by P.L.2-1993, SEC.7.

IC 16-24-2-4
Official visitor and inspector; term of office; compensation; duties; board of visitors

Sec. 4. (a) The county executive of a contracting county shall appoint an official visitor and inspector of the tuberculosis hospital and the patients from the contracting county. The term of office of the official visitor is three (3) years. The official visitor is not entitled to compensation for service but the official visitor's actual and necessary traveling and other expenses shall be paid by the hospital.

(b) An official visitor shall do the following:

(1) The following:

(A) Inspect the hospital.

(B) Visit the patients of the contracting county.

(C) Consult with the superintendent.

(D) Report to the county executive of the visitor's county monthly.

(2) With the tuberculosis agencies of the contracting county, prepare the documents necessary to admit patients from the contracting county.

(3) The following:

(A) Inspect and visit the patient in the patient's home.

(B) Investigate the patient's financial condition.

(C) Report to the county executive at the time the county executive approves the patient's admission.

(4) Transport the patients to and from the hospital.

(c) The official visitors of the contracting counties constitute the board of visitors. The board of visitors shall do the following:

(1) Meet quarterly at the hospital.

(2) Transact the business of their respective counties.

(3) Report to their respective county executives.

As added by P.L.2-1993, SEC.7.

IC 16-24-2-5
Board of affiliation and public relation

Sec. 5. (a) The governing board shall create a board of affiliation and public relation, which consists of the following:

(1) The president.

(2) The superintendent.

(3) The medical director.

(4) The superintendent of nurses.

(5) An executive secretary, to be appointed by the president and

superintendent.

(b) The board of affiliation and public relation shall cooperate with the county executives of the contracting counties and county executives' official visitors.

As added by P.L.2-1993, SEC.7.

IC 16-24-2-6

Governing board; powers and duties

Sec. 6. The governing board has the following powers and duties:

(1) To manage the affairs, property, and patients of the hospital and all matters relating to the government, discipline, contracts, and the finances of the hospital.

(2) To make rules and regulations for the operation of the hospital.

(3) To meet monthly, inspect the hospital, and hold the board's annual meeting in July of each year.

(4) To keep the books and accounts of the hospital and keep minutes of the board's proceedings. All records are open to the inspection of the board's members, the county executives of the counties owning or contracting with the hospital, the state board of accounts, and other public agencies authorized by law to inspect the hospital.

(5) To adopt an annual budget for the hospital.

(6) To elect a president, at least one (1) vice president, a secretary, and a treasurer and to appoint a superintendent. The office of president and superintendent may be held by one (1) person and the superintendent may act without salary, but is entitled to receive traveling and other expenses necessary or incidental to the office.

(7) To accept and hold in trust for the hospital a grant or devise of land, gift, bequest, or other donation for the benefit of the hospital in accordance with the terms of the gift and as the board considers beneficial.

(8) To contract for the care and treatment of persons with tuberculosis and other diseases, including chronic diseases and those diseases requiring convalescent care.

(9) To certify all bills and accounts and transmit the bills and accounts to the county executive of the county owning the hospital, who shall, if the county executive finds the bills and accounts correct, pay the bills and accounts out of hospital money.

(10) To annually report upon the operation of the hospital to the county executive of the county.

As added by P.L.2-1993, SEC.7.

IC 16-24-2-7

Superintendent; powers and duties

Sec. 7. (a) The superintendent is the chief executive officer of the

hospital and is subject to bylaws, rules, and regulations of the hospital and to the board of managers and the board's president.

(b) The superintendent shall do the following:

(1) Equip the hospital for the care and treatment of patients and for the use of the officers and employees and to purchase, directly or if the county has a purchasing agent, through the county purchasing agent, all necessary supplies and equipment. The superintendent shall determine the quality needed or the practicability of the articles requisitioned.

(2) The following:

(A) Supervise and control the records, accounts, and buildings of the hospital and the hospital's internal affairs.

(B) Maintain discipline.

(C) Enforce compliance with all rules, bylaws, and regulations adopted by the board of managers for the government, discipline, and management of the hospital and make further rules, regulations, and orders not inconsistent with those of the board of managers.

(3) The following:

(A) Appoint a licensed physician, as medical director, who has at least five (5) years experience in the treatment of tuberculosis.

(B) Employ doctors, department heads, nurses, and employees the licensed physician considers proper and necessary for the efficient performance of the business of the hospital.

(C) Prescribe staff duties, and discharge staff at the superintendent's discretion.

(4) Keep accurate accounts and records of the business and operations of the hospital and include the accounts and records in an annual report for the board of managers, who shall incorporate the accounts and records in the board's report to the county executive.

(5) Admit the following persons to the hospital in the order of application:

(A) A person:

(i) with tuberculosis in any form and other diseases the board of managers designates; and

(ii) who has resided in the county for at least one (1) year before the application for admission.

(B) Persons from other counties or states, as provided in this chapter.

(6) Keep records of the admission, physical condition, and treatment of each patient, including name, age, sex, color, marital condition, residence, occupation, and place of last employment.

(7) The following:

(A) Have a physical examination made of persons admitted

to the hospital.

(B) Provide for the treatment of each patient according to the patient's need.

(C) Keep records of the condition of each patient when admitted and thereafter.

(8) Discharge and report to the board of managers concerning a patient who meets any of the following conditions:

(A) Willfully or habitually violates the rules of the hospital.

(B) Does not have or has recovered from tuberculosis or other diseases designated by the board of managers.

(C) Is no longer a suitable patient for treatment.

(9) Hold clinics in all counties affiliated with the hospital, which must be arranged for and under the supervision of the official visitor of the contracting county.

(10) Receive and administer all gifts, bequests, and devises on behalf of the hospital. A gift of money shall, after the payment of all taxes, fees, costs, and other expenses, be deposited in the depository of the hospital designated by the county executive and shall be managed by the board of managers for the best interest of the hospital, according to the donor's conditions.

As added by P.L.2-1993, SEC.7.

IC 16-24-2-8

Treasurer; duties

Sec. 8. (a) The treasurer shall do the following:

(1) Collect and receive all money due the hospital in the name of the hospital and deposit the money in a bank designated by the county executive.

(2) Keep an accurate account of the money collected and received and make a written report to the board of managers, at their regular monthly meeting.

(3) Before entering upon the treasurer's duties, post a bond in an amount determined by the board of managers to secure faithful performance.

(b) The board of managers shall transmit the funds to the treasurer of the county within ten (10) days after the meeting. The treasurer shall place the funds in a special fund for the exclusive use of the hospital.

As added by P.L.2-1993, SEC.7.

IC 16-24-2-9

Application for admission; examination; payment for care and treatment

Sec. 9. (a) Any resident of the county may apply in person to the hospital for treatment or to a physician for examination. If the physician finds that the person has tuberculosis in any form, the physician may apply to the superintendent of the hospital for admission.

(b) The superintendent shall forward application forms to any physician in the county, upon request and without charge. If practicable, applications for admission to the hospital shall be made upon these forms.

(c) If:

(1) the superintendent receives an application from a person who appears to have tuberculosis; and

(2) there is a vacancy in the hospital;

the superintendent shall notify the person named in the application to appear at the hospital.

(d) If, upon examination of the patient, the superintendent is satisfied that the patient has tuberculosis and has made the proper financial arrangement for care and treatment, to the extent of the patient's ability, the superintendent shall admit the patient to the hospital.

(e) All applications must:

(1) state whether the person is able to pay, in whole or in part, for care and treatment at the hospital; and

(2) be filed and kept as a permanent record.

(f) The hospital may not discriminate against any patient because the patient or the patient's relatives contribute to the cost of the patient's maintenance. An officer or employee of the hospital may not accept from any patient any fee, payment, or gratuity for services.

As added by P.L.2-1993, SEC.7.

IC 16-24-2-10

Patient's financial circumstances; inquiry; payment according to ability

Sec. 10. Whenever a patient is admitted to the hospital from the county in which the hospital is situated, the superintendent shall inquire into the circumstances of the patient and of the relatives of the patient legally liable for the patient's support. If the superintendent finds that the patient or the patient's relatives are able to pay for care and treatment, in whole or in part, the superintendent shall direct the patient or the patient's relatives to pay to the treasurer of the hospital a specified amount each week, in proportion to the patient's or the patient's relatives' financial ability. The hospital has the same authority to collect from the estate of the patient, or the patient's relatives legally liable for the patient's support, as the township trustee as administrator of township assistance in similar cases. If the patient or the patient's relatives are not able to pay, either in whole or in part, the care and treatment become a charge upon the county.

As added by P.L.2-1993, SEC.7. Amended by P.L.73-2005, SEC.167.

IC 16-24-2-11

Care and treatment of county nonresidents; contract; appropriation; tax levy

Sec. 11. (a) The county executive of a county without a tuberculosis hospital may, by contract, arrange for the care and treatment of the county's citizens in a tuberculosis hospital in another county. The contract must fix the minimum number of patients to be sent to the hospital for any year and the amount of compensation to be paid for the care and treatment of those patients. The compensation must not exceed the actual cost of the operation of the hospital plus the interest charge on the bonded indebtedness of the hospital.

(b) The county fiscal body of the county contracting for the care and treatment of tuberculosis patients shall appropriate an amount out of the county general fund sufficient for the care and treatment of tuberculosis patients and this fund constitutes a special fund. The county may levy a tax for this purpose or the county executive may pay the hospital out of the general fund.

As added by P.L.2-1993, SEC.7.

IC 16-24-2-12

Nonresidents' application for admission

Sec. 12. Any person in need of treatment and who resides in a county without a tuberculosis hospital may apply in writing to the county auditor or official visitor of the county on a form to be provided by the official visitor of the county with a physician's certificate on a form furnished by the official visitor, stating that the physician has, within ten (10) days, examined the person, and that, in the physician's judgment, the person has tuberculosis. The auditor shall forward the application and certificate to the county executive. If the county executive finds the application to be true, the board shall make a record and send the application to the superintendent of the hospital. After the patient is accepted by the hospital, the county executive shall provide transportation to and from the hospital and maintenance at the hospital as provided in the contract or arrangement. All blanks provided for in this section shall be furnished by the hospital.

As added by P.L.2-1993, SEC.7.

IC 16-24-2-13

Admission of nonresidents; liability for care and treatment

Sec. 13. (a) Whenever the superintendent receives an application for the admission of a patient from another county, the superintendent shall notify the person to appear at the hospital if the following conditions are met:

(1) It appears that the person has tuberculosis, or a similar disease.

(2) There is a vacancy in the hospital.

(3) There is no pending application from a patient residing in the county in which the hospital is located.

(b) If, upon personal examination of the patient by the medical

staff of the hospital, the superintendent determines that the patient has tuberculosis, the superintendent shall admit the patient to the hospital. The patient is a charge against the executive of the county sending the patient, at a rate to be fixed by the board of managers but not to exceed the per capita cost of maintenance, including a reasonable allowance for interest on the cost of the hospital. The bill shall, when verified, be paid by the auditor of the county. The county executive of the contracting county shall investigate the circumstances of the patient and of the patient's relatives legally liable for the patient's support. The county executive has the same authority as a township trustee as administrator of township assistance in similar cases to collect, according to the patient's or the patient's relatives' financial ability, the cost of the maintenance.
As added by P.L.2-1993, SEC.7. Amended by P.L.73-2005, SEC.168.

IC 16-24-2-14
Access to books and records

Sec. 14. The officers of the hospital shall admit the governing board, the county executive, the representatives of the state board of accounts, and all other public agencies having legal authority into every part of the hospital and give these persons access, on demand, to all books, papers, accounts, and records pertaining to the hospital.
As added by P.L.2-1993, SEC.7.

IC 16-24-2-15
Joint county hospitals; allocation of costs; board of managers; admissions pro rata and otherwise

Sec. 15. (a) At least two (2) counties may agree to establish and maintain a tuberculosis hospital.

(b) The county executive of each county proposing to cooperate may enter into an agreement to establish the hospital and shall apportion the cost of establishing and maintaining the hospital among the cooperating counties, according to the ratio of taxable property in the counties. Each county executive shall appoint an equal number of the members of the board of managers but shall not appoint more than two (2) members. The number of patients admitted from the cooperating counties shall be based on the population of the counties. If there are not as many applications for admission as a county is entitled to, admission is made in the order the applications are received or as agreed among the cooperating counties.
As added by P.L.2-1993, SEC.7.

IC 16-24-2-16
Nonprofit hospitals; county aid

Sec. 16. Whenever an association is incorporated under Indiana law as a nonprofit corporation, for the purpose of constructing, operating, and maintaining a hospital to treat and care for persons with tuberculosis or other diseases, the county executive of the

county in which the hospital is located may:

(1) lease or convey the hospital of the county to the corporation; and

(2) give financial aid to:

(A) maintain and operate the hospital; and

(B) pay for the treatment of county residents.

As added by P.L.2-1993, SEC.7.

IC 16-24-3

Chapter 3. Conveyance or Assignment of Real and Personal Property by a County to an Association Incorporated for Prevention and Treatment of Tuberculosis

IC 16-24-3-1

Authority of county to convey or assign property to nonprofit or charitable tuberculosis association

Sec. 1. Whenever a county:

(1) acquires real or other property with funds donated for the purpose of prevention, detection, treatment, and cure of tuberculosis or for the acquisition, enlargement, or maintenance of a tuberculosis hospital or clinic; and

(2) has a nonprofit and charitable association dedicated to the prevention, detection, and treatment of tuberculosis that:

(A) has been engaged in that cause in the county for at least five (5) years;

(B) has used the property and financed the operation of a tuberculosis clinic for at least three (3) years in a manner satisfactory to the county executive; and

(C) is affiliated with and operates under contract with the Indiana Tuberculosis Association;

the county may, through the county executive of the county, convey or assign the property to the county tuberculosis association in consideration for the future and perpetual operation of the clinic for the benefit of all citizens of the county for the prevention, detection, and early treatment of tuberculosis without expense to the county.

As added by P.L.2-1993, SEC.7.

IC 16-24-3-2

Petition for conveyance or assignment

Sec. 2. A county tuberculosis association that qualifies for a conveyance or an assignment of real or other property under this chapter may file a petition with the county executive. The petition must meet the following conditions:

(1) Describe the property sought.

(2) Set out facts in support of the association's qualification.

(3) Be verified under oath of the president and secretary of the association.

(4) Include two (2) executed copies of the proposed agreement for the future and perpetual operation of the clinic without expense to the county.

As added by P.L.2-1993, SEC.7.

IC 16-24-3-3

Investigation of petitioner

Sec. 3. The county executive shall convey or assign the property to the petitioner if the board finds the following:

(1) The petitioner is qualified to receive the property described in the petitioner's petition.

(2) It is in the best interest of the county to convey or assign the property.

As added by P.L.2-1993, SEC.7.

IC 16-24-3-4

Ordinance authorizing conveyance or assignment

Sec. 4. (a) The county auditor shall call a meeting of the county fiscal body to consider the matter.

(b) If the county fiscal body confirms the finding of the county executive by a two-thirds (2/3) vote of all members of the fiscal body, the county fiscal body shall adopt an ordinance authorizing the board to execute the contract on behalf of the county and to convey or assign the property.

As added by P.L.2-1993, SEC.7.

IC 16-24-3-5

Contract to convey or assign property

Sec. 5. The county executive shall execute the contract and the conveyance or assignment of property and deliver the conveyance or assignment to the petitioner, retaining a copy of the executed contract that shall be entered in the official minutes of the board.

As added by P.L.2-1993, SEC.7.

IC 16-24-3-6

Conditions on conveyance or assignment

Sec. 6. The county may not convey or assign the property unless the following conditions are met:

(1) The property is separate and apart from county property used for other county purposes.

(2) The deed and contract of conveyance of real property contains a stipulation that the real property reverts to the grantor county if the grantee fails or neglects in the future to operate the clinic for the purposes set out in the contract.

As added by P.L.2-1993, SEC.7.

IC 16-24-3-7

Continuing county obligation to tuberculosis patients

Sec. 7. This chapter does not relieve the county from the obligation to care for and treat tuberculosis patients, including the treatment of advanced cases in hospitals, either within or outside the county.

As added by P.L.2-1993, SEC.7.

IC 16-25

ARTICLE 25. HOSPICE PROGRAMS

IC 16-25-1

Repealed

(Repealed by P.L.256-1999, SEC.19.)

IC 16-25-1.1
Chapter 1.1. Definitions

IC 16-25-1.1-1
Applicability
Sec. 1. The definitions in this chapter apply throughout this article.
As added by P.L.256-1999, SEC.12.

IC 16-25-1.1-2
"Applicant"
Sec. 2. "Applicant" means a person that applies for a license or an approval for a hospice program under IC 16-25-3.
As added by P.L.256-1999, SEC.12.

IC 16-25-1.1-3
"Hospice"
Sec. 3. "Hospice" means a person that owns or operates a hospice program in Indiana.
As added by P.L.256-1999, SEC.12. Amended by P.L.58-2000, SEC.2.

IC 16-25-1.1-4
"Hospice program"
Sec. 4. (a) "Hospice program" means a specialized form of interdisciplinary health care provided in Indiana that is designed to alleviate the physical, emotional, social, and spiritual discomforts of an individual who is experiencing the last phase of a terminal illness or disease and that:

(1) uses an interdisciplinary team that is under the direction of a physician licensed under IC 25-22.5 to provide a program of planned and continual care for terminally ill patients and their families, including:
  (A) participation in the establishment of the plan of care;
  (B) provision or supervision of hospice services;
  (C) periodic review and updating of the plan of care for each hospice program patient; and
  (D) establishment of policies governing the day to day provision of hospice services;
(2) must provide a continuum of care, including twenty-four (24) hour availability of:
  (A) nursing services, physician services, drugs, and biologicals;
  (B) other services necessary for care that is reasonable and necessary for palliation and management of terminal illnesses and related conditions; and
  (C) bereavement counseling;
in a manner consistent with accepted standards of practice; and

(3) meets the minimum standards for certification under the Medicare program (42 U.S.C. 1395 et seq.) and complies with the regulations for hospices under 42 CFR 418.1 et seq.

(b) The term includes inpatient services provided by a hospice in compliance with 42 CFR 418.1 et seq.

(c) The term does not include services provided by a hospital, a health facility, an ambulatory outpatient surgical center, or a home health agency unless the entity has a distinct hospice program.

As added by P.L.256-1999, SEC.12. Amended by P.L.58-2000, SEC.3.

IC 16-25-1.1-5
"Hospice program patient"

Sec. 5. "Hospice program patient" means a patient who:

(1) has been diagnosed by a licensed physician as having a terminal illness;

(2) has a prognosis for a life expectancy in accordance with 42 CFR 418.3; and

(3) receives hospice services from a hospice program.

As added by P.L.256-1999, SEC.12.

IC 16-25-1.1-6
"Hospice services"

Sec. 6. "Hospice services" means:

(1) palliative care for the physical, psychological, social, spiritual, and other special needs of a hospice program patient during the final stages of a hospice program patient's terminal illness; and

(2) care for the psychological, social, spiritual, and other needs of the hospice program patient's family before and after the hospice program patient's death;

that is directed by an interdisciplinary team.

As added by P.L.256-1999, SEC.12.

IC 16-25-1.1-7
"Interdisciplinary team"

Sec. 7. "Interdisciplinary team" means a group of individuals who provide or supervise the care and services offered by the hospice program that includes at least a licensed physician, a registered nurse, a social worker, and a pastoral or other counselor, all of whom must be employees or volunteers of the hospice program.

As added by P.L.256-1999, SEC.12.

IC 16-25-1.1-8
"Person"

Sec. 8. "Person" means an individual, a corporation, a limited liability company, a partnership, or other legal entity that does business in Indiana.

As added by P.L.256-1999, SEC.12. Amended by P.L.58-2000, SEC.4.

IC 16-25-1.1-9
"Terminal illness"

Sec. 9. "Terminal illness" means a life threatening illness with a limited prognosis.

As added by P.L.256-1999, SEC.12.

IC 16-25-2

Chapter 2. Possession of Certain Drugs and Other Health Care Items

IC 16-25-2-1

Sterile water or saline

Sec. 1. An employee of a hospice who is a licensed pharmacist, registered nurse, or licensed practical nurse may purchase, store, or transport for administering to a hospice patient or home health patient under the order of a licensed physician the following:

(1) Sterile water for injection and irrigation.

(2) Sterile saline for injection and irrigation.

As added by P.L.105-1998, SEC.1.

IC 16-25-2-2

Vaccines

Sec. 2. (a) An employee of a hospice who is a licensed pharmacist, registered nurse, or licensed practical nurse may purchase, store, or transport a vaccine in order to administer the vaccine to:

(1) the hospice's employees or a hospice patient or home health patient; or

(2) family members of a patient;

under the order of a licensed physician.

(b) An employee described in subsection (a) who purchases, stores, or transports a vaccine under this section must ensure that a standing order for the vaccine:

(1) is signed and dated by a licensed physician;

(2) identifies the vaccine covered by the order;

(3) indicates that appropriate procedures are established for responding to any adverse reaction to the vaccine; and

(4) directs that a specific medication or category of medication be administered if a recipient has an adverse reaction to the vaccine.

As added by P.L.105-1998, SEC.1.

IC 16-25-2-3

Other drugs

Sec. 3. An employee of a hospice who is a licensed pharmacist, registered nurse, or licensed practical nurse may purchase, store, or transport the following drugs in order to administer to a hospice patient or home health patient, in accordance with section 5 of this chapter:

(1) Any of the following items in a sealed portable container in a size determined by the dispensing pharmacist:

(A) Up to one thousand (1,000) milliliters of nine-tenths of one percent (0.9%) sodium chloride intravenous infusion.

(B) Up to one thousand (1,000) milliliters of five percent

(5%) dextrose in water injection.

(2) Not more than five (5) dosage units of each of the following items, each in an individually sealed, unused container:

(A) Heparin sodium lock flush in a concentration of ten (10) units per milliliter, one hundred (100) units per milliliter, or one thousand (1,000) units per milliliter.

(B) Epinephrine HCl solution in a concentration of one (1) to one thousand (1,000).

(C) Diphenhydramine HCl solution in a concentration of fifty (50) milligrams per milliliter.

(D) Methylprednisolone in a concentration of one hundred twenty-five (125) milligrams per two (2) milliliters.

(E) Naloxone in a concentration of up to one (1) milligram per milliliter in a two (2) milliliter vial.

(F) Glucagon in a concentration of one (1) milligram per milliliter.

(G) Furosemide in a concentration of ten (10) milligrams per milliliter.

(H) Lidocaine two and one-half percent (2.5%) and prilocaine two and one-half percent (2.5%) cream in a five (5) gram tube.

(I) Lidocaine HCl solution in a concentration of one percent (1%) in a two (2) milliliter vial.

(J) Urokinase five thousand (5,000) units per a one (1) milliliter vial.

As added by P.L.105-1998, SEC.1.

IC 16-25-2-4

Transportation of drugs in sealed portable containers by pharmacist or nurse

Sec. 4. An employee of a hospice who is a licensed pharmacist, registered nurse, or licensed practical nurse may purchase, store, or transport drugs in a sealed portable container under this chapter only if the hospice has established written policies and procedures to ensure the following:

(1) That the container is handled properly with respect to storage, transportation, and temperature stability.

(2) That a drug is removed from the container only on the written or oral order of a licensed physician.

(3) That the administration of a drug in the container is performed in accordance with a specific treatment protocol.

(4) That the hospice maintains a written record of the dates and times the container is in the possession of a licensed pharmacist, registered nurse, or licensed practical nurse.

(5) That the hospice require an employee who possesses the container to submit a daily accounting of all drugs and devices in the container to the hospice in writing.

As added by P.L.105-1998, SEC.1.

IC 16-25-2-5
Administering drugs by pharmacist or nurse

Sec. 5. An employee of a hospice who:

(1) is a licensed pharmacist, registered nurse, or licensed practical nurse; and

(2) administers a drug listed in section 3 of this chapter;

may administer the drug only in the residence of a hospice patient or home health patient under the order of a licensed physician in connection with the provision of emergency treatment or the adjustment of parenteral drug therapy or vaccine administration.

As added by P.L.105-1998, SEC.1.

IC 16-25-2-6
Physician's orders to pharmacist or nurse to administer drugs

Sec. 6. (a) If an employee of a hospice who is a licensed pharmacist, registered nurse, or licensed practical nurse administers a drug listed in section 3 of this chapter under the oral order of a licensed physician, the physician shall promptly send a signed copy of the order to the hospice.

(b) Not more than twenty (20) days after receiving an order under subsection (a), the hospice shall send a copy of the order, as signed by and received from the physician, to the dispensing pharmacy.

As added by P.L.105-1998, SEC.1.

IC 16-25-2-7
Duties of pharmacist regarding drug containers

Sec. 7. A pharmacist who dispenses a sealed portable container under this chapter shall ensure that the container:

(1) is designed to allow access to the contents of the container only if a tamperproof seal is broken;

(2) bears a label that lists the drugs in the container and provides notice of the container's expiration date; and

(3) remains in the pharmacy or under the control of a licensed pharmacist, registered nurse, or licensed practical nurse.

As added by P.L.105-1998, SEC.1.

IC 16-25-2-8
Honoring nurse's orders

Sec. 8. If a home health agency or hospice patient's care or treatment is being managed, directed, or provided by an advanced practice nurse licensed under IC 25-23, that nurses's orders will be honored, unless it will cause the home health agency or hospice to be unreimbursed for their service.

As added by P.L.105-1998, SEC.1.

IC 16-25-3

Chapter 3. Licensure of Hospices

IC 16-25-3-1

License required for facilities

Sec. 1. (a) For purposes of this chapter, a:

(1) hospital licensed under IC 16-21-2;

(2) health facility licensed under IC 16-28-2; or

(3) home health agency licensed under IC 16-27-1;

that operates a hospice program in Indiana must be approved by the state department under this chapter but is not required to have a hospice license.

(b) A person not described in subsection (a) who provides hospice services in Indiana must be licensed by the state department under this chapter.

As added by P.L.256-1999, SEC.13. Amended by P.L.58-2000, SEC.5.

IC 16-25-3-2

Licensee permitted to provide hospice services

Sec. 2. A license issued or approval granted under this chapter authorizes the owner or operator of a hospice program to provide hospice services.

As added by P.L.256-1999, SEC.13.

IC 16-25-3-2.5

Repealed

(As added by P.L.12-2004, SEC.4. Amended by P.L.156-2011, SEC.19; P.L.197-2011, SEC.62; P.L.6-2012, SEC.116. Repealed by P.L.141-2014, SEC.7.)

IC 16-25-3-3

Application

Sec. 3. (a) An applicant shall submit an application for a hospice license or for approval of a hospice program on a form prescribed by the state department.

(b) The applicant shall attach to the application evidence of the applicant's ability to comply with the minimum standards established for licensure under this article.

(c) The application must contain the following information:

(1) The applicant's name.

(2) The type of hospice program the applicant will own or operate.

(3) The location of the hospice program owned or operated by the applicant.

(4) The name of the individual or individuals responsible for the day to day operation of the hospice program owned or operated by the applicant.

As added by P.L.256-1999, SEC.13.

IC 16-25-3-4
Requirements for license or approval; tax warrant list

Sec. 4. (a) To obtain a license or approval under this chapter, the hospice program owned or operated by the applicant must:

(1) meet the minimum standards for certification under the Medicare program (42 U.S.C. 1395 et seq.) and comply with the regulations for hospices under 42 CFR 418.1 et seq.; or

(2) be certified by the Medicare program.

(b) If the department of state revenue notifies the department that a person is on the most recent tax warrant list, the department shall not issue or renew the person's license until:

(1) the person provides to the department a statement from the department of state revenue indicating that the person's tax warrant has been satisfied; or

(2) the department receives a notice from the commissioner of the department of state revenue under IC 6-8.1-8-2(k).

As added by P.L.256-1999, SEC.13. Amended by P.L.172-2011, SEC.116.

IC 16-25-3-5
Provisional license

Sec. 5. The state department:

(1) may issue a provisional license or approval to an applicant that is operating a hospice program before September 1, 1999, if the hospice program is certified by:

(A) the Medicare program; or

(B) the state under IC 16-25-1 (before its repeal); and

(2) may not issue a license or grant approval to an applicant that is not operating a hospice program before September 1, 1999, unless the state department:

(A) surveys the hospice program; and

(B) finds that the hospice program complies with section 6(a) of this chapter.

As added by P.L.256-1999, SEC.13.

IC 16-25-3-6
Initial survey of program; issuance or nonissuance of license

Sec. 6. (a) If, after conducting an initial survey of a hospice program, the state department finds that the hospice program owned or operated by the applicant complies with this article, the state department shall:

(1) approve the application; and

(2) issue a hospice license or grant approval to the applicant.

(b) If, after conducting an initial survey of a hospice program, the state department finds that the hospice program owned or operated by the applicant does not comply with this article, the state

department shall:

(1) deny the application; and

(2) notify the applicant in writing of the denial and the specific reasons for denying the application.

As added by P.L.256-1999, SEC.13.

IC 16-25-3-7

Expiration of license

Sec. 7. (a) A license issued or approval granted under this chapter expires one (1) year after the date of issuance.

(b) A hospice program may renew its license or approval under procedures approved by the state department.

As added by P.L.256-1999, SEC.13.

IC 16-25-3-8

Employees of hospice

Sec. 8. An employee of a hospice licensed or approved under this chapter who:

(1) provides hospice services only as an employee of the hospice; and

(2) does not receive compensation for providing the services, other than wages from the hospice;

is not required to obtain a hospice license or approval under this chapter.

As added by P.L.256-1999, SEC.13.

IC 16-25-3-9

License required for persons providing services

Sec. 9. A person may not:

(1) provide hospice services; or

(2) represent to the public that the person provides hospice services;

unless the person holds a license issued or approval granted by the state department under this chapter.

As added by P.L.256-1999, SEC.13.

IC 16-25-3-10

Unlicensed persons not permitted to use "hospice" to describe services

Sec. 10. A person that is not licensed or approved to own or operate a hospice program under this chapter may not use:

(1) the word "hospice" in a title or description of a facility, an organization, a program, a service provider, or a service; or

(2) any words, letters, abbreviations, or insignia indicating or implying that the person holds a license or has approval to provide hospice services.

As added by P.L.256-1999, SEC.13.

IC 16-25-3-11

Third party billing notice

Sec. 11. A hospice that provides to a hospice program patient notice concerning a third party billing for a hospice service provided to the hospice program patient shall ensure that the notice:

(1) conspicuously states that the notice is not a bill;

(2) does not include a tear-off portion; and

(3) is not accompanied by a return mailing envelope.

As added by P.L.178-2003, SEC.5.

IC 16-25-4
Chapter 4. Hospice License Fees

IC 16-25-4-1
Annual fee

Sec. 1. The state department shall charge an annual hospice fee of one hundred dollars ($100) for each hospice program licensed or approved under IC 16-25-3.

As added by P.L.256-1999, SEC.14.

IC 16-25-4-2
Administrative costs

Sec. 2. The fees collected by the state department under section 1 of this chapter shall be used by the state department to pay the administrative costs of the hospice licensing and approval program under this article.

As added by P.L.256-1999, SEC.14.

IC 16-25-4.5

Chapter 4.5. Perinatal Hospice

IC 16-25-4.5-1

Purpose

Sec. 1. The purpose of this chapter is to ensure that:

(1) women considering abortion after receiving a diagnosis of a lethal fetal anomaly are informed of the availability of perinatal hospice care; and

(2) women choosing abortion after receiving a diagnosis of a lethal fetal anomaly are making a fully informed decision.

As added by P.L.213-2016, SEC.12.

IC 16-25-4.5-2

"Lethal fetal anomaly"

Sec. 2. As used in this chapter, "lethal fetal anomaly" means a fetal condition diagnosed before birth that, if the pregnancy results in a live birth, will with reasonable certainty result in the death of the child not more than three (3) months after the child's birth.

As added by P.L.213-2016, SEC.12.

IC 16-25-4.5-3

"Perinatal hospice"

Sec. 3. As used in this chapter, "perinatal hospice" means the provision of comprehensive, supportive care to a pregnant woman and her family beginning with the diagnosis of a lethal fetal anomaly and continuing through the live birth and death of the woman's child as a result of the lethal fetal anomaly. The term includes counseling and medical care provided by maternal-fetal medical specialists, obstetricians, neonatologists, anesthesia specialists, specialty nurses, clergy, social workers, and others that are focused on alleviating fear and ensuring that the woman and her family experience the life and death of the child in a comfortable and supportive environment.

As added by P.L.213-2016, SEC.12.

IC 16-25-4.5-4

Perinatal hospice brochure

Sec. 4. (a) The state department shall develop a perinatal hospice brochure and post the perinatal hospice brochure on the state department's Internet web site.

(b) The perinatal brochure developed under this section must include the following:

(1) A description of the health care and other services available from perinatal hospice.

(2) Information that medical assistance benefits may be available for prenatal care, childbirth, and perinatal hospice.

(3) Information regarding telephone 211 dialing code services for accessing grief counseling and other human services as

described in IC 8-1-19.5, and the types of services that are available through this service.

As added by P.L.213-2016, SEC.12.

IC 16-25-4.5-5

Perinatal hospice provider list

Sec. 5. The state department shall develop and regularly update a list of all perinatal hospice providers and programs in Indiana. The state department may include on the list perinatal hospice providers and programs in other states that provide care to Indiana residents. The state department shall post the list of perinatal hospice providers and programs on the state department's Internet web site.

As added by P.L.213-2016, SEC.12.

IC 16-25-4.5-6

Provider duty to provide perinatal hospice brochure, perinatal hospice provider list, and certification form

Sec. 6. (a) The state department shall develop a form on which a pregnant woman certifies, at the time of receiving a diagnosis that the pregnant woman's unborn child has a lethal fetal anomaly, that the pregnant woman has received the following:

(1) A copy of the perinatal hospice brochure developed under this chapter.

(2) A list of the perinatal hospice providers and programs developed under section 5 of this chapter.

(b) The provider diagnosing the pregnant woman's unborn child with the lethal fetal anomaly shall, at the time of diagnosis:

(1) provide the pregnant woman with a written copy of:

(A) the perinatal brochure developed under this chapter; and

(B) the certification form developed by the state department under subsection (a); and

(2) have the pregnant woman complete the certification form.

As added by P.L.213-2016, SEC.12.

IC 16-25-4.5-7

Severability

Sec. 7. This chapter is severable as specified in IC 1-1-1-8.

As added by P.L.213-2016, SEC.12.

IC 16-25-5

Chapter 5. Penalties, Enforcement Actions, and Grievance Procedures

IC 16-25-5-1

Repealed

(As added by P.L.256-1999, SEC.15. Repealed by P.L.1-2001, SEC.51.)

IC 16-25-5-2

Other surveys or inspections required

Sec. 2. If a hospice program licensed or approved under IC 16-25-3 is also subject to state department licensure surveys or inspections under Medicare law, the state department shall use its best efforts to:

(1) conduct all surveys or inspections simultaneously;

(2) coordinate with the office of Medicaid policy and planning all hospice program surveys; and

(3) forward a copy of each hospice program survey to the office of Medicaid policy and planning.

As added by P.L.256-1999, SEC.15.

IC 16-25-5-2.5

Rules; establishing guidelines

Sec. 2.5. (a) The state department shall adopt rules under IC 4-22-2 to establish guidelines that require the state department to conduct a survey of a hospice program licensed or approved under IC 16-25-3 at least once every one (1) to three (3) years.

(b) In establishing the guidelines required under subsection (a), the state department shall consider the following:

(1) A change in ownership of a hospice program.

(2) A change in management of a hospice program.

(3) A finding that a hospice program violated a federal condition of participation for hospice licensure.

As added by P.L.142-2001, SEC.1.

IC 16-25-5-3

Actions that may be taken; grounds

Sec. 3. (a) The state department may take any of the following actions against the owner or operator of a licensed or approved hospice program on any of the grounds listed in subsection (b):

(1) Issue a letter of correction.

(2) Issue a probationary license.

(3) Conduct a resurvey.

(4) Deny renewal of a license.

(5) Suspend a license.

(6) Revoke a license.

(7) Impose a civil penalty in an amount not to exceed ten

thousand dollars ($10,000).

(b) The state department may take any action listed under subsection (a) against a hospice on any of the following grounds:

(1) A material violation by the hospice program of a provision of this article.

(2) Authorizing, aiding, or abetting the commission of a violation of law by the hospice program.

(3) Conduct or practice by the hospice program that the state department finds detrimental to the welfare of the hospice program's patients.

As added by P.L.256-1999, SEC.15.

IC 16-25-5-4
Complaints; investigations

Sec. 4. (a) The state department shall investigate any hospice program about which the state department receives a complaint from a hospice program patient or a member of a hospice program patient's family.

(b) The state department shall establish and maintain a statewide, toll free telephone line continuously open to receive reports of problems regarding hospice programs.

As added by P.L.256-1999, SEC.15.

IC 16-25-5-5
Reports to attorney general

Sec. 5. (a) The state department shall investigate a report of an unlicensed hospice or unapproved hospice program and report the state department's findings to the attorney general.

(b) The attorney general, upon receiving a report of an unlicensed hospice or unapproved hospice program, may do any of the following:

(1) Seek an injunction in the circuit or superior court of the county in which the unlicensed hospice or unapproved hospice program is located or in the circuit or superior court of Marion County.

(2) Seek relief under IC 4-21.5, including a civil penalty not to exceed twenty-five thousand dollars ($25,000) for each day of unlicensed or unapproved operation.

(3) Seek criminal penalties as provided by section 8 of this chapter.

As added by P.L.256-1999, SEC.15.

IC 16-25-5-6
Appeals

Sec. 6. A person aggrieved by an action of the state department under this article may appeal the action under IC 4-21.5-5.

As added by P.L.256-1999, SEC.15.

IC 16-25-5-7
Appeals panel

Sec. 7. (a) For an appeal under section 6 of this chapter, the executive board shall appoint an appeals panel consisting of three (3) members as follows:

(1) One (1) member of the executive board.

(2) One (1) attorney admitted to the practice of law in Indiana.

(3) One (1) individual with qualifications determined by the executive board.

(b) An employee of the state department may not be a member of the appeals panel.

(c) The appeals panel shall conduct proceedings for review of an order issued by an administrative law judge under this chapter. The appeals panel is the ultimate authority under IC 4-21.5.

(d) The costs of the proceedings, including the fees of the appeals panel, shall be paid as follows:

(1) By the hospice, if the appeals panel finds in favor of the state department.

(2) By the state department, if the appeals panel finds in favor of the hospice.

As added by P.L.256-1999, SEC.15.

IC 16-25-5-8
Offering hospice services without license a misdemeanor

Sec. 8. A person who knowingly or intentionally:

(1) represents to the public that the person offers hospice services; or

(2) owns or operates a hospice program;

without a license issued or approval granted under this article commits a Class A misdemeanor.

As added by P.L.256-1999, SEC.15.

IC 16-25-6

Chapter 6. Criminal History of Hospice Owners, Operators, Employees, and Volunteers

IC 16-25-6-1

Persons prohibited from owning or operating hospice program

Sec. 1. (a) A person may not own or operate a hospice program if the person has:

(1) been convicted of rape (IC 35-42-4-1);

(2) been convicted of criminal deviate conduct (IC 35-42-4-2) (repealed);

(3) been convicted of exploitation of a dependent or an endangered adult (IC 35-46-1-12);

(4) had a judgment entered against the person for failure to report battery, neglect, or exploitation of an endangered adult (IC 35-46-1-13); or

(5) been convicted of theft (IC 35-43-4), if the person's conviction for theft occurred less than ten (10) years before the date of submission by the person of an application for licensure or approval as a hospice program under IC 16-25-3.

(b) A person who knowingly or intentionally violates this section commits a Class A misdemeanor.

As added by P.L.256-1999, SEC.16. Amended by P.L.158-2013, SEC.229; P.L.214-2013, SEC.16.

IC 16-25-6-2

Employee's or volunteer's criminal history

Sec. 2. (a) A person who owns or operates a hospice program shall apply, not more than three (3) business days after the date that an employee or a volunteer begins to provide hospice services, for a copy of the employee's or volunteer's limited criminal history from the Indiana central repository for criminal history information under IC 10-13-3.

(b) A hospice program may not employ an individual or allow a volunteer to provide hospice services for more than three (3) business days without applying for that individual's or volunteer's limited criminal history as required by subsection (a).

As added by P.L.256-1999, SEC.16. Amended by P.L.2-2003, SEC.45.

IC 16-25-6-3

Employment of certain individuals prohibited

Sec. 3. (a) Except as provided in subsection (b), a person who owns or operates a hospice program may not employ an individual or allow a volunteer to provide hospice services if that individual's or volunteer's limited criminal history indicates that the individual or volunteer has:

(1) been convicted of rape (IC 35-42-4-1);

(2) been convicted of criminal deviate conduct (IC 35-42-4-2) (repealed);
(3) been convicted of exploitation of an endangered adult (IC 35-46-1-12);
(4) had a judgment entered against the individual for failure to report battery, neglect, or exploitation of an endangered adult (IC 35-46-1-13); or
(5) been convicted of theft (IC 35-43-4), if the conviction for theft occurred less than ten (10) years before the individual's employment application date.

(b) A hospice program may not employ an individual or allow a volunteer to provide hospice services for more than twenty-one (21) calendar days without receipt of that individual's or volunteer's limited criminal history required by section 2 of this chapter, unless the Indiana central repository for criminal history information under IC 10-13-3 is solely responsible for failing to provide the individual's or volunteer's limited criminal history to the hospice program within the time required under this subsection.

As added by P.L.256-1999, SEC.16. Amended by P.L.2-2003, SEC.46; P.L.158-2013, SEC.230; P.L.214-2013, SEC.17.

IC 16-25-6-4
Fees

Sec. 4. (a) A person who owns or operates a hospice program is responsible for the payment of fees under IC 10-13-3-30 and other fees required under section 2 of this chapter.

(b) This subsection does not apply to a hospice program volunteer. A hospice program may require an individual who applies to the hospice program for employment to provide hospice services:
(1) to pay the fees described in subsection (a) to the hospice program at the time the individual submits an application for employment; or
(2) to reimburse the hospice program for the payment of the fees described in subsection (a).

As added by P.L.256-1999, SEC.16. Amended by P.L.2-2003, SEC.47.

IC 16-25-6-5
Violations

Sec. 5. A person who:
(1) owns or operates a hospice program; and
(2) violates section 2 or 3 of this chapter;
commits a Class A infraction.

As added by P.L.256-1999, SEC.16.

IC 16-25-7

Chapter 7. Disclosure Requirements

IC 16-25-7-1

Disclosure document presented to potential patients

Sec. 1. Each hospice program licensed or approved under this article shall prepare and update as necessary a disclosure document to be presented to each potential patient of the hospice program.

As added by P.L.256-1999, SEC.17.

IC 16-25-7-2

Contents of disclosure document

Sec. 2. The disclosure document required under section 1 of this chapter must contain at least the following:

(1) A description of all hospice services provided by the hospice program, including the:

(A) types of nursing services;

(B) other services;

(C) specific services available during the progressive stages of the terminal illness and thereafter; and

(D) a statement that the extent of hospice services and supplies are dispensed based on the hospice program patient's individual needs as determined by the interdisciplinary team.

(2) An explanation of the hospice program's internal complaint resolution process.

(3) A statement that the hospice program patient has the right to participate in the planning of the patient's care.

(4) A statement that a hospice program patient may refuse any component of hospice services offered by the hospice program.

(5) A statement that a hospice employee may provide supplies to a:

(A) hospice program patient; or

(B) hospice program patient's family;

in addition to the supplies provided by the hospice program, but the employee may only be reimbursed for the supplies by providing a written receipt to the hospice program patient or the hospice program patient's family.

(6) A statement that the hospice program patient may request the hospice program to provide, on a monthly basis, an itemized statement of services and supplies delivered to the patient, as submitted to the patient's payor.

(7) The toll free number established by the state department under IC 16-25-5-4 to receive complaints from hospice program patients and the family members of hospice program patients regarding the hospice program.

As added by P.L.256-1999, SEC.17.

IC 16-25-7-3
Plan of care

Sec. 3. The hospice program must:

(1) include in the plan of care the professional disciplines that will furnish the care to the patient and the frequency of visits proposed to be furnished; and

(2) advise the hospice program patient of any change in the plan of care.

As added by P.L.256-1999, SEC.17.

IC 16-26

ARTICLE 26. MATERNITY HOMES

IC 16-26-1

Chapter 1. Registration of Maternity Homes

IC 16-26-1-1

Registration of maternity homes; necessity if applying for grant or tax credit

Sec. 1. (a) A maternity home operator may register a maternity home with the state department.

(b) A maternity home operator that applies for a grant under IC 16-26-2 or a tax credit under IC 6-3.1-14 must be registered with the state department.

As added by P.L.2-1993, SEC.9.

IC 16-26-1-2

Rules

Sec. 2. The state department shall adopt rules under IC 4-22-2 to register maternity homes.

As added by P.L.2-1993, SEC.9.

IC 16-26-1-3

Confidentiality of records; application of section

Sec. 3. (a) This section does not apply to the following:

(1) A proceeding involving the registration of a maternity home.

(2) A court proceeding.

(3) A tax audit.

(b) The state department may not disclose, in a manner that identifies an individual pregnant woman, information received through filed forms, reports, registration, inspection, or other means specified in a rule adopted under IC 16-19-3-4.

As added by P.L.2-1993, SEC.9.

IC 16-26-1-4

Tax credit; required information

Sec. 4. A maternity home operator that seeks to claim a tax credit under IC 6-3.1-14 for operating a maternity home that is registered under this chapter shall file with the state department a form provided by the state department certifying the following information:

(1) The tax credit the maternity home operator desires to claim for the taxable year.

(2) Information on each pregnant woman claimed, including the following:

(A) Name.

(B) Last known address.

(C) Dates resided with maternity home operator.

(D) Current status of pregnancy.
(E) Date or expected date of delivery.
As added by P.L.2-1993, SEC.9.

IC 16-26-2

Chapter 2. Maternity Assistance Development Fund

IC 16-26-2-1

Applicant defined

Sec. 1. As used in this chapter, "applicant" means a nonprofit organization that:

(1) is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code;

(2) is registered as a maternity home under IC 16-26-1; and

(3) applies to the state department for a grant from the fund for the purpose of expanding, creating, or improving a maternity home.

As added by P.L.2-1993, SEC.9.

IC 16-26-2-2

Fund defined

Sec. 2. As used in this chapter, "fund" refers to the maternity assistance development fund.

As added by P.L.2-1993, SEC.9.

IC 16-26-2-3

Maternity assistance development fund; establishment; purpose

Sec. 3. The maternity assistance development fund is established for the purpose of making grants to eligible applicants in accordance with this chapter and rules adopted under this chapter.

As added by P.L.2-1993, SEC.9.

IC 16-26-2-4

Maternity assistance development fund; administration; rules

Sec. 4. The state department shall administer the fund. The state department may adopt rules under IC 4-22-2 for the administration of the fund and this chapter.

As added by P.L.2-1993, SEC.9.

IC 16-26-2-5

Maternity assistance development fund; grants, gifts, and contributions

Sec. 5. The state department may receive and accept for deposit in the fund grants, gifts, and contributions from public and private sources, including on behalf of the state grants from the federal government.

As added by P.L.2-1993, SEC.9.

IC 16-26-2-6

Federal funding

Sec. 6. The state department shall apply for federal funding that becomes available to the state for activities associated with maternity

homes.
As added by P.L.2-1993, SEC.9.

IC 16-26-2-7
Maternity assistance development fund; administrative expenses
Sec. 7. The expenses of administering the fund shall be paid from the money in the fund.
As added by P.L.2-1993, SEC.9.

IC 16-26-2-8
Maternity assistance development fund; investment
Sec. 8. The treasurer of state shall invest the money not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest shall be deposited in the fund.
As added by P.L.2-1993, SEC.9.

IC 16-26-2-9
Maternity assistance development fund; reversion
Sec. 9. Money in the fund at the end of a state fiscal year does not revert to the state general fund.
As added by P.L.2-1993, SEC.9.

IC 16-26-2-10
Fund grants; eligibility; application; forms
Sec. 10. To be eligible to receive a grant from the fund, an applicant must apply to the state department on forms provided by the state department.
As added by P.L.2-1993, SEC.9.

IC 16-26-2-11
Fund grants; purposes
Sec. 11. The state department may approve a grant to a registered maternity home for any of the following purposes:
(1) To expand, create, or improve facilities.
(2) To provide educational assistance, prenatal or child care classes, or job training for pregnant women.
(3) To provide equipment or supplies so that more pregnant women may be assisted.
(4) To provide training for staff or personnel of the maternity home.
(5) To provide temporary residence for pregnant women.
(6) To provide or improve prenatal services for pregnant women that have no access to other prenatal services.
As added by P.L.2-1993, SEC.9.

IC 16-26-2-12
Fund grants; considerations in approving applications

Sec. 12. The state department shall consider the following factors before approving a grant application:

(1) The number of pregnant women that will benefit from the grant.

(2) The services that the applicant's program will provide.

(3) The need for services in the applicant's location.

(4) The amount of money, if any, the applicant or other donors will contribute to the applicant's proposed program.

(5) The eligibility requirements to participate in the applicant's program.

(6) The quality of prenatal services provided in the home if prenatal services are provided there. If prenatal services are not provided in the home, the availability of prenatal services.

As added by P.L.2-1993, SEC.9.

IC 16-27

ARTICLE 27. HOME HEALTH AGENCIES

IC 16-27-0.5

Chapter 0.5. Proposal of Rule or Rule Amendment by Health Care Advisory Council

IC 16-27-0.5-0.5

Repealed

(As added by P.L.152-2005, SEC.2. Repealed by P.L.156-2011, SEC.41; P.L.197-2011, SEC.153.)

IC 16-27-0.5-1

Repealed

(As added by P.L.12-2004, SEC.5. Amended by P.L.152-2005, SEC.3; P.L.197-2007, SEC.5. Repealed by P.L.156-2011, SEC.41; P.L.197-2011, SEC.153.)

IC 16-27-0.5-2

Repealed

(As added by P.L.12-2004, SEC.5. Repealed by P.L.156-2011, SEC.41; P.L.197-2011, SEC.153.)

IC 16-27-0.5-3

Repealed

(As added by P.L.12-2004, SEC.5. Repealed by P.L.156-2011, SEC.41; P.L.197-2011, SEC.153.)

IC 16-27-0.5-4

Repealed

(As added by P.L.12-2004, SEC.5. Repealed by P.L.156-2011, SEC.41; P.L.197-2011, SEC.153.)

IC 16-27-0.5-5

Repealed

(As added by P.L.12-2004, SEC.5. Repealed by P.L.156-2011, SEC.41; P.L.197-2011, SEC.153.)

IC 16-27-0.5-6

Repealed

(As added by P.L.12-2004, SEC.5. Repealed by P.L.156-2011, SEC.41; P.L.197-2011, SEC.153.)

IC 16-27-0.5-7

Repealed

(As added by P.L.12-2004, SEC.5. Repealed by P.L.156-2011, SEC.41; P.L.197-2011, SEC.153.)

IC 16-27-0.5-8
Repealed

(As added by P.L.12-2004, SEC.5. Repealed by P.L.156-2011, SEC.41; P.L.197-2011, SEC.153.)

IC 16-27-0.5-9
Rules

Sec. 9. The state department may adopt rules under IC 4-22-2 necessary to protect the health, safety, rights, and welfare of the home health care patients and hospice patients.

As added by P.L.12-2004, SEC.5. Amended by P.L.156-2011, SEC.20; P.L.197-2011, SEC.63; P.L.6-2012, SEC.117; P.L.141-2014, SEC.8.

IC 16-27-1

Chapter 1. Licensure of Home Health Agencies

IC 16-27-1-0.5

Repealed

(As added by P.L.255-2001, SEC.13. Repealed by P.L.212-2005, SEC.77.)

IC 16-27-1-1

"Health care professional"

Sec. 1. As used in this chapter, "health care professional" means any of the following:

(1) A licensed physician.

(2) A licensed dentist.

(3) A licensed chiropractor.

(4) A licensed podiatrist.

(5) A licensed optometrist.

(6) A nurse licensed under IC 25-23-1.

(7) A physical therapist licensed under IC 25-27 or a physical therapy assistant certified under IC 25-27.

(8) A speech-language pathologist or an audiologist licensed under IC 25-35.6-3.

(9) A speech-language pathology aide or an audiology aide (as defined in IC 25-35.6-1-2).

(10) An:

(A) occupational therapist; or

(B) occupational therapy assistant;

licensed under IC 25-23.5.

(11) A social worker licensed under IC 25-23.6 or a social work assistant.

(12) A pharmacist licensed under IC 25-26-13.

As added by P.L.2-1993, SEC.10. Amended by P.L.146-1996, SEC.1; P.L.147-1997, SEC.1; P.L.197-2007, SEC.6; P.L.197-2011, SEC.64.

IC 16-27-1-2

"Home health agency"

Sec. 2. (a) As used in this chapter, "home health agency" means a person that provides or offers to provide only a home health service for compensation.

(b) The term does not include the following:

(1) An individual health care professional who provides professional services to a patient in the temporary or permanent residence of the patient.

(2) A local health department as described in IC 16-20 or IC 16-22-8.

(3) A person that:

(A) is approved by the division of disability and rehabilitative services to provide supported living services

or supported living supports to individuals with developmental disabilities;

(B) is subject to rules adopted under IC 12-11-2.1; and

(C) serves only individuals with developmental disabilities who are in a placement authorized under IC 12-11-2.1-4.

As added by P.L.2-1993, SEC.10. Amended by P.L.37-2003, SEC.1; P.L.141-2006, SEC.80.

IC 16-27-1-3
Repealed

(As added by P.L.2-1993, SEC.10. Repealed by P.L.110-1999, SEC.6.)

IC 16-27-1-4
"Home health aide services"

Sec. 4. As used in this chapter, "home health aide services" means only home health services that may be performed by a home health aide.

As added by P.L.2-1993, SEC.10.

IC 16-27-1-5
"Home health services"

Sec. 5. (a) As used in this chapter, "home health services" means services that:

(1) are provided to a patient by:

(A) a home health agency; or

(B) another person under an arrangement with a home health agency;

in the temporary or permanent residence of the patient; and

(2) either, are required by law to be:

(A) ordered by a licensed physician, a licensed dentist, a licensed chiropractor, a licensed podiatrist, or a licensed optometrist for the service to be performed; or

(B) performed only by a health care professional.

(b) The term includes the following:

(1) Nursing treatment and procedures.

(2) Physical therapy.

(3) Occupational therapy.

(4) Speech therapy.

(5) Medical social services.

(6) Home health aide services.

(7) Other therapeutic services.

(c) The term does not apply to the following:

(1) Services provided by a physician licensed under IC 25-22.5.

(2) Incidental services provided by a licensed health facility to patients of the licensed health facility.

(3) Services provided by employers or membership organizations using health care professionals for their

employees, members, and families of the employees or members if the health or home care services are not the predominant purpose of the employer or a membership organization's business.

(4) Nonmedical nursing care given in accordance with the tenets and practice of a recognized church or religious denomination to a patient who depends upon healing by prayer and spiritual means alone in accordance with the tenets and practices of the patient's church or religious denomination.

(5) Services that are allowed to be performed by an attendant under IC 16-27-1-10.

(6) Authorized services provided by a personal services attendant under IC 12-10-17.1.

As added by P.L.2-1993, SEC.10. Amended by P.L.146-1996, SEC.2; P.L.255-2001, SEC.14; P.L.212-2005, SEC.10; P.L.141-2006, SEC.81.

IC 16-27-1-6
"Patient"

Sec. 6. As used in this chapter, "patient" means an individual who has been accepted for care by a home health agency.

As added by P.L.2-1993, SEC.10.

IC 16-27-1-7
Rules

Sec. 7. The state department shall adopt rules under IC 4-22-2 to do the following:

(1) Protect the health, safety, and welfare of patients.

(2) Govern the qualifications of applicants for licenses.

(3) Govern the operating policies, supervision, and maintenance of service records of home health agencies.

(4) Govern the procedure for issuing, renewing, denying, or revoking an annual license to a home health agency, including the following:

(A) The form and content of the license.

(B) The collection of an annual license fee of not more than two hundred fifty dollars ($250) that the state department may waive.

(5) Exempt persons who do not provide home health services under this chapter.

As added by P.L.2-1993, SEC.10. Amended by P.L.212-2005, SEC.11.

IC 16-27-1-8
Licensing; tax warrant list

Sec. 8. (a) To operate a home health agency, a person must first obtain a license from the state health commissioner, unless the person is exempted by a rule adopted by the state department.

(b) The state health commissioner may also permit persons who are not required to be licensed under this chapter to be voluntarily licensed if:

(1) the services provided by the person are substantially similar to those provided by licensed home health agencies under this chapter; and

(2) licensure will assist the person in obtaining:

(A) payment for services; or

(B) certification.

(c) If the department of state revenue notifies the department that a person is on the most recent tax warrant list, the department shall not issue or renew the person's license until:

(1) the person provides to the department a statement from the department of state revenue indicating that the person's tax warrant has been satisfied; or

(2) the department receives a notice from the commissioner of the department of state revenue under IC 6-8.1-8-2(k).

As added by P.L.2-1993, SEC.10. Amended by P.L.172-2011, SEC.117.

IC 16-27-1-9

Operation of unlicensed home health agencies

Sec. 9. (a) The state department shall investigate a report of an unlicensed home health agency operation and report its findings to the attorney general.

(b) The attorney general may do the following:

(1) Seek an injunction in the circuit or superior court of the county in which the unlicensed home health agency is located.

(2) Prosecute violations under section 15 of this chapter.

As added by P.L.2-1993, SEC.10.

IC 16-27-1-10

Services not prohibited

Sec. 10. This chapter does not prohibit the provision of:

(1) homemaker services, including shopping, laundry, cleaning, and seasonal chores;

(2) companion type services, including transportation, letter writing, mail reading, and escort services;

(3) assistance with cognitive tasks, including managing finances, planning activities, and making decisions;

(4) attendant care services; or

(5) any other services for which an individual license, certification, registration, or permit is not required under state law.

As added by P.L.2-1993, SEC.10. Amended by P.L.256-1999, SEC.18; P.L.255-2001, SEC.15.

IC 16-27-1-11

Home health agency operated by licensed hospital or health facility

Sec. 11. For purposes of this chapter, a facility licensed under IC 16-21-2 or IC 16-28-2 that operates a home health agency is subject to the rules adopted under this chapter for the facility's home health agency. However, the facility may only be licensed under IC 16-21-2 or IC 16-28-2, respectively.

As added by P.L.2-1993, SEC.10.

IC 16-27-1-12

Prohibited acts; penalties

Sec. 12. (a) The state health commissioner may take one (1) or more of the following actions on any ground listed in subsection (b):

(1) Issue a letter of correction.

(2) Issue a probationary license.

(3) Conduct a resurvey.

(4) Deny renewal of a license.

(5) Revoke a license.

(6) Impose a civil penalty in an amount not to exceed ten thousand dollars ($10,000).

(b) The state health commissioner may take action under subsection (a) on any of the following grounds:

(1) Violation of any of the provisions of this chapter or rules adopted under this chapter.

(2) Permitting, aiding, or abetting the commission of an illegal act in a home health agency.

(3) Conduct or practice found by the state department to be detrimental to the welfare of the patients of the home health care agency.

(c) IC 4-21.5 applies to an action under this section.

As added by P.L.2-1993, SEC.10.

IC 16-27-1-13

Review

Sec. 13. A licensee or an applicant for a license aggrieved by an action under this chapter may request review under IC 4-21.5.

As added by P.L.2-1993, SEC.10.

IC 16-27-1-14

Appeals panel

Sec. 14. (a) The executive board shall appoint an appeals panel consisting of three (3) members as follows:

(1) One (1) member of the executive board.

(2) One (1) attorney admitted to the practice of law in Indiana who is not an employee of the state department.

(3) One (1) individual with qualifications determined by the executive board.

(b) An employee of the state department may not be a member of the panel.

(c) The panel shall conduct proceedings for review of an order issued by an administrative law judge under this chapter. The panel is the ultimate authority under IC 4-21.5.
As added by P.L.2-1993, SEC.10.

IC 16-27-1-15
Operation or advertisement of unlicensed home health agency; violation; classification

Sec. 15. A person who:

(1) operates a home health agency; or

(2) advertises the operation of a home health agency;

that is not licensed commits a Class A misdemeanor.
As added by P.L.2-1993, SEC.10.

IC 16-27-1-16
Acceptance of written orders for home health services

Sec. 16. (a) A licensed home health agency may accept written orders for home health services from a physician, a dentist, a chiropractor, a podiatrist, or an optometrist licensed in Indiana or any other state. If the physician, dentist, chiropractor, podiatrist, or optometrist is licensed in a state other than Indiana, the home health agency shall take reasonable immediate steps to determine that:

(1) the order complies with the laws of the state where the order originated; and

(2) the individual who issued the order examined the patient and is licensed to practice in that state.

(b) All orders issued by a physician, a dentist, a chiropractor, a podiatrist, or an optometrist for home health services:

(1) must meet the same requirements whether the order originates in Indiana or another state; and

(2) from another state may not exceed the authority allowed under orders from the same profession in Indiana under IC 25.

As added by P.L.146-1996, SEC.3.

IC 16-27-1-17
Third party billing notice

Sec. 17. A home health agency that provides to a patient notice concerning a third party billing for a home health service provided to the patient shall ensure that the notice:

(1) conspicuously states that the notice is not a bill;

(2) does not include a tear-off portion; and

(3) is not accompanied by a return mailing envelope.

As added by P.L.178-2003, SEC.6.

IC 16-27-1.5

Chapter 1.5. Registration of Home Health Aides

IC 16-27-1.5-1

Home health aide included in registry of nurse aides

Sec. 1. The state department shall include in the registry of nurse aides required by 42 CFR 483.156(a) a home health aide who has successfully completed a home health aide competency evaluation program as required by 42 CFR 484.36.

As added by P.L.110-1999, SEC.2.

IC 16-27-1.5-2

Information required for entry in registry

Sec. 2. Information required for entry of a home health aide in the registry of nurse aides described in section 1 of this chapter must be the same as the information required for nurse aides under 42 CFR 483.156(c).

As added by P.L.110-1999, SEC.2.

IC 16-27-1.5-3

Review and investigation of allegations against home health aides

Sec. 3. (a) The state department shall establish a procedure for the receipt and the timely review and investigation of allegations of:

(1) neglect of a patient;

(2) abuse of a patient; or

(3) misappropriation of patient property;

by a home health aide.

(b) The procedure required under subsection (a) must allow for:

(1) reasonable notice to the home health aide; and

(2) reasonable opportunity for a hearing in which the home health aide may rebut the allegation.

(c) The state department shall, after following the procedure required under this section, make a finding whether the home health aide:

(1) neglected a patient;

(2) abused a patient; or

(3) misappropriated patient property.

(d) If the state department determines that a home health aide has:

(1) neglected a patient;

(2) abused a patient; or

(3) misappropriated patient property;

the state department shall notify the registry of nurse aides of that determination.

As added by P.L.110-1999, SEC.2.

IC 16-27-1.5-4

Rules

Sec. 4. The state department may adopt rules under IC 4-22-2 to

implement this chapter.
As added by P.L.110-1999, SEC.2.

IC 16-27-2

Chapter 2. Criminal History of Home Health Care Operators and Workers

IC 16-27-2-0.2

Application of prior law to employees of home health agencies

Sec. 0.2. The addition of IC 16-10-2.6 (before its repeal, now codified in this chapter) by P.L.190-1989 applies to individuals who are initially employed by a home health agency after June 30, 1989.
As added by P.L.220-2011, SEC.314.

IC 16-27-2-0.5

"Expanded criminal history check"

Sec. 0.5. As used in this chapter, "expanded criminal history check" has the meaning set forth in IC 20-26-2-1.5.
As added by P.L.84-2010, SEC.2. Amended by P.L.51-2016, SEC.3.

IC 16-27-2-1

"Health care professional"

Sec. 1. As used in this chapter, "health care professional" means any of the following:

(1) A licensed physician or a physician assistant (as defined in IC 25-22.5-1-1.1).
(2) A dentist licensed under IC 25-14.
(3) A chiropractor licensed under IC 25-10-1.
(4) A podiatrist licensed under IC 25-29.
(5) An optometrist licensed under IC 25-24.
(6) A nurse licensed under IC 25-23-1.
(7) A physical therapist licensed under IC 25-27 or a physical therapy assistant certified under IC 25-27.
(8) A speech-language pathologist or an audiologist licensed under IC 25-35.6-3.
(9) A speech-language pathology aide or an audiology aide (as defined in IC 25-35.6-1-2).
(10) An:
  (A) occupational therapist licensed; or
  (B) occupational therapy assistant licensed;
under IC 25-23.5.
(11) A social worker licensed under IC 25-23.6 or a clinical social worker licensed under IC 25-23.6.
(12) A pharmacist licensed under IC 25-26-13.

As added by P.L.2-1993, SEC.10. Amended by P.L.178-1993, SEC.2; P.L.147-1997, SEC.2; P.L.90-2007, SEC.1; P.L.197-2007, SEC.7; P.L.197-2011, SEC.65.

IC 16-27-2-1.5

Repealed

(As added by P.L.177-2009, SEC.3. Repealed by P.L.51-2016,

SEC.4.)

IC 16-27-2-2
"Home health agency"

Sec. 2. (a) As used in this chapter, "home health agency" means a home health agency licensed under IC 16-27-1.

(b) The term does not include an individual health care professional who provides professional service to a patient in the temporary or permanent residence of the patient.

As added by P.L.2-1993, SEC.10. Amended by P.L.178-1993, SEC.3.

IC 16-27-2-2.1
"National criminal history background check"

Sec. 2.1. As used in this chapter, "national criminal history background check" means the determination provided by the state police department under IC 10-13-3-39(i).

As added by P.L.197-2007, SEC.8. Amended by P.L.84-2010, SEC.3.

IC 16-27-2-2.2
"Services"

Sec. 2.2. As used in this chapter, "services" includes:

(1) home health services (as defined in IC 16-27-1-5);

(2) any services such as homemaker, companion, sitter, or handyman services provided by a home health agency in the temporary or permanent residence of a patient or client of the home health agency; and

(3) personal services (as defined in IC 16-27-4-4).

As added by P.L.178-1993, SEC.4. Amended by P.L.212-2005, SEC.12; P.L.177-2009, SEC.4.

IC 16-27-2-3
Operation of home health agency or personal services agency; prohibition; criminal conviction

Sec. 3. (a) A person may not operate a home health agency or a personal services agency if the person has been convicted of any of the following:

(1) Rape (IC 35-42-4-1).

(2) Criminal deviate conduct (IC 35-42-4-2) (repealed).

(3) Exploitation of an endangered adult (IC 35-46-1-12).

(4) Failure to report battery, neglect, or exploitation of an endangered adult (IC 35-46-1-13).

(5) Theft (IC 35-43-4), if the person's conviction for theft occurred less than ten (10) years before the date of submission by the person of an application for licensure as a home health agency under IC 16-27-1 or as a personal services agency under IC 16-27-4.

(b) A person who knowingly or intentionally violates this section commits a Class A misdemeanor.

As added by P.L.2-1993, SEC.10. Amended by P.L.178-1993, SEC.5; P.L.212-2005, SEC.13; P.L.158-2013, SEC.231; P.L.214-2013, SEC.18.

IC 16-27-2-4
Employees; criminal history

Sec. 4. (a) A person who operates a home health agency under IC 16-27-1 or a personal services agency under IC 16-27-4 shall apply, not more than three (3) business days after the date that an employee begins to provide services in a patient's temporary or permanent residence, for a copy of the employee's national criminal history background check or expanded criminal history check.

(b) A home health agency or personal services agency may not employ a person to provide services in a patient's or client's temporary or permanent residence for more than three (3) business days without applying for a national criminal history background check or an expanded criminal history check.

As added by P.L.2-1993, SEC.10. Amended by P.L.178-1993, SEC.6; P.L.146-1996, SEC.4; P.L.148-1997, SEC.1; P.L.2-2003, SEC.48; P.L.212-2005, SEC.14; P.L.197-2007, SEC.9; P.L.177-2009, SEC.5; P.L.84-2010, SEC.4; P.L.51-2016, SEC.5.

IC 16-27-2-5
Employees; prohibition; criminal conviction

Sec. 5. (a) Except as provided in subsection (b), a person who operates a home health agency under IC 16-27-1 or a personal services agency under IC 16-27-4 may not employ a person to provide services in a patient's or client's temporary or permanent residence if that person's national criminal history background check or expanded criminal history check indicates that the person has been convicted of any of the following:

(1) Rape (IC 35-42-4-1).
(2) Criminal deviate conduct (IC 35-42-4-2) (repealed).
(3) Exploitation of an endangered adult (IC 35-46-1-12).
(4) Failure to report battery, neglect, or exploitation of an endangered adult (IC 35-46-1-13).
(5) Theft (IC 35-43-4), if the conviction for theft occurred less than ten (10) years before the person's employment application date.
(6) A felony that is substantially equivalent to a felony listed in:
  (A) subdivisions (1) through (4); or
  (B) subdivision (5), if the conviction for theft occurred less than ten (10) years before the person's employment application date;

for which the conviction was entered in another state.

(b) A home health agency or personal services agency may not employ a person to provide services in a patient's or client's temporary or permanent residence for more than twenty-one (21)

calendar days without receipt of that person's national criminal history background check or expanded criminal history check required by section 4 of this chapter, unless the state police department, the Federal Bureau of Investigation under IC 10-13-3-39, or the private agency providing the expanded criminal history check is responsible for failing to provide the person's national criminal history background check or expanded criminal history check to the home health agency or personal services agency within the time required under this subsection.

As added by P.L.2-1993, SEC.10. Amended by P.L.178-1993, SEC.7; P.L.148-1997, SEC.2; P.L.2-2003, SEC.49; P.L.212-2005, SEC.15; P.L.197-2007, SEC.10; P.L.134-2008, SEC.12; P.L.177-2009, SEC.6; P.L.84-2010, SEC.5; P.L.158-2013, SEC.232; P.L.214-2013, SEC.19; P.L.51-2016, SEC.6.

IC 16-27-2-6

Fees; responsibility for payment

Sec. 6. (a) A person who operates a home health agency or a personal services agency under IC 16-27-4 is responsible for the payment of fees under IC 10-13-3-39 and other fees required under section 4 of this chapter.

(b) A home health agency or personal services agency may require a person who applies to the home health agency or personal services agency for employment to provide services in a patient's or client's temporary or permanent residence:

(1) to pay the cost of fees described in subsection (a) to the home health agency or personal services agency at the time the person submits an application for employment; or

(2) to reimburse the home health agency or personal services agency for the cost of fees described in subsection (a).

As added by P.L.2-1993, SEC.10. Amended by P.L.178-1993, SEC.8; P.L.2-2003, SEC.50; P.L.212-2005, SEC.16; P.L.197-2007, SEC.11.

IC 16-27-2-7

Prohibited employment practices

Sec. 7. A person who:

(1) operates a home health agency or personal services agency; and

(2) violates section 4 or 5 of this chapter;

commits a Class A infraction.

As added by P.L.2-1993, SEC.10. Amended by P.L.212-2005, SEC.17.

IC 16-27-2-8

Repealed

(As added by P.L.110-1999, SEC.3. Repealed by P.L.290-2001, SEC.36.)

IC 16-27-2-9
Immunity from liability

Sec. 9. A person (other than a person denied employment or dismissed under this chapter or against whom a finding is made for the registry of nurse aides under 42 CFR 483.156) who in good faith:

(1) denies employment to an individual or dismisses an individual from employment under this chapter;

(2) testifies or participates in an investigation or an administrative or a judicial proceeding arising from:

(A) this chapter; or

(B) 42 CFR 483 regarding the registry of nurse aides; or

(3) makes a report to the state department or the registry of nurse aides;

is immune from both civil and criminal liability arising from those actions.

As added by P.L.110-1999, SEC.4.

IC 16-27-3

Chapter 3. Possession of Certain Drugs and Other Health Care Items

IC 16-27-3-1

Sterile water or saline

Sec. 1. An employee of a home health agency who is a licensed pharmacist, registered nurse, or licensed practical nurse may purchase, store, or transport for administering to a home health patient or hospice patient of the home health agency under the order of a licensed physician the following:

(1) Sterile water for injection and irrigation.

(2) Sterile saline for injection and irrigation.

As added by P.L.105-1998, SEC.2.

IC 16-27-3-2

Vaccines

Sec. 2. (a) An employee of a home health agency who is a licensed pharmacist, registered nurse, or licensed practical nurse may purchase, store, or transport a vaccine in order to administer the vaccine to:

(1) the home health agency's:

(A) employees; or

(B) home health patients or hospice patients; or

(2) family members of a home health patient or hospice patient;

under the order of a licensed physician.

(b) An employee described in subsection (a) who purchases, stores, or transports a vaccine under this section must ensure that a standing order for the vaccine:

(1) is signed and dated by a licensed physician;

(2) identifies the vaccine covered by the order;

(3) indicates that appropriate procedures are established for responding to any adverse reaction to the vaccine; and

(4) directs that a specific medication or category of medication be administered if a recipient has an adverse reaction to the vaccine.

As added by P.L.105-1998, SEC.2.

IC 16-27-3-3

Other drugs

Sec. 3. An employee of a home health agency who is a licensed pharmacist, registered nurse, or licensed practical nurse may purchase, store, or transport the following drugs in order to administer to a home health patient or hospice patient of the home health agency, in accordance with section 5 of this chapter:

(1) Any of the following items in a sealed portable container in a size determined by the dispensing pharmacist:

(A) Up to one thousand (1,000) milliliters of nine-tenths of

one percent (0.9%) sodium chloride intravenous infusion.

(B) Up to one thousand (1,000) milliliters of five percent (5%) dextrose in water injection.

(2) Not more than five (5) dosage units of each of the following items, each in an individually sealed, unused container:

(A) Heparin sodium lock flush in a concentration of ten (10) units per milliliter, one hundred (100) units per milliliter, or one thousand (1,000) units per milliliter.

(B) Epinephrine HC1 solution in a concentration of one (1) to one thousand (1,000).

(C) Diphenhydramine HCl solution in a concentration of fifty (50) milligrams per milliliter.

(D) Methylprednisolone in a concentration of one hundred twenty-five (125) milligrams per two (2) milliliters.

(E) Naloxone in a concentration of up to one (1) milligram per milliliter in a two (2) milliliter vial.

(F) Glucagon in a concentration of one (1) milligram per milliliter.

(G) Furosemide in a concentration of ten (10) milligrams per milliliter.

(H) Lidocaine two and one-half percent (2.5%) and prilocaine two and one-half percent (2.5%) cream in a five (5) gram tube.

(I) Lidocaine HCl solution in a concentration of one percent (1%) in a two (2) milliliter vial.

(J) Urokinase five thousand (5,000) units per a one (1) milliliter vial.

As added by P.L.105-1998, SEC.2.

IC 16-27-3-4

Transportation of drugs in sealed portable container by pharmacist or nurse

Sec. 4. An employee of a home health agency who is a licensed pharmacist, registered nurse, or licensed practical nurse may purchase, store, or transport drugs in a sealed portable container under this chapter only if the home health agency has established written policies and procedures to ensure the following:

(1) That the container is handled properly with respect to storage, transportation, and temperature stability.

(2) That a drug is removed from the container only on the written or oral order of a licensed physician.

(3) That the administration of a drug in the container is performed in accordance with a specific treatment protocol.

(4) That the home health agency maintains a written record of the dates and times the container is in the possession of a licensed pharmacist, registered nurse, or licensed practical nurse.

(5) That the home health agency require an employee who

possesses the container to submit a daily accounting of all drugs and devices in the container to the home health agency in writing.

As added by P.L.105-1998, SEC.2.

IC 16-27-3-5

Administering drugs by pharmacist or nurse

Sec. 5. An employee of a home health agency who:

(1) is a licensed pharmacist, registered nurse, or licensed practical nurse; and

(2) administers a drug listed in section 3 of this chapter;

may administer the drug only in the residence of a home health patient or hospice patient of the home health agency under the order of a licensed physician in connection with the provision of emergency treatment or the adjustment of parenteral drug therapy or vaccine administration.

As added by P.L.105-1998, SEC.2.

IC 16-27-3-6

Physician's orders to pharmacist or nurse to administer drugs

Sec. 6. (a) If an employee of a home health agency who is a licensed pharmacist, registered nurse, or licensed practical nurse administers a drug listed in section 3 of this chapter under the oral order of a licensed physician, the physician shall promptly send a signed copy of the order to the home health agency.

(b) Not more than twenty (20) days after receiving an order under subsection (a), the home health agency shall send a copy of the order, as signed by and received from the physician, to the dispensing pharmacy.

As added by P.L.105-1998, SEC.2.

IC 16-27-3-7

Duties of pharmacist regarding drug containers

Sec. 7. A pharmacist who dispenses a sealed portable container under this chapter shall ensure that the container:

(1) is designed to allow access to the contents of the container only if a tamperproof seal is broken;

(2) bears a label that lists the drugs in the container and provides notice of the container's expiration date; and

(3) remains in the pharmacy or under the control of a licensed pharmacist, registered nurse, or licensed practical nurse.

As added by P.L.105-1998, SEC.2.

IC 16-27-3-8

Honoring nurse's orders

Sec. 8. If a home health agency or hospice patient's care or treatment is being managed, directed, or provided by an advanced practice nurse licensed under IC 25-23, that nurses's orders will be

honored, unless it will cause the home health agency or hospice to be unreimbursed for their service.
As added by P.L.105-1998, SEC.2.

IC 16-27-4

Chapter 4. Licensure of Personal Services Agencies

IC 16-27-4-1

"Client"

Sec. 1. As used in this chapter, "client" means an individual who has been accepted to receive personal services from a personal services agency.

As added by P.L.212-2005, SEC.18.

IC 16-27-4-2

"Parent personal services agency"

Sec. 2. As used in this chapter, "parent personal services agency" means the personal services agency that develops and maintains administrative and fiscal control over a branch office.

As added by P.L.212-2005, SEC.18.

IC 16-27-4-3

"Personal representative"

Sec. 3. As used in this chapter, "personal representative" means a person who has legal authority to act on behalf of the client with regard to the action to be taken.

As added by P.L.212-2005, SEC.18.

IC 16-27-4-4

"Personal services"

Sec. 4. (a) As used in this chapter, "personal services" means:

(1) attendant care services;

(2) homemaker services that assist with or perform household tasks, including housekeeping, shopping, laundry, meal planning and preparation, and cleaning; and

(3) companion services that provide fellowship, care, and protection for a client, including transportation, letter writing, mail reading, and escort services;

that are provided to a client at the client's residence.

(b) The term does not apply to the following:

(1) Incidental services provided by a licensed health facility to patients of the licensed health facility.

(2) Services provided by employers or membership organizations for their employees, members, and families of the employees or members if the services are not the predominant purpose of the employer or the membership organization's business.

(3) Services that are allowed to be performed by a personal services attendant under IC 12-10-17.1.

(4) Services that require the order of a health care professional for the services to be lawfully performed in Indiana.

(5) Assisted living Medicaid waiver services.

(6) Services that are performed by a facility described in IC 12-10-15.

As added by P.L.212-2005, SEC.18. Amended by P.L.141-2006, SEC.82.

IC 16-27-4-5

"Personal services agency"

Sec. 5. (a) As used in this chapter, "personal services agency" means a person that provides or offers to provide a personal service for compensation, whether through the agency's own employees or by arrangement with another person.

(b) The term does not include the following:

(1) An individual who provides personal services only to the individual's family or to not more than three (3) individuals per residence and not more than a total of seven (7) individuals concurrently. As used in this subdivision, "family" means the individual's spouse, child, parent, parent-in-law, grandparent, grandchild, brother, brother-in-law, sister, sister-in-law, aunt, aunt-in-law, uncle, uncle-in-law, niece, and nephew.

(2) A local health department as described in IC 16-20 or IC 16-22-8.

(3) A person that:

(A) is approved by the division of disability and rehabilitative services to provide supported living services or supported living support to individuals with developmental disabilities;

(B) is subject to rules adopted under IC 12-11-2.1; and

(C) serves only individuals with developmental disabilities who are in a placement authorized under IC 12-11-2.1-4.

As added by P.L.212-2005, SEC.18. Amended by P.L.141-2006, SEC.83.

IC 16-27-4-6

License required; branch offices; fee; application; onsite inspection; expiration; home health agency

Sec. 6. (a) To operate a personal services agency, a person must obtain a license from the state health commissioner. A personal services agency may not be opened, operated, managed, or maintained or conduct business without a license from the state department. Each parent personal services agency must obtain a separate license.

(b) A parent personal services agency may maintain branch offices that operate under the license of the parent personal services agency. Each branch office must be:

(1) at a location or site from which the personal services agency provides services;

(2) owned and controlled by the parent personal services agency; and

(3) located within a radius of one hundred twenty (120) miles of the parent personal services agency.

(c) A license is required for any personal services agency providing services in Indiana. An out-of-state personal services agency must be authorized by the secretary of state to conduct business in Indiana and have a branch office in Indiana.

(d) Application for a license to operate a personal services agency must be made on a form provided by the state department and must be accompanied by the payment of a fee of two hundred fifty dollars ($250). The application may not require any information except as required under this chapter.

(e) After receiving a completed application that demonstrates prima facie compliance with the requirements of this chapter and the payment of the fee required by subsection (d), the state department shall issue a license to the applicant to operate a personal services agency. The state department may conduct an onsite inspection in conjunction with the issuance of an initial license or the renewal of a license.

(f) In the state department's consideration of:

(1) an application for licensure;

(2) an application for renewal of licensure;

(3) a complaint alleging noncompliance with the requirements of this chapter; or

(4) an investigation conducted under section 7(a) of this chapter;

the state department's onsite inspections in conjunction with those actions are limited to determining the personal service agency's compliance with the requirements of this chapter or permitting or aiding an illegal act in a personal services agency.

(g) Subject to subsection (e), when conducting an onsite inspection, the state department must receive all documents necessary to determine the personal service agency's compliance with the requirements of this chapter. A personal services agency must produce documents requested by the state department surveyor not less than twenty-four (24) hours after the documents have been requested.

(h) A license expires one (1) year after the date of issuance of the license under subsection (e). However, the state department may issue an initial license for a period of less than one (1) year to stagger the expiration dates. The licensee shall notify the state department in writing at least thirty (30) days before closing or selling the personal services agency.

(i) A personal services agency license may not be transferred or assigned. Upon sale, assignment, lease, or other transfer, including transfers that qualify as a change in ownership, the new owner or person in interest must obtain a license from the state department under this chapter before maintaining, operating, or conducting the personal services agency.

(j) A home health agency licensed under IC 16-27-1 that operates a personal services agency within the home health agency is subject to the requirements of this chapter. The requirements under IC 16-27-1 do not apply to a home health agency's personal services agency. The requirements under this chapter do not apply to a home health agency's operations. A home health agency that is licensed under IC 16-27-1 is not required to obtain a license under this chapter.

(k) If a person who is licensed to operate a personal services agency is also licensed to operate a home health agency under IC 16-27-1, an onsite inspection for renewal of the person's personal services agency license must, to the extent feasible, be conducted at the same time as an onsite inspection for the home health agency license.

As added by P.L.212-2005, SEC.18.

IC 16-27-4-7

Unlicensed agencies; attorney general

Sec. 7. (a) The state department shall investigate a report of an unlicensed personal services agency operation and report its findings to the attorney general.

(b) The attorney general may do the following:

(1) Seek an injunction in the circuit or superior court of the county in which the unlicensed home health agency is located.

(2) Prosecute violations under section 23 of this chapter.

As added by P.L.212-2005, SEC.18.

IC 16-27-4-8

Unstable health conditions

Sec. 8. (a) If a personal services agency is aware that the client's medical or health condition has become unstable or unpredictable, the personal services agency shall notify the client, the client's personal representative, a family member, other relative of the client, or other person identified by the client of the need for a referral for medical or health services. The notification may be given in writing or orally and must be documented in the client's record with the personal services agency.

(b) The personal services agency may continue to provide personal services for a client with an unstable or unpredictable medical or health condition but may not manage or represent itself as able to manage the client's medical or health condition.

As added by P.L.212-2005, SEC.18.

IC 16-27-4-9

Personal services agency manager

Sec. 9. (a) A personal services agency shall employ an individual to act as the personal services agency's manager. The manager is responsible for the organization and daily operation of the personal

services agency.

(b) The manager may designate in writing one (1) or more individuals to act on behalf of or to perform any or all the responsibilities of the personal services agency's manager under this chapter.

As added by P.L.212-2005, SEC.18.

IC 16-27-4-10

Service plan

Sec. 10. The personal services agency's manager or the manager's designee shall prepare a service plan for a client before providing personal services for the client. A permanent change to the service plan requires a written change to the service plan. The service plan must:

(1) be in writing, dated, and signed by the individual who prepared it;

(2) list the types and schedule of services to be provided; and

(3) state that the services to be provided to the client are subject to the client's right to temporarily suspend, permanently terminate, temporarily add, or permanently add the provision of any service.

All permanent changes require a change in the written service plan. The service plan must be signed and dated by the client not later than fourteen (14) days after services begin for the client and not later than fourteen (14) days after any permanent change to the service plan.

As added by P.L.212-2005, SEC.18.

IC 16-27-4-11

Client satisfaction review

Sec. 11. The personal services agency's manager or the manager's designee shall conduct a client satisfaction review with the client every seventy-six (76) to one hundred four (104) days to discuss the services being provided and to determine if any change in the plan of services should occur. The review with the client may be in person or by telephone. This client satisfaction review must:

(1) be put in writing; and

(2) be signed and dated by the individual conducting the review.

As added by P.L.212-2005, SEC.18.

IC 16-27-4-12

Client rights statement

Sec. 12. The personal services agency shall provide the client or the client's personal representative with the personal services agency's written statement of client rights not more than seven (7) days after providing services to the client. The statement of client rights must include the following information:

(1) The client has the right to have the client's property treated

with respect.

(2) The client has the right to temporarily suspend, permanently terminate, temporarily add, or permanently add services in the service plan.

(3) The client has the right to file grievances regarding services furnished or regarding the lack of respect for property by the personal services agency and is not subject to discrimination or reprisal for filing a grievance.

(4) The client has the right to be free from verbal, physical, and psychological abuse and to be treated with dignity.

(5) A statement that it is not within the scope of the personal services agency's license to manage the medical and health conditions of the client if a condition becomes unstable or unpredictable.

(6) The charges for services provided by the personal services agency.

(7) The personal services agency's policy for notifying the client of any increase in the cost of services.

(8) The hours the personal services agency's office is open for business.

(9) That on request the personal services agency will make available to the client a written list of the names and addresses of all persons having at least a five percent (5%) ownership or controlling interest in the personal services agency.

(10) The procedures for contacting the personal services agency's manager, or the manager's designee, while the personal services agency's office is open or closed.

(11) The procedure and telephone number to call to file a complaint with the personal services agency.

(12) That the state department does not inspect personal service agencies as part of the licensing process but does investigate complaints concerning personal service agencies.

(13) The procedure and telephone number to call to file a complaint with the state department along with the business hours of the state department.

As added by P.L.212-2005, SEC.18.

IC 16-27-4-13

Complaint investigations

Sec. 13. A personal services agency shall investigate a complaint made by a client, the client's family, or the client's personal representative regarding:

(1) service that is or fails to be furnished; and

(2) lack of respect for the client's property by anyone furnishing services on behalf of the personal services agency.

The personal services agency shall document the complaint and the resolution of the complaint.

As added by P.L.212-2005, SEC.18.

IC 16-27-4-14
Telephone contact

Sec. 14. The personal services agency's manager or the manager's designee shall be available to respond to client telephone calls twenty-four (24) hours a day.

As added by P.L.212-2005, SEC.18.

IC 16-27-4-15
Tuberculosis test

Sec. 15. An employee or agent of a personal services agency who will have direct client contact must complete a tuberculosis test in the same manner as required by the state department for licensed home health agency employees and agents.

As added by P.L.212-2005, SEC.18.

IC 16-27-4-16
Evaluation and training

Sec. 16. (a) The competency of an employee or agent of a personal services agency who will perform attendant care services at the client's residence must be evaluated by the agency or the agency's designee for each attendant care services task that the personal services agency chooses to have that employee or agent perform. The agency has the sole discretion to determine if an employee or agent is competent to perform an attendant care services task.

(b) After an evaluation, an employee or agent shall be trained in the attendant care services tasks the personal services agency believes require improvement. The employee or agent shall be reevaluated following any training. The evaluation of the employee or agent and determination by the agency that the employee or agent is competent to perform the attendant care services task must occur before the employee or agent performs that task for a client without direct agency supervision.

(c) The content of the evaluation and training conducted under this section, including the date and the signature of the person conducting the evaluation and training, must be documented for each employee or agent who performs personal services.

As added by P.L.212-2005, SEC.18.

IC 16-27-4-17
Disclosure of ownership

Sec. 17. (a) Disclosure of ownership and management information must be made to the state department:

(1) at the time of the personal services agency's request for licensure;

(2) during each survey of the personal services agency; and

(3) when there is a change in the management or in an ownership interest of more than five percent (5%) of the personal services agency.

(b) The disclosure under subsection (a) must include the following:

(1) The name and address of all persons having at least five percent (5%) ownership or controlling interest in the personal services agency.

(2) The name and address of each person who is an officer, a director, a managing agent, or a managing employee of the personal services agency.

(3) The name and address of the person responsible for the management of the personal services agency.

(4) The name and address of the chief executive officer and the chairperson (or holder of the equivalent position) of the governing body that is responsible for the person identified under subdivision (3).

(c) The determination of an ownership interest and the percentage of an ownership interest under this chapter must be determined under 42 CFR 420.201 and 42 CFR 420.202, as in effect on July 1, 2005.
As added by P.L.212-2005, SEC.18. Amended by P.L.7-2015, SEC.42.

IC 16-27-4-18
Compliance documentation

Sec. 18. A personal services agency shall document evidence of compliance with the requirements of this chapter and document services provided to clients. The documentation or copies of the documentation must be maintained or be electronically accessible at a personal services agency's office in Indiana for not less than seven (7) years.
As added by P.L.212-2005, SEC.18.

IC 16-27-4-19
Penalties

Sec. 19. (a) The state health commissioner may take one (1) or more of the following actions on any ground listed in subsection (b):

(1) Issue a probationary license.

(2) Conduct a resurvey.

(3) Deny renewal of a license.

(4) Revoke a license.

(5) Impose a civil penalty in an amount not to exceed one thousand dollars ($1,000).

(b) The state health commissioner may take action under subsection (a) on any of the following grounds:

(1) Violation of a provision of this chapter or a rule adopted under this chapter.

(2) Permitting, aiding, or abetting the commission of an illegal act in a personal services agency.

(c) IC 4-21.5 applies to an action under this section.
As added by P.L.212-2005, SEC.18.

IC 16-27-4-20
Rules

Sec. 20. (a) The state department shall adopt rules under IC 4-22-2 to govern the procedure for the following:

(1) Issuing, renewing, denying, or revoking a personal services agency license.

(2) Investigating a complaint against a personal services agency that alleges a violation of this chapter.

(3) Collecting fees required under this chapter.

(b) The state department may not add to the substantive or procedural requirements in this chapter.

As added by P.L.212-2005, SEC.18.

IC 16-27-4-21
Penalty review

Sec. 21. A licensee or an applicant for a license aggrieved by an action under this chapter may request a review under IC 4-21.5.

As added by P.L.212-2005, SEC.18.

IC 16-27-4-22
Appeals panel

Sec. 22. (a) In response to a request for review of an order referred to in subsection (c), the executive board shall appoint an appeals panel that consists of three (3) members as follows:

(1) One (1) member of the executive board.

(2) One (1) attorney admitted to the practice of law in Indiana.

(3) One (1) individual with qualifications determined by the executive board.

(b) An employee of the state department may not be a member of the panel.

(c) The panel shall conduct proceedings for review of an order issued by an administrative law judge under this chapter. The panel is the ultimate authority under IC 4-21.5.

As added by P.L.212-2005, SEC.18.

IC 16-27-4-23
Penalty

Sec. 23. A person who knowingly or intentionally:

(1) operates a personal services agency; or

(2) advertises the operation of a personal services agency;

that is not licensed under this chapter commits a Class A misdemeanor.

As added by P.L.212-2005, SEC.18.

IC 16-28

ARTICLE 28. HEALTH FACILITIES

IC 16-28-1

Chapter 1. Health Facilities Council

IC 16-28-1-1

Repealed

(As added by P.L.2-1993, SEC.11. Amended by P.L.4-1993, SEC.230; P.L.5-1993, SEC.243; P.L.141-2006, SEC.84; P.L.145-2006, SEC.134; P.L.1-2007, SEC.133. Repealed by P.L.156-2011, SEC.41; P.L.197-2011, SEC.153.)

IC 16-28-1-2

Repealed

(As added by P.L.2-1993, SEC.11. Repealed by P.L.156-2011, SEC.41; P.L.197-2011, SEC.153.)

IC 16-28-1-3

Repealed

(As added by P.L.2-1993, SEC.11. Repealed by P.L.156-2011, SEC.41; P.L.197-2011, SEC.153.)

IC 16-28-1-4

Repealed

(As added by P.L.2-1993, SEC.11. Amended by P.L.179-1993, SEC.2. Repealed by P.L.156-2011, SEC.41; P.L.197-2011, SEC.153.)

IC 16-28-1-5

Repealed

(As added by P.L.2-1993, SEC.11. Repealed by P.L.156-2011, SEC.41; P.L.197-2011, SEC.153.)

IC 16-28-1-6

Repealed

(As added by P.L.2-1993, SEC.11. Repealed by P.L.156-2011, SEC.41; P.L.197-2011, SEC.153.)

IC 16-28-1-7

Adoption of rules; fire safety rule recommendations; classification of facilities

Sec. 7. The state department shall do the following:

(1) Adopt rules under IC 4-22-2 governing the following:

(A) Health and sanitation standards necessary to protect the health, safety, security, rights, and welfare of patients.

(B) Qualifications of applicants for licenses issued under this article to assure the proper care of patients.

(C) Operation, maintenance, management, equipment, and

construction of facilities required to be licensed under this article if jurisdiction is not vested in any other state agency.

(D) Manner, form, and content of the license, including rules governing disclosure of ownership interests.

(E) Levels of medical staffing and medical services in cooperation with the office of Medicaid policy and planning, division of family resources, and other agencies authorized to pay for the services.

(2) Recommend to the fire prevention and building safety commission fire safety rules necessary to protect the health, safety, security, rights, and welfare of patients.

(3) Classify health facilities in health care categories.

As added by P.L.2-1993, SEC.11. Amended by P.L.179-1993, SEC.3; P.L.145-2006, SEC.135; P.L.156-2011, SEC.21; P.L.141-2014, SEC.9.

IC 16-28-1-8
Repealed

(As added by P.L.2-1993, SEC.11. Repealed by P.L.156-2011, SEC.41; P.L.197-2011, SEC.153.)

IC 16-28-1-9
Repealed

(As added by P.L.2-1993, SEC.11. Repealed by P.L.141-2014, SEC.10.)

IC 16-28-1-10
Waiver of rules

Sec. 10. (a) The state health commissioner may, for good cause shown, waive for a specified time any rule that may be waived under the following for a health facility:

(1) This article.

(2) IC 16-29.

(3) IC 16-30.

(b) The granting of a waiver may not adversely affect the health, safety, and welfare of the patients or residents.

As added by P.L.2-1993, SEC.11. Amended by P.L.156-2011, SEC.22.

IC 16-28-1-11
Qualified medication aides and certified nurse aides; certification by state department; registry

Sec. 11. (a) Unless an individual is certified under this section:

(1) the individual may not practice as a qualified medication aide or a certified nurse aide; and

(2) a facility may not employ the individual as a qualified medication aide or a certified nurse aide.

(b) The state department shall do the following:

(1) Establish a program for the certification of qualified medication aides and certified nurse aides who work in facilities licensed under this article.

(2) Prescribe education and training programs for qualified medication aides and certified nurse aides, including course and inservice requirements. The training program must include a competency test that the individual must pass before being granted an initial certification.

(3) Determine the standards concerning the functions that may be performed by a qualified medication aide and a certified nurse aide.

(4) Establish annual certification fees for qualified medication aides.

(5) Adopt rules under IC 4-22-2 necessary to implement and enforce this section.

(c) The state department shall maintain a registry of each individual who is:

(1) certified as a:

(A) qualified medication aide; or

(B) certified nurse aide; or

(2) registered as a home health aide under rules adopted under IC 16-27-1-7.

(d) The department may conduct hearings for violations of this section under IC 4-21.5.

As added by P.L.2-1993, SEC.11. Amended by P.L.24-2002, SEC.1; P.L.156-2011, SEC.23; P.L.226-2011, SEC.5.

IC 16-28-1-12

Repealed

(As added by P.L.2-1993, SEC.11. Amended by P.L.179-1993, SEC.4; P.L.156-2011, SEC.24; P.L.197-2011, SEC.66. Repealed by P.L.141-2014, SEC.11.)

IC 16-28-1-13

Licensure inspections; reports

Sec. 13. (a) Licensure inspections of health facilities shall be made regularly in accordance with rules adopted under this chapter. The division shall make all health and sanitation inspections. The division of fire and building safety shall make all fire safety inspections.

(b) The exact date of an inspection of a health facility under this chapter may not be announced or communicated directly or indirectly to the owner, administrator, or an employee of the facility before the inspection. An employee of the state department who knowingly or intentionally informs a health facility of the exact date of an inspection shall be suspended without pay for five (5) days for a first offense and shall be dismissed for a subsequent offense.

(c) Reports of all inspections must be:

(1) in writing; and
(2) sent to the health facility.

(d) The report of an inspection and records relating to the inspection may not be released to the public until the conditions set forth in IC 16-19-3-25 are satisfied.

As added by P.L.2-1993, SEC.11. Amended by P.L.190-1995, SEC.5; P.L.1-2006, SEC.299; P.L.141-2014, SEC.12.

IC 16-28-1-14

Provision of licensure inspection report copies and summaries; maintenance and inspection of reports

Sec. 14. (a) The division shall provide, on the request of any person and payment of a fee to cover the direct and indirect costs of complying with the request:

(1) a copy of a report of an inspection from the public file of a health facility;
(2) a brief descriptive summary of the annual survey report of a health facility; or
(3) both.

(b) Reports of all inspections under this chapter shall be maintained by each health facility for two (2) years and shall be made available for inspection by any member of the public upon request.

As added by P.L.2-1993, SEC.11.

IC 16-28-2
Chapter 2. Licensure of Health Facilities

IC 16-28-2-1
License required; licensing of state institutions and municipal corporations

Sec. 1. A person must obtain a license from the director before the person may operate a health facility. A state institution or municipal corporation may specifically request licensure and upon compliance with this chapter may be licensed under this chapter.

As added by P.L.2-1993, SEC.11.

IC 16-28-2-2
Applications

Sec. 2. To obtain a license, an applicant must submit an application on the prescribed form showing that the applicant is of reputable and responsible character and able to comply with the standards for health facilities established by this chapter and rules adopted under this chapter.

As added by P.L.2-1993, SEC.11.

IC 16-28-2-3
Requirements for licensure; tax warrant list

Sec. 3. (a) Before the director may issue a license to a health facility, the director must find that the health facility, within the care category for which license is sought, is adequate in each of the following respects:

(1) The physical structure in which the service is to be performed.

(2) The educational level, number, and personal health of the staff.

(3) The financial ability to provide the service to be performed.

(4) The equipment with which to perform the service.

(5) The operating history of other health facilities owned or managed by the same person who owns or manages the facility. The director may recommend denial of licensure to a new facility or facility applying for licensure under new ownership where the owner or manager has a record of operation of other health facilities in substantial breach of this chapter or any other law governing health facilities.

(b) If the department of state revenue notifies the department that a person is on the most recent tax warrant list, the department shall not issue or renew the person's license until:

(1) the person provides to the department a statement from the department of state revenue indicating that the person's tax warrant has been satisfied; or

(2) the department receives a notice from the commissioner of the department of state revenue under IC 6-8.1-8-2(k).

As added by P.L.2-1993, SEC.11. Amended by P.L.172-2011, SEC.118.

IC 16-28-2-4
Issuance of licenses; types; denial, revocation, and refusal to renew licenses

Sec. 4. The director may under IC 4-21.5-3-5 do one (1) of the following:

(1) Issue a full license for not more than one (1) year, on finding that the applicant complies with the provisions of this article and rules adopted under this article.

(2) Issue a provisional license to a new facility or to a facility under new ownership for not more than twelve (12) consecutive months if the applicant can assure the director that the applicant will comply with this article and rules adopted under this article. A provisional license may not be continued beyond twelve (12) consecutive months.

(3) Issue a probationary license to an existing facility as described in IC 16-28-3.

(4) Deny, revoke, or refuse to renew the issuance of a license.

As added by P.L.2-1993, SEC.11.

IC 16-28-2-5
Exclusive use of licenses

Sec. 5. A license issued under this chapter is not assignable or transferable and may be issued only for the person and premises named in the application.

As added by P.L.2-1993, SEC.11.

IC 16-28-2-6
Disclosure statements; affiliations; advertising

Sec. 6. (a) This section does not apply to a health facility that:

(1) does not require the investment of money or the payment of money or other consideration for admission; and

(2) only charges daily or monthly rates for room, board, and care.

(b) A health facility may be licensed or relicensed under this chapter only if a disclosure statement is filed with the director at the time of application on forms provided by the director that contains the following information:

(1) Whether the health facility is affiliated with a religious, charitable, or other nonprofit organization.

(2) The nature and extent of the affiliation, if any, including the extent to which the affiliated organization is responsible for the financial and contractual obligations of the health facility.

(c) The health facility shall deliver a copy of the current disclosure statement on file with the director as provided by subsection (b) to each prospective resident.

(d) If a health facility is affiliated with a religious, charitable, or other nonprofit organization, the health facility must include in the health facility's advertisements and solicitations a summary statement disclosing the following:

(1) The affiliation between the health facility and the religious, charitable, or other nonprofit organization.

(2) The extent to which the affiliated organization is responsible for the financial and contractual obligations of the health facility.

(e) If a health facility is not affiliated with a religious, charitable, or other nonprofit organization but the name of the health facility or the person operating the health facility implies an affiliation, the health facility must include in all the health facility's advertisements and solicitations a summary statement disclosing the following:

(1) That the health facility is not affiliated with a religious, charitable, or other nonprofit organization.

(2) That no religious, charitable, or other nonprofit organization is responsible for the financial or contractual obligations of the health facility.

(f) Whenever there is a change in the affiliation of the health facility with a religious, charitable, or other nonprofit organization, including a change in the extent, if any, to which the affiliated organization is responsible for the financial and contractual obligations of the health facility, the health facility shall amend:

(1) the health facility's disclosure statement on file with the director as required by subsection (b); and

(2) the summary statement included in the health facility's advertisements and solicitations as required by subsections (d) and (e);

if an amendment is necessary to prevent the statement from containing any misstatement of fact or omission to state a material fact required to be stated.

As added by P.L.2-1993, SEC.11.

IC 16-28-2-7

License fees

Sec. 7. The fee for a license as a health facility under this chapter is two hundred dollars ($200) for the first fifty (50) beds available and ten dollars ($10) for each additional bed available.

As added by P.L.2-1993, SEC.11. Amended by P.L.227-2003, SEC.1.

IC 16-28-2-8

Notice regarding requests for names of nursing personnel or direct care staff

Sec. 8. (a) Each comprehensive care health facility shall post a notice that a resident, the legal representative of the resident, or another individual designated by the resident may request from the licensed nurse in charge of each shift information that designates the

names of all nursing personnel on duty by job classification for the:

(1) wing;

(2) unit; or

(3) other area as routinely designated by the health facility;

where the resident resides.

(b) The notice required under subsection (a) must meet the following conditions:

(1) Be posted in a conspicuous place that is readily accessible to residents and the public.

(2) Be at least 24 point font size on a poster that is at least eleven (11) inches wide and seventeen (17) inches long.

(3) Contain the:

(A) business telephone number of the administrator of the health facility; and

(B) toll free telephone number for filing complaints with the state department.

(4) State that if a resident, the legal representative of the resident, or another individual designated by the resident is unable to obtain the information described in subsection (a) from the licensed nurse in charge of each shift, the resident, the legal representative of the resident, or another individual designated by the resident may do any of the following:

(A) Contact the administrator of the health facility.

(B) File a complaint with the state department by using the state department's toll free telephone number.

(c) The state department may adopt rules under IC 4-22-2 to carry out this section.

As added by P.L.108-2000, SEC.5.

IC 16-28-2-9

Semiannual statistical reports

Sec. 9. (a) The office of Medicaid policy and planning shall produce a statistical report semi-annually for each Medicaid certified comprehensive care health facility that lists the following information:

(1) The health facility's case mix index for each quarter covered by the statistical report for which the office of Medicaid policy and planning maintains data.

(2) The number of total hours worked in the health facility by each classification of personnel for which the office of Medicaid policy and planning maintains data.

(3) The resident census of the health facility for which the office of Medicaid policy and planning maintains data.

(4) A calculation of the average case-mix-adjusted hours-per-resident-day ratio for each health facility by each classification of nursing personnel and the average hours-per-resident-day ratio for each health facility for all other personnel by category for which the office of Medicaid policy

and planning maintains data.

(b) The office of Medicaid policy and planning shall provide a compilation of the statistical reports prepared under subsection (a) to the following:

(1) Each Medicaid certified comprehensive care health facility.

(2) The state department.

(3) The state ombudsman.

(4) Each area ombudsman.

(5) Each area agency on aging.

(c) Each Medicaid certified comprehensive care health facility shall:

(1) make available in a place that is readily accessible to residents and the public a copy of the compilation of statistical reports prepared under subsection (a); and

(2) post a notice that a copy of the compilation of statistical reports may be requested from the licensed nurse in charge of each shift.

(d) The notice required under subsection (c)(2) must meet the following conditions:

(1) Be posted in a conspicuous place that is readily accessible to residents and the public.

(2) Be at least 24 point font size on a poster that is at least eleven (11) inches wide and seventeen (17) inches long.

(3) Contain the:

(A) business telephone number of the administrator of the health facility; and

(B) toll free telephone number for filing complaints with the state department.

(4) State that if a resident, the legal representative of the resident, or another individual designated by the resident is unable to obtain the compilation of statistical reports in subsection (a) from the licensed nurse in charge of each shift, the resident, the legal representative of the resident, or another individual designated by the resident may do any of the following:

(A) Contact the administrator of the health facility.

(B) File a complaint with the state department by using the state department's toll free telephone number.

(e) The state department may adopt rules under IC 4-22-2 to carry out this section.

As added by P.L.108-2000, SEC.6.

IC 16-28-2-10

Third party billing notice

Sec. 10. A health facility that provides to a patient notice concerning a third party billing for a service provided to the patient shall ensure that the notice:

(1) conspicuously states that the notice is not a bill;

(2) does not include a tear-off portion; and

(3) is not accompanied by a return mailing envelope.

As added by P.L.178-2003, SEC.7.

IC 16-28-2.5

Chapter 2.5. Licensure and Certification Limitations

IC 16-28-2.5-1

Application

Sec. 1. This chapter does not apply to the conversion of acute care beds to comprehensive care beds under IC 16-29-3.

As added by P.L.257-2015, SEC.4.

IC 16-28-2.5-2

"Comprehensive care bed"

Sec. 2. (a) As used in this chapter, "comprehensive care bed" means a bed that:

(1) is within a comprehensive care health facility licensed under IC 16-28-2;

(2) functions as a bed within a comprehensive care health facility licensed under IC 16-28-2; or

(3) is otherwise subject to this article.

(b) The term does not include a comprehensive care bed that will be used solely to provide specialized services.

As added by P.L.257-2015, SEC.4.

IC 16-28-2.5-3

"Comprehensive care health facility"

Sec. 3. As used in this chapter, "comprehensive care health facility" means a health facility that provides:

(1) nursing care;

(2) room;

(3) food;

(4) laundry;

(5) administration of medications;

(6) special diets; and

(7) treatments;

and that may provide rehabilitative and restorative therapies under the order of an attending physician.

As added by P.L.257-2015, SEC.4.

IC 16-28-2.5-4

"Replacement facility"

Sec. 4. As used in this chapter, "replacement facility" means a new comprehensive care health facility licensed under or subject to this article after July 1, 2015, that:

(1) is constructed to take the place of an existing comprehensive care health facility that is licensed before July 2, 2015;

(2) is constructed within the same county as the existing comprehensive care health facility licensed before July 2, 2015; and

(3) contains no more comprehensive care beds than the existing

comprehensive care health facility licensed before July 2, 2015.
As added by P.L.257-2015, SEC.4.

IC 16-28-2.5-5
"Under development"

Sec. 5. As used in this chapter, "under development" refers to a health facility license application:

(1) to add, construct, or convert comprehensive care beds in a comprehensive care health facility that:
(A) is licensed under;
(B) is to be licensed under;
(C) is subject to; or
(D) will be subject to;
this article; and

(2) that meets all the following:
(A) Funding to construct the comprehensive care health facility has been secured and is actively being drawn upon or otherwise used to further and complete construction.
(B) Zoning requirements have been met.
(C) Complete construction design plans for the comprehensive care health facility have been submitted to the state department and the division of fire and building safety not later than March 1, 2015. The construction design plans must be an accurate and true depiction of the comprehensive care health facility that the applicant intends to construct. However, the construction design plans may be modified to make technical changes, correct errors and omissions, or comply with zoning or other requirements from a governmental entity.
(D) Active and ongoing construction activities progressing to completion of the project are occurring at the project site.

As added by P.L.257-2015, SEC.4.

IC 16-28-2.5-6
Approval by the state department; application

Sec. 6. (a) Except as provided in subsection (b), the state department may not approve the following:

(1) The licensure of:
(A) comprehensive care health facilities; or
(B) new or converted comprehensive care beds.

(2) The certification of new or converted comprehensive care beds for participation in the state Medicaid program unless the statewide comprehensive care bed occupancy rate is more than ninety-five percent (95%), as calculated annually on January 1 by the state department.

(3) Transfer between any comprehensive care facilities of licensed comprehensive care beds or comprehensive care bed certifications for participation in the state Medicaid program.

Beds in a health facility that provides residential nursing care under IC 16-28 may not be converted to comprehensive care beds.

(b) This section does not apply to the following:

(1) A comprehensive care health facility that:

(A) is licensed under;

(B) is to be licensed under;

(C) is subject to; or

(D) will be subject to;

this article and that is under development as of July 1, 2015.

(2) A small house health facility approved under section 7 of this chapter.

(3) A replacement facility, whether or not the replacement facility is under development before July 2, 2015. The existing comprehensive care health facility that is being replaced by the replacement facility:

(A) must no longer be licensed as a comprehensive care health facility sixty (60) days after the replacement facility obtains its license from the state department; and

(B) may transfer any of the comprehensive care beds to the replacement facility.

(4) A continuing care retirement community that was registered under IC 23-2 before July 2, 2015, and that continuously maintains its registration under IC 23-2. If a continuing care retirement community fails to maintain registration under IC 23-2 after July 1, 2015, the comprehensive care beds, including beds certified for use in the state Medicaid program or the Medicare program, that the continuing care retirement community previously operated are not forfeited as long as the continuing care retirement community continues to comply with the licensure and certification requirements of this article.

(5) A comprehensive care health facility or a comprehensive care bed that is to be added or certified in the state Medicaid program in a county where the county's comprehensive care bed occupancy rate exceeds ninety percent (90%), as calculated by the state department on January 1 and July 1 of each year. The number of comprehensive care beds allowed under this subdivision may not exceed either:

(A) the number of beds that would cause the county occupancy rate to fall below the statewide average; or

(B) seventy (70) comprehensive care beds per applicant.

(6) A comprehensive care health facility that undergoes a change of ownership for purposes of:

(A) the granting of a license by the state department to operate the comprehensive care health facility; and

(B) the maintenance for any of the beds in the comprehensive care health facility, including Medicaid certified beds, by the entity granted a license by the state department.

However, after the change of ownership, the comprehensive care health facility is subject to subsection (a) unless the comprehensive care health facility meets the requirements under another subdivision under this subsection.

(c) The state department shall make the final determination concerning whether an entity has met or is meeting the requirements of this chapter concerning being under development.

As added by P.L.257-2015, SEC.4.

IC 16-28-2.5-7

Small house health facilities; application; approval

Sec. 7. (a) A small house health facility that is applying for licensure under this article, including an entity related to the small house health facility through common ownership or control, may apply to the state department for licensure or Medicaid certification of not more than fifty (50) comprehensive care beds for small house health facilities per year.

(b) The state department may not approve licensure or Medicaid certification of more than one hundred (100) new comprehensive care beds per year that are designated for small house health facilities.

(c) The state department shall approve an application for licensure or Medicaid certification for a small house health facility:

(1) in the order of the completed application date; and

(2) if the small house health facility applicant meets the definition of a small house health facility and the requirements of this section.

(d) A person that fails to complete construction and begin operation of a small house health facility within twelve (12) months after the state department's approval of a license under this article forfeits the person's right to any licensed or Medicaid certified comprehensive care bed that was previously approved by the state department if:

(1) another person has applied to the state department for approval of licensed or Medicaid certified comprehensive care beds for a small house health facility; and

(2) the person's application was denied for the sole reason that the maximum number of Medicaid licensed or certified comprehensive care beds specified in this section has been approved by the state department.

As added by P.L.257-2015, SEC.4.

IC 16-28-2.5-8

Expiration

Sec. 8. This chapter expires June 30, 2018.

As added by P.L.257-2015, SEC.4.

IC 16-28-3

Chapter 3. Probationary Licenses; Revocation of Licenses

IC 16-28-3-1

Initiation of proceedings; procedure

Sec. 1. (a) The director may initiate a proceeding to issue a probationary license or to revoke a license issued under this article on any of the following grounds:

(1) Breach of this article or rules adopted under this article.

(2) Permitting, aiding, or abetting the commission of an act in the health facility or on the health facility's premises that is determined by a court to be illegal.

(3) Conduct or practice found by the director to be detrimental to the welfare of the patients at the health facility.

(4) Employing consecutively more than one (1) health facility administrator provisionally licensed under IC 25-19-1-3(b) during any twelve (12) month period.

(b) The procedure governing an action taken under subsection (a) is governed by:

(1) IC 4-21.5-3-8; or

(2) IC 4-21.5-4.

As added by P.L.2-1993, SEC.11.

IC 16-28-3-2

Issuance of probationary licenses

Sec. 2. The director may initiate a proceeding under section 1 of this chapter to issue a probationary license if the director determines that the revocation of an existing license would not be in the best interests of the patients of the health facility or in the best interests of the community served by that facility. The director shall state the requirements and orders that the health facility must comply with in order to receive a probationary license.

As added by P.L.2-1993, SEC.11.

IC 16-28-3-3

Facilities restricted to probationary licenses

Sec. 3. If a health facility is in breach of this article or rules adopted under this article by offenses or patterns of deficiencies detrimental to the best interests of the public, the patients, or the health facility profession, the only type of license that may be issued to the health facility is a probationary license.

As added by P.L.2-1993, SEC.11.

IC 16-28-3-4

Duration of probationary licenses; reissuance; expiration of other licenses

Sec. 4. A probationary license may be issued for three (3) months. The probationary license may be reissued but not more than three (3)

probationary licenses may be issued during a twelve (12) month period. The issuance of a probationary license results in the automatic expiration of any other license held under this article.
As added by P.L.2-1993, SEC.11.

IC 16-28-3-5
License fees

Sec. 5. The license fee for a probationary license is the same as the annual license fee charged for that class and size of facility.
As added by P.L.2-1993, SEC.11.

IC 16-28-4

Chapter 4. Allegations of Breaches

IC 16-28-4-1

Filing of allegations; form

Sec. 1. A person who believes that this article or rules adopted under this article have been breached may file an allegation of breach with the state department. The allegation must be in writing unless the breach complained of is an offense or a deficiency. An oral allegation of breach shall be reduced to writing by the state department.

As added by P.L.2-1993, SEC.11.

IC 16-28-4-2

Investigations

Sec. 2. The division shall promptly investigate the following:

(1) A written allegation of breach received under this chapter.

(2) An oral allegation of breach that the director, in the director's discretion, believes to have merit.

As added by P.L.2-1993, SEC.11.

IC 16-28-4-3

Referral to licensing boards

Sec. 3. The state department shall refer an allegation of breach received about licensed personnel at a health facility to the appropriate licensing board for review and possible disciplinary action.

As added by P.L.2-1993, SEC.11. Amended by P.L.156-2011, SEC.25; P.L.197-2011, SEC.67.

IC 16-28-4-4

Reporting to state department

Sec. 4. A governmental unit that:

(1) receives an allegation of breach alleging breach of this article or rules adopted under this article; or

(2) has knowledge of facts constituting breach of this article or rules adopted under this article;

shall report that allegation of breach or knowledge in writing to the state department while protecting the confidentiality of the alleging party and the patient.

As added by P.L.2-1993, SEC.11.

IC 16-28-4-5

Confidentiality

Sec. 5. (a) An allegation of breach filed with the state department under this article that is subsequently released to the health facility complained of or any member of the public shall not disclose the name or identifying characteristics of the alleging party or the patient

who is the subject of the allegation of breach unless:

(1) the alleging party or patient consents in writing to the disclosure; or

(2) the investigation results in a judicial proceeding and disclosure is ordered by the court.

(b) If disclosure is essential to the investigation, the alleging party shall be given the opportunity to withdraw the allegation of breach before disclosure.

As added by P.L.2-1993, SEC.11.

IC 16-28-4-6

Relicensure considerations

Sec. 6. The report of a substantiated allegation of breach investigation, together with the response of the health facility and any enforcement action taken, shall be made a part of the health facility's record and shall be considered, together with the survey report, by the director at the time of relicensure of the facility.

As added by P.L.2-1993, SEC.11.

IC 16-28-4-7

Reporting of investigation results and actions taken

Sec. 7. Upon request of the alleging party the director shall report to the alleging party or the alleging party's designated relative, friend, or legal representative concerning the results of the investigation and the action taken.

As added by P.L.2-1993, SEC.11.

IC 16-28-5
Chapter 5. Remedies for Breaches; Plans of Correction

IC 16-28-5-1
Classification of rules

Sec. 1. The executive board shall adopt rules under IC 4-22-2 to classify each rule adopted by the executive board to govern a health facility under this article into one (1) of the following categories:

(1) An offense, which presents a substantial probability that death or a life-threatening condition will result.

(2) A deficiency, which presents an immediate or a direct, serious adverse effect on the health, safety, security, rights, or welfare of a patient.

(3) A noncompliance, which presents an indirect threat to the health, safety, security, rights, or welfare of a patient.

(4) A nonconformance, which is any other classified breach not covered by subdivision (1), (2), or (3).

As added by P.L.2-1993, SEC.11. Amended by P.L.179-1993, SEC.5.

IC 16-28-5-2
Citations

Sec. 2. On a determination by the commissioner that a breach of this article or a rule adopted under this article has occurred, the director shall issue a citation under IC 4-21.5-3-6 to the administrator of the health facility in which the breach occurred. The citation must state the following:

(1) The nature of the breach.

(2) The classification of the breach.

(3) The corrective actions required of the health facility to remedy the breach and to protect the patients of the facility.

(4) Any penalty imposed on the facility.

As added by P.L.2-1993, SEC.11.

IC 16-28-5-3
Review of citations

Sec. 3. A person aggrieved by a citation issued under this chapter may request a review under IC 4-21.5-3-7. If a request for a hearing is not filed within the fifteen (15) day period, the determination contained in the citation is final.

As added by P.L.2-1993, SEC.11.

IC 16-28-5-4
Remedies for breaches

Sec. 4. (a) The commissioner shall impose the following remedies for breaches of this article or a rule adopted under this article:

(1) For an offense, the remedies specified in subsection (b)(1) through (b)(2). The commissioner may also impose the remedy specified in subsection (b)(3).

(2) For a deficiency, the remedies specified in subsection (b)(1). The commissioner may also impose the remedies specified in subsection (b)(4).

(3) For a breach that is a repeat of the same deficiency within a fifteen (15) month period, the remedies specified in subsection (b)(1) through (b)(2). The commissioner may also impose the remedy specified in subsection (b)(3).

(4) For a noncompliance, the remedies specified in subsection (b)(5) through (b)(6).

(5) For a breach that is a repeat of the same noncompliance within a fifteen (15) month period, the remedies specified in subsection (b)(1). The commissioner may also impose the remedies specified in subsection (b)(4).

(6) For a nonconformance, the remedies specified in subsection (b)(5).

(7) For a breach that is a repeat of the same nonconformance within a fifteen (15) month period, the remedies specified in subsection (b)(5) through (b)(6).

(b) The remedies for breaches of this article or rules adopted under this article are as follows:

(1) Issuance of an order for immediate correction of the breach.

(2) Imposition of a fine not to exceed ten thousand dollars ($10,000) or suspension of new admissions to the health facility for a period not to exceed forty-five (45) days, or both.

(3) Revocation by the director of the health facility's license or issuance of a probationary license.

(4) Imposition of a fine not to exceed five thousand dollars ($5,000) or suspension of new admissions to the health facility for a period not to exceed thirty (30) days, or both.

(5) A requirement that the health facility comply with any plan of correction approved or directed under section 7 of this chapter.

(6) If the health facility is found to have a pattern of breach, the commissioner may suspend new admissions to the health facility for a period not to exceed fifteen (15) days or impose a fine not to exceed one thousand dollars ($1,000), or both.

(c) If a breach is immediately corrected and the commissioner has imposed remedies under subsection (b)(2), the commissioner may waive not more than fifty percent (50%) of the fine imposed and reduce the number of days for suspension of new admissions by one-half (1/2).

(d) The commissioner may, with the concurrence of a licensed physician, impose the following:

(1) For an omission of care or an act that does not fall within a classification of a rule under this section and that the facility should reasonably have known would present a substantial probability that death or a life threatening condition will result, one (1) or any combination of the remedies specified in

subsection (b)(1) through (b)(3).

(2) For an omission of care or an act that:

(A) does not fall within a classification of a rule under this section; and

(B) the facility should reasonably have known would result in an immediate or a direct, serious adverse effect on the health, safety, security, rights, or welfare of a patient;

the remedies specified in subsection (b)(1) or (b)(4), or both.

As added by P.L.2-1993, SEC.11. Amended by P.L.179-1993, SEC.6.

IC 16-28-5-5

Determination of remedies

Sec. 5. (a) In determining appropriate remedies or waivers under section 4 of this chapter, the commissioner shall consider the following:

(1) Whether the breach occurred for reasons outside of the health facility's control.

(2) Whether the health facility has demonstrated that the health facility has taken the appropriate steps to reasonably ensure that the breach will not recur.

(3) The history of breaches by the health facility.

(4) The effect of the breach on the patient.

(b) If the health facility furnishes sufficient relevant financial information, the commissioner may consider the following in determining appropriate remedies or waivers under section 5 of this chapter:

(1) Whether any financial savings or benefit accrued to the health facility as a result of the breach.

(2) The cost incurred by the health facility in correcting the breach.

As added by P.L.2-1993, SEC.11. Amended by P.L.179-1993, SEC.7.

IC 16-28-5-6

Correction of breaches; time allowed

Sec. 6. An order for immediate correction under section 4(b)(1) of this chapter shall state a specific date by which the correction shall be made. The date shall be set by the commissioner according to the circumstances of the breach but may not exceed five (5) days from the time the health facility receives written notification from the commissioner.

As added by P.L.2-1993, SEC.11.

IC 16-28-5-7

Corrective period

Sec. 7. (a) A plan of correction submitted to the commissioner for approval and acceptance shall contain a fixed time within which the correction must be made.

(b) When accepting or directing a corrective period, the

commissioner shall consider the following:

(1) A reasonable amount of time needed by a health facility to achieve compliance.

(2) The effects of the continuing breach on patients.

(3) Temporary measures that will be taken to protect patients during the time allowed for correction.

As added by P.L.2-1993, SEC.11. Amended by P.L.179-1993, SEC.8.

IC 16-28-5-8

Plans of correction; actions; notices of rejection; reports of correction

Sec. 8. (a) A plan of correction may be:

(1) accepted;

(2) modified upon agreement between the commissioner and the health facility; or

(3) rejected by the commissioner.

(b) If a plan of correction is rejected, the commissioner:

(1) shall send notice of the rejection and the reasons for the rejection to the health facility; and

(2) may impose a directed plan of correction on the health facility.

(c) If a breach was corrected before submission and approval of a plan of correction, the health facility may submit a report of correction in place of a plan of correction.

As added by P.L.2-1993, SEC.11. Amended by P.L.179-1993, SEC.9.

IC 16-28-5-9

Modification of plans of correction

Sec. 9. (a) A directed plan of correction imposed on a health facility by the commissioner may also be modified upon agreement between the commissioner and the health facility.

(b) A petition for modification of an approved plan of correction must be filed with the commissioner before the expiration of the correction time period approved by the commissioner. The burden of proof is on the petitioner to show good cause for not complying within the approved correction time.

As added by P.L.2-1993, SEC.11. Amended by P.L.179-1993, SEC.10.

IC 16-28-5-10

Failure to correct breaches; additional penalties

Sec. 10. If:

(1) a breach is not corrected within the time fixed by the order of correction or is not corrected within the time fixed by the plan of correction; and

(2) an extension has not been granted under section 9 of this chapter;

the commissioner may find a new breach that may be subject to the

imposition of additional penalties as the class would warrant.
As added by P.L.2-1993, SEC.11.

IC 16-28-6
Chapter 6. Emergency Relocations of Patients

IC 16-28-6-1
Relocation orders

Sec. 1. In an emergency, the director may, with the approval of the commissioner, order the relocation of a patient from a health facility under IC 4-21.5-4.

As added by P.L.2-1993, SEC.11.

IC 16-28-6-2
Relocation rules

Sec. 2. The state department shall adopt rules governing the emergency relocation of patients that provide for the following:

(1) Notice to the patient, the patient's next of kin, guardian, and physician of the emergency transfer and the reasons for the relocation.

(2) Protections designed to ensure the welfare and desires of the patient.

As added by P.L.2-1993, SEC.11. Amended by P.L.156-2011, SEC.26; P.L.197-2011, SEC.68.

IC 16-28-7
Chapter 7. Monitors

IC 16-28-7-1
Placement of monitors

Sec. 1. The director may issue an order under IC 4-21.5 to place a monitor in a health facility if:

(1) the health facility is operating without a license;

(2) the existing license of a health facility has been revoked or not renewed;

(3) the:

(A) director has initiated revocation procedures or has placed the health facility on a probationary license; and

(B) director has determined that the health, safety, security, rights, or welfare of the patients cannot be adequately assured during the pendency of such procedures or during the term of a probationary license; or

(4) the health facility is closing or plans to close and adequate arrangements for relocation of the patients have not been made at least thirty (30) days before the date of closure.

As added by P.L.2-1993, SEC.11.

IC 16-28-7-2
Appealability of orders

Sec. 2. An order issued under section 1 of this chapter may be appealed under IC 4-21.5.

As added by P.L.2-1993, SEC.11.

IC 16-28-7-3
Licensing and duties of monitors who are not state employees

Sec. 3. A monitor who is not a state employee and who is placed in a health facility under this chapter:

(1) must be licensed under IC 25-19-1;

(2) shall serve as a consultant to the administrator concerning the operation of the health facility; and

(3) shall submit a written report to the director on the operation of the health facility and the status and condition of the patients.

As added by P.L.2-1993, SEC.11. Amended by P.L.179-1993, SEC.11.

IC 16-28-7-4
Placement costs for monitors who are not state employees

Sec. 4. (a) A health facility shall pay the costs of placing a monitor who is not a state employee in the health facility under this chapter unless it is determined by a final order under IC 4-21.5 that the placement of the monitor was not needed. The state shall reimburse the costs if it is determined the monitor is unneeded.

(b) If the state department has reason to believe that the health

facility is not financially able to pay the cost of a monitor in the health facility and the health facility and office of Medicaid policy and planning verify the health facility's insolvency, the state department may authorize money from fines paid under this article to be used to pay the costs of placing a monitor who is not a state employee in the health facility.

As added by P.L.2-1993, SEC.11. Amended by P.L.179-1993, SEC.12; P.L.218-1999, SEC.1.

IC 16-28-7-4.3

Placement costs, licensing, and duties of monitors who are state employees

Sec. 4.3. The costs of placing a monitor in a health facility under this chapter shall be paid by the state if the monitor is a state employee. A state employee who is placed in a health facility as a monitor:

(1) is not required to be licensed under IC 25-19-1;

(2) does not serve as a consultant to the administrator of the health facility; and

(3) must report to the director on the operation of the health facility and the status and condition of the patients.

As added by P.L.179-1993, SEC.13.

IC 16-28-7-5

Confidentiality

Sec. 5. Except as required by sections 3 and 4.3 of this chapter, the monitor shall observe the strict confidentiality of the operating policies, procedures, employment practices, financial information, and all similar business information of the health facility. An individual who violates this section:

(1) commits a Class A misdemeanor; and

(2) is prohibited from serving as a monitor under this chapter for five (5) years.

As added by P.L.2-1993, SEC.11. Amended by P.L.179-1993, SEC.14.

IC 16-28-8
Chapter 8. Receivership

IC 16-28-8-0.5
Cost of receivership

Sec. 0.5. As used in this chapter, "cost of receivership" may include the costs of placing a receiver in a health facility and all reasonable expenditures and attorney's fees incurred by the receiver to operate the health facility while the health facility is in receivership.

As added by P.L.29-2002, SEC.2.

IC 16-28-8-1
Petitions for receivership

Sec. 1. The director may, after consultation with the commissioner, request the attorney general to petition the circuit or superior court of the county in which a health facility is located to place the facility in receivership to protect the patients in the facility.

As added by P.L.2-1993, SEC.11. Amended by P.L.156-2011, SEC.27; P.L.197-2011, SEC.69.

IC 16-28-8-2
Conditions for receivership

Sec. 2. The court may order a health facility placed in receivership in the following circumstances:

(1) The facility is operating without a license.

(2) The license of the facility has expired or been revoked.

(3) The facility is closing or plans to close and adequate arrangements have not been made for the orderly transfer of patients at least thirty (30) days before closing.

(4) The facility is operating under extraordinary conditions that present a major threat to the health, safety, security, rights, or welfare of a facility's patients, including imminent abandonment of the facility by the owner.

As added by P.L.2-1993, SEC.11.

IC 16-28-8-3
Repealed

(Repealed by P.L.179-1993, SEC.15.)

IC 16-28-8-4
Receivers; qualifications; powers and duties

Sec. 4. A receiver:

(1) must be licensed under IC 25-19-1 and may be a state employee;

(2) must possess the education and experience necessary, as determined by the director, to oversee correction of the deficiencies of the facility;

(3) must not have been found guilty of misconduct by any licensing board or professional society in the state;
(4) must not have (or a member of the receiver's immediate family must not have) a financial ownership interest in the facility;
(5) has the powers and duties granted by the court to protect the interests of the patients in the health facility, which may include providing for the orderly relocation of patients from the health facility and the refusal to admit new patients pending closure; and
(6) must report to the director on the operation of the facility and the status and condition of the patients.

As added by P.L.2-1993, SEC.11. Amended by P.L.210-1999, SEC.1.

IC 16-28-8-5
Operation of facilities

Sec. 5. Unless a health facility is ordered to be closed within one hundred twenty (120) days, the receiver shall operate the health facility subject to the same standard and rate criteria that apply to all health facilities licensed under IC 16-28-2.

As added by P.L.2-1993, SEC.11.

IC 16-28-8-6
Bond

Sec. 6. (a) Before beginning duties as a receiver, the receiver must execute a bond, with one (1) or more sureties approved by the court, to the effect that the receiver will:
(1) faithfully discharge the duties of the receiver while operating the health facility; and
(2) obey the orders of the court.

(b) The health facility shall pay the cost of the bond required of the receiver.

(c) Upon:
(1) the court's approval of the receiver's final report that the conditions that presented a major threat to the patients in the health facility have been corrected or that the health facility has closed; and
(2) the receiver's compliance with the court's order made on the final report;

the receiver and the surety on the receiver's bond are fully discharged for all matters related to the final report.

As added by P.L.210-1999, SEC.2.

IC 16-28-8-7
Costs of receivership; receiver who is a state employee; state paid cost of receivership preferred

Sec. 7. (a) The costs of the receivership shall be determined by the court and shall be paid by the owner or operator of the health facility.

(b) If the receiver is a state employee, the state shall pay the receiver's salary.

(c) Any cost of receivership paid by the state for the receivership of a health facility is a preferred claim against the receivership estate. The state may file a claim against the health facility or the health facility's assets and resources for recovery of any administrative expense incurred by the state under this chapter.

(d) Any asset or resource of the health facility may be used to:

(1) fund the cost of receivership; and

(2) reimburse any expenditure made by the state under this chapter.

As added by P.L.210-1999, SEC.3. Amended by P.L.29-2002, SEC.3.

IC 16-28-9
Chapter 9. Penalties

IC 16-28-9-1
Investigations and reports

Sec. 1. The division shall investigate a report of an unlicensed health facility operation and report the division's findings to the attorney general.

As added by P.L.2-1993, SEC.11.

IC 16-28-9-2
Penalty options

Sec. 2. The attorney general may do any of the following:

(1) Seek an injunction in the circuit or superior court of the county in which the unlicensed health facility is located or in the circuit or superior court of Marion County.

(2) Seek relief under IC 4-21.5, including a civil penalty not to exceed twenty-five thousand dollars ($25,000) for each day of unlicensed operation.

(3) Seek criminal penalties as provided by section 5 of this chapter.

As added by P.L.2-1993, SEC.11.

IC 16-28-9-3
Interference with investigations; retaliation; failure to correct; interference with correction process

Sec. 3. (a) A person who intentionally:

(1) prevents, interferes with, or attempts to impede the work of an employee of the state department in the investigation and enforcement of any provision of this article;

(2) prevents or attempts to prevent an employee of the state department from examining any relevant records in the conduct of official duties under this article;

(3) prevents or interferes with an employee of the state department in preserving evidence of the breach of any provision of this article;

(4) retaliates or discriminates against a resident or an employee for:

(A) contacting or providing information to any state official; or

(B) initiating, participating in, or testifying in an action under this article; or

(5) fails to correct or interferes with the correction process within the correction period specified on the citation or approved plan of correction, unless an extension is granted by the director and the corrections are made before expiration of the extension;

commits a Class C misdemeanor.

(b) In addition to the criminal provisions for violations described in subsection (a), the commissioner may commence an action under IC 4-21.5-3-6 or IC 4-21.5-4 for issuance of an order of compliance and a civil penalty not to exceed twenty-five thousand dollars ($25,000).
As added by P.L.2-1993, SEC.11.

IC 16-28-9-4
Destruction or falsification of records

Sec. 4. A person who intentionally destroys or falsifies records of the breach of any provision of this article commits a Level 6 felony.
As added by P.L.2-1993, SEC.11. Amended by P.L.158-2013, SEC.233.

IC 16-28-9-5
Unlicensed operation of facilities; advertisement of unlicensed facilities

Sec. 5. A person who:

(1) operates a health facility that is not licensed under this article; or

(2) advertises by any means the operation of a health facility that is not licensed under this article;

commits a Class A misdemeanor.
As added by P.L.2-1993, SEC.11.

IC 16-28-9-6
Imposition of fine

Sec. 6. The state department may impose a fine not to exceed five thousand dollars ($5,000) for a violation of a provision of this chapter.
As added by P.L.108-1999, SEC.2.

IC 16-28-10

Chapter 10. Hearings and Appeals

IC 16-28-10-1

Hearings; qualifications of administrative law judges; costs

Sec. 1. (a) Hearings under this article shall be conducted in accordance with IC 4-21.5. Except for hearings held on the adoption of rules, an administrative law judge must meet the following conditions:

(1) Be admitted to the practice of law in Indiana.

(2) Not be an employee of the state.

(b) A health facility shall pay the costs of appointing an administrative law judge if the administrative law judge finds in favor of the state. However, if the administrative law judge finds in favor of the health facility, the state shall pay the costs of appointing the administrative law judge.

As added by P.L.2-1993, SEC.11. Amended by P.L.141-2014, SEC.13.

IC 16-28-10-2

Appeals panel; members; proceedings; costs

Sec. 2. (a) The executive board shall appoint an appeals panel consisting of three (3) members as follows:

(1) One (1) member of the executive board.

(2) One (1) attorney admitted to the practice of law in Indiana.

(3) One (1) individual with qualifications determined by the executive board.

(b) An employee of the state may not be a member of the panel.

(c) An appeals panel shall conduct proceedings for review of an order issued by an administrative law judge under this chapter. The panel is the ultimate authority under IC 4-21.5.

(d) The cost of the proceedings, including the fees of the appeals panel, shall be paid as follows:

(1) By the health facility if the panel finds in favor of the state.

(2) By the state if the panel finds in favor of the health facility.

As added by P.L.2-1993, SEC.11.

IC 16-28-10-3

Judicial review

Sec. 3. Judicial review of an administrative order issued under this chapter may be sought by either the facility or the state under IC 4-21.5.

As added by P.L.2-1993, SEC.11.

IC 16-28-11
Chapter 11. Miscellaneous Provisions

IC 16-28-11-1
Payment of fines and fees; deposit

Sec. 1. Except as provided in IC 16-28-1-11 and IC 16-28-7-4, fines or fees required to be paid under this article shall be paid directly to the director who shall deposit the fines or fees in the state general fund.

As added by P.L.2-1993, SEC.11. Amended by P.L.218-1999, SEC.2.

IC 16-28-11-2
Compulsory medical treatment and examination

Sec. 2. This article does not authorize or require any form of compulsory medical treatment or physical or mental examination of a person who:

(1) is a resident, a guest, a patient, an employee, a registrant, or an enrollee of an exempt institution specified in IC 16-18-2-167(c); and

(2) is being treated by prayer or spiritual means alone for healing;

or to deny to the person the right to rely solely upon prayer or spiritual means by receiving only the treatment given by an accredited practitioner of the religious denomination known as the Church of Christ, Scientist, if the laws pertaining to the safe condition of the premises, cleanliness of the operation of the premises, and the physical equipment on the premises are complied with.

As added by P.L.2-1993, SEC.11.

IC 16-28-11-3
Practice of medicine

Sec. 3. This article does not authorize any person to engage, in any manner, in the practice of medicine (as defined in IC 25-22.5).

As added by P.L.2-1993, SEC.11.

IC 16-28-11-4
Health facility, county jail, or department of correction facility required to return certain unused medication

Sec. 4. (a) A health facility, county jail under IC 11-12-5-8, or department of correction facility under IC 11-10-3-4 that possesses unused medication that meets the requirements of IC 25-26-13-25(k)(1) through IC 25-26-13-25(k)(6):

(1) shall return medication that belonged to a Medicaid recipient; and

(2) may return other unused medication;

to the pharmacy that dispensed the medication.

(b) An entity participating in a program under IC 25-26-23 may

return unused medication to the pharmacy that dispensed the medication if the board of pharmacy adopts a rule allowing this procedure under IC 25-26-23-2.
As added by P.L.75-2004, SEC.1. Amended by P.L.204-2005, SEC.3; P.L.119-2011, SEC.2; P.L.174-2011, SEC.3; P.L.159-2012, SEC.3.

IC 16-28-11-5
Fire sprinkler systems in health facilities

Sec. 5. (a) This section does not apply to the Indiana Veterans' Home.

(b) A health facility licensed under IC 16-28 as a comprehensive care facility must do the following:

(1) Have an automatic fire sprinkler system installed throughout the facility before July 1, 2012.

(2) If an automatic fire sprinkler system is not installed throughout the health facility before July 1, 2010, submit before July 1, 2010, a plan to the state department for completing the installation of the automatic fire sprinkler system before July 1, 2012.

(3) Have a battery operated or hard wired smoke detector in each resident's room before July 1, 2012.

(c) The state department shall adopt rules under IC 4-22-2 to implement this section.
As added by P.L.73-2007, SEC.1.

IC 16-28-11-5.5
Employee of health facility not required to perform CPR if specified criteria are met

Sec. 5.5. (a) This section does not apply to the implementation of a do not resuscitate order.

(b) This article does not require an employee of a health facility to provide cardiopulmonary resuscitation (CPR) or other intervention on a patient if a registered nurse licensed under IC 25-23 or a physician licensed under IC 25-22.5 who is employed by the health facility has determined that the following criteria have been met:

(1) The patient has experienced an unwitnessed cessation of circulatory and respiratory functions.

(2) The patient is unresponsive.

(3) The patient's pupils are fixed and dilated.

(4) The patient's body temperature indicates hypothermia.

(5) The patient has generalized cyanosis.

(6) The patient has livor mortis.
As added by P.L.134-2008, SEC.13.

IC 16-28-11-6
Disclosure of fire sprinkler systems in consumer guide to nursing homes

Sec. 6. The state department shall disclose, in the state

department's consumer guide to nursing homes, whether a health facility is:

(1) fully;

(2) partially; or

(3) not;

equipped with fire sprinklers.

As added by P.L.73-2007, SEC.2.

IC 16-28-11-7

Disclosure of smoke detector information in consumer guide to nursing homes

Sec. 7. The state department shall disclose the following information in the state department's consumer guide to nursing homes:

(1) Until July 1, 2012, whether each health facility has:

(A) a battery operated;

(B) a hard wired; or

(C) no;

smoke detector in each resident's room.

(2) After June 30, 2012, whether a health facility has:

(A) a battery operated; or

(B) a hard wired;

smoke detector in each resident's room.

(3) If a health facility has a hard wired or wireless smoke detector in each resident's room, whether the smoke detector:

(A) provides a visual and audible signal at the nurses' stations that attend each room;

(B) transmits to a central station service; and

(C) connects to the health facility's fire alarm system.

As added by P.L.73-2007, SEC.3.

IC 16-28-12

Chapter 12. Federally Required Enforcement Process

IC 16-28-12-1

Adoption of rules

Sec. 1. The state department shall, as the state agency utilized under 42 U.S.C. 1395aa(a) and authorized to perform the duties of the state survey agency under 42 U.S.C. 1396, adopt rules under IC 4-22-2 to satisfy the requirements of 42 U.S.C. 1396r(h).

As added by P.L.2-1993, SEC.11.

IC 16-28-12-2

1396r(h) fund; investment; use of principal and interest

Sec. 2. (a) The 1396r(h) fund is established to receive money collected under this chapter. The state department shall administer the fund.

(b) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

(c) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(d) The state department shall use the principal and interest in the fund in accordance with 42 U.S.C. 1396r(h)(2)(A)(ii).

As added by P.L.2-1993, SEC.11.

IC 16-28-12-3

Department actions; procedure

Sec. 3. The procedure governing an action taken by the state department under this chapter must be in accordance with:

(1) IC 4-21.5-3-6; or

(2) IC 4-21.5-4.

As added by P.L.2-1993, SEC.11.

IC 16-28-12-4

Review; procedure; filing period

Sec. 4. (a) A person adversely affected by action of the state department under this chapter may request review under IC 4-21.5-3-7.

(b) The procedure governing appeals under this chapter must be in accordance with IC 16-28-10.

(c) If a request for a hearing is not filed within the fifteen (15) day period specified in IC 4-21.5-3-7, the determination of the executive board is final.

As added by P.L.2-1993, SEC.11.

IC 16-28-13

Chapter 13. Criminal History of Nurse Aides and Other Unlicensed Employees

IC 16-28-13-0.5

"Health care facility" defined

Sec. 0.5. As used in this chapter, "health care facility" includes the following:

(1) An ambulatory outpatient surgical center licensed under IC 16-21-2.

(2) A health facility licensed under IC 16-28-2 or IC 16-28-3.

(3) A home health agency licensed under IC 16-27-1.

(4) A hospice program licensed under IC 16-25-3.

(5) A hospital licensed under IC 16-21-2.

As added by P.L.108-1999, SEC.3. Amended by P.L.14-2000, SEC.44.

IC 16-28-13-1

"Nurse aide" defined

Sec. 1. (a) As used in this chapter, "nurse aide" means an individual who provides nursing or nursing related services to residents in the following:

(1) A health facility.

(2) A hospital based health facility.

(3) An ambulatory outpatient surgical center licensed under IC 16-21-2. Under this subdivision, the term applies to an individual who was employed by the center after July 1, 1999.

(4) A home health agency licensed under IC 16-27-1. Under this subdivision, the term applies to an individual who was employed by the agency after July 1, 1999.

(5) A hospice program licensed under IC 16-25-3. Under this subdivision, the term applies to an individual who was employed by the program after July 1, 1999.

(6) A hospital licensed under IC 16-21-2. Under this subdivision, the term applies to an individual who was employed by the hospital after July 1, 1999.

(b) The term does not include the following:

(1) A licensed health professional (as defined in IC 25-1-9-3).

(2) A registered dietician.

(3) An individual who volunteers to provide nursing or nursing related services without pay.

As added by P.L.152-1995, SEC.18. Amended by P.L.108-1999, SEC.4; P.L.14-2000, SEC.45.

IC 16-28-13-2

"Other unlicensed employee" defined

Sec. 2. (a) As used in this chapter, "other unlicensed employee" means:

(1) an employee of a health facility;
(2) a hospital based health facility; or
(3) a personal services attendant (as defined in IC 12-10-17.1-8);

who is not licensed (as defined in IC 25-1-9-3) by a board (as defined in IC 25-1-9-1).

(b) The term does not include an employee of an ambulatory outpatient surgical center, a home health agency, a hospice program, or a hospital that is not licensed (as defined in IC 25-1-9-3) by a board (as defined in IC 25-1-9-1).

As added by P.L.152-1995, SEC.18. Amended by P.L.108-1999, SEC.5; P.L.255-2001, SEC.16; P.L.141-2006, SEC.85.

IC 16-28-13-3

Crimes barring employment at certain health care facilities

Sec. 3. (a) A health care facility or an entity in the business of contracting to provide nurse aides or other unlicensed employees for a health care facility may not knowingly employ a person as a nurse aide or other unlicensed employee if one (1) or more of the following conditions exist:

(1) The person has been convicted of any of the following:
(A) A sex crime (IC 35-42-4).
(B) Exploitation of an endangered adult (IC 35-46-1-12).
(C) Failure to report battery, neglect, or exploitation of an endangered adult (IC 35-46-1-13).
(D) Theft (IC 35-43-4), if the person's conviction for theft occurred less than five (5) years before the individual's employment application date, except as provided in IC 16-27-2-5(a)(5).
(E) Murder (IC 35-42-1-1).
(F) Voluntary manslaughter (IC 35-42-1-3).
(G) Involuntary manslaughter (IC 35-42-1-4) within the previous five (5) years.
(H) Felony battery within the previous five (5) years.
(I) A felony offense relating to controlled substances within the previous five (5) years.

(2) The person:
(A) has abused, neglected, or mistreated a patient or misappropriated a patient's property; and
(B) had a finding entered into the state nurse aide registry.

(b) A person who knowingly or intentionally applies for a job as a nurse aide or other unlicensed employee at:
(1) a health care facility; or
(2) an entity in the business of contracting to provide nurse aides or other unlicensed employees for a health care facility;

after a conviction of one (1) or more of the offenses listed in subsection (a)(1) commits a Class A infraction.

As added by P.L.152-1995, SEC.18. Amended by P.L.147-1996,

SEC.1; P.L.108-1999, SEC.6.

IC 16-28-13-4
Operator of health care facility; request for nurse aide registry report and limited criminal history

Sec. 4. (a) Except as provided in subsection (b), a person who:

(1) operates or administers a health care facility; or

(2) operates an entity in the business of contracting to provide nurse aides or other unlicensed employees for a health care facility;

shall apply within three (3) business days from the date a person is employed as a nurse aide or other unlicensed employee for a copy of the person's state nurse aide registry report from the state department and a limited criminal history from the Indiana central repository for criminal history information under IC 10-13-3 or another source allowed by law.

(b) A health care facility is not required to apply for the state nurse aide registry report and limited criminal history required by subsection (a) if the health care facility contracts to use the services of a nurse aide or other unlicensed employee who is employed by an entity in the business of contracting to provide nurse aides or other unlicensed employees to health care facilities.

As added by P.L.152-1995, SEC.18. Amended by P.L.147-1996, SEC.2; P.L.108-1999, SEC.7; P.L.2-2003, SEC.51.

IC 16-28-13-5
Operator of health care facility; prohibition from employing person with certain convictions

Sec. 5. A person who:

(1) operates or administers a health care facility; or

(2) operates an entity in the business of contracting to provide nurse aides or other unlicensed employees for a health care facility;

may not employ a person as a nurse aide or other unlicensed employee after receipt of the person's state nurse aide registry report if that person's report indicates that the person committed an offense under section (3)(a)(2) of this chapter and has been placed on the state nurse aide registry, or after receipt of the limited criminal history if that person's limited criminal history indicates that the person has been convicted of any of the offenses described in section 3(a)(1) of this chapter.

As added by P.L.152-1995, SEC.18. Amended by P.L.147-1996, SEC.3; P.L.108-1999, SEC.8.

IC 16-28-13-6
Operator of health care facility; fees for request of registry report and criminal history

Sec. 6. (a) A person who:

(1) operates or administers a health care facility; or

(2) operates an entity in the business of contracting to provide nurse aides or other unlicensed employees for a health care facility;

is responsible for the payment of fees under IC 10-13-3-30 and other fees required to process a state nurse aide registry report and a limited criminal history under section 4 of this chapter.

(b) A health care facility or an entity in the business of contracting to provide nurse aides or other unlicensed employees for a health care facility may require a person who applies to the health care facility or entity for employment as a nurse aide or other unlicensed employee:

(1) to pay the cost of fees described in subsection (a) to the health care facility or entity at the time the person submits an application for employment; or

(2) to reimburse the health care facility or entity for the cost of fees described in subsection (a).

As added by P.L.152-1995, SEC.18. Amended by P.L.147-1996, SEC.4; P.L.108-1999, SEC.9; P.L.2-2003, SEC.52.

IC 16-28-13-7

Applicability of chapter

Sec. 7. The application of this chapter to a health care facility or an entity in the business of contracting to provide nurse aides or other unlicensed employees for a health care facility is limited to an individual:

(1) who is employed by:

(A) a health care facility; or

(B) an entity in the business of contracting to provide nurse aides or other unlicensed employees for a health care facility; and

(2) whose employment or responsibilities are limited to activities primarily performed within a health care facility.

As added by P.L.152-1995, SEC.18. Amended by P.L.147-1996, SEC.5; P.L.108-1999, SEC.10; P.L.1-2002, SEC.73; P.L.1-2007, SEC.134.

IC 16-28-13-8

Rights of individuals denied or dismissed from employment

Sec. 8. An individual who is denied employment or dismissed from employment under this chapter:

(1) does not have a cause of action;

(2) is not eligible for unemployment compensation;

(3) does not acquire the rights of an unemployed individual; and

(4) does not have other rights under IC 22;

as a result of the denial or dismissal.

As added by P.L.152-1995, SEC.18.

IC 16-28-13-9
Immunity from civil and criminal liability

Sec. 9. A person, other than a person denied employment or dismissed under this chapter or against whom a finding is made for the nurse aide registry under 42 CFR 483.156, who in good faith:

(1) denies employment to an individual or dismisses an individual from employment under this chapter;

(2) testifies or participates in an investigation or an administrative or a judicial proceeding arising from:

(A) this chapter; or

(B) 42 CFR 483 regarding the nurse aide registry; or

(3) makes a report to the state department or the nurse aide registry;

is immune from both civil and criminal liability arising from those actions.

As added by P.L.152-1995, SEC.18.

IC 16-28-13-10
Operator of health care facility; intentional violation of chapter

Sec. 10. A person:

(1) who:

(A) operates or administers a health care facility; or

(B) operates an entity in the business of contracting to provide nurse aides or other unlicensed employees for a health care facility; and

(2) who knowingly or intentionally violates section 4 or 5 of this chapter;

commits a Class A infraction.

As added by P.L.152-1995, SEC.18. Amended by P.L.147-1996, SEC.6; P.L.108-1999, SEC.11.

IC 16-28-13-11
Personnel record; providing limited criminal history

Sec. 11. (a) Each:

(1) health care facility; and

(2) entity in the business of contracting to provide nurse aides or other unlicensed employees for a health care facility;

shall maintain a personnel record for each nurse aide and other unlicensed employee employed by the health care facility or entity that includes the nurse aide's or other unlicensed employee's state nurse aide registry report and limited criminal history required by section 4 of this chapter.

(b) The personnel records of each health care facility shall be available for inspection by the state department to assure compliance with this chapter.

(c) An entity in the business of contracting to provide nurse aides or other unlicensed employees to health care facilities shall provide a copy of the state nurse aide registry report and limited criminal

history obtained under section 4 of this chapter to each health care facility to which the entity provides a nurse aide or other unlicensed employee. If the entity fails to provide a copy of the state nurse aide registry report and limited criminal history to a health care facility, the health care facility is not in violation of this chapter.
As added by P.L.152-1995, SEC.18. Amended by P.L.147-1996, SEC.7; P.L.108-1999, SEC.12.

IC 16-28-13-12
Health care facility to report convictions of employees

Sec. 12. If a health care facility has knowledge of a conviction of an employee of the health care facility that would indicate unfitness for service as a nurse aide, other unlicensed employee, or other health care professional (as defined by IC 16-27-2-1), the health care facility shall report the information to the state nurse aide registry or the appropriate licensing authority.
As added by P.L.108-1999, SEC.13.

IC 16-28-13-13
Rules

Sec. 13. The state department may adopt rules under IC 4-22-2 to implement this chapter.
As added by P.L.108-1999, SEC.14.

IC 16-28-14

Chapter 14. Patient Immunizations

IC 16-28-14-1

Repealed

(As added by P.L.97-1999, SEC.2. Repealed by P.L.29-2009, SEC.3.)

IC 16-28-14-2

Obtaining informed consent

Sec. 2. (a) A health facility shall attempt to obtain informed consent from:

(1) a patient; or

(2) a patient's legal guardian;

for a patient to participate in immunization programs conducted within the health facility while the patient is residing at the health facility.

(b) A health facility shall attempt to obtain the consent required under subsection (a):

(1) upon the patient's admission, if the patient's admission occurs after June 30, 1999; or

(2) before an immunization is administered, if the patient's admission occurred before July 1, 1999.

As added by P.L.97-1999, SEC.2.

IC 16-28-14-3

Required immunizations; methods

Sec. 3. (a) Subject to obtaining a patient's informed consent under section 2(b) of this chapter and subject to obtaining an order from the individual's physician to administer the immunizations, a health facility shall immunize all patients of the health facility against the following:

(1) Influenza virus.

(2) Pneumococcal disease.

(b) A health facility shall conduct the immunizations required under subsection (a) in accordance with the recommendations established by the Advisory Committee on Immunization Practices of the United States Centers for Disease Control and Prevention that are in effect at the time the health facility conducts the immunizations.

As added by P.L.97-1999, SEC.2. Amended by P.L.3-2008, SEC.109.

IC 16-28-14-4

Date by which immunizations required

Sec. 4. Except as required by section 5 of this chapter, a health facility shall administer or cause to be administered the immunizations required under this chapter before December 1 of each year if the vaccine is available.

As added by P.L.97-1999, SEC.2.

IC 16-28-14-5
Determination of patient status

Sec. 5. (a) This section applies to an individual who becomes a patient of a health facility on or after December 1 and before April 1.

(b) A health facility shall attempt to determine the status of an individual's immunization against the influenza virus and pneumococcal disease upon the individual's admission to the health facility.

(c) Subject to obtaining a patient's informed consent under section 2(b) of this chapter if the health facility determines that an individual's immunization status is deficient and subject to obtaining an order from the individual's physician to administer the immunizations, the health facility shall, as soon as possible after the individual's admission, administer or cause to be administered the immunizations required under this chapter if the vaccine is available.
As added by P.L.97-1999, SEC.2.

IC 16-28-14-6
Exceptions to required immunization

Sec. 6. Notwithstanding any other provision of this chapter, a health facility shall not require an individual to receive an immunization under this chapter if:

(1) the health facility:

(A) has written documentation from the individual's physician or other health care provider indicating the date and place that the individual received an immunization required under this chapter; and

(B) determines that no additional immunization is required;

(2) the immunization is medically contraindicated as described in the product labeling approved by the United States Food and Drug Administration;

(3) receiving the immunization is against the individual's religious beliefs; or

(4) the individual refuses to permit the immunization as provided by state or federal law.

As added by P.L.97-1999, SEC.2.

IC 16-28-14.5

Chapter 14.5. Health Facility Employee Immunizations

IC 16-28-14.5-1

Application of chapter

Sec. 1. This chapter applies only to the following:

(1) Health facilities that are licensed under IC 16-28 as comprehensive care facilities.

(2) Employees of health facilities described in subdivision (1) who have direct contact with a patient or resident of the health facility.

As added by P.L.29-2009, SEC.2.

IC 16-28-14.5-2

Consent; influenza immunizations

Sec. 2. (a) Subject to obtaining an employee's consent, a health facility shall annually administer or make available to be administered immunizations against the influenza virus to the employee of the health facility.

(b) A health facility shall conduct the immunizations required under subsection (a) in accordance with the recommendations established by the Advisory Committee on Immunization Practices of the United States Centers for Disease Control and Prevention that are in effect at the time the health facility conducts the immunizations.

As added by P.L.29-2009, SEC.2.

IC 16-28-14.5-3

Date immunizations are required

Sec. 3. A health facility shall annually administer or make available to be administered the immunizations required under this chapter to each employee of the health facility who is employed by the health facility during the period beginning October 1 and ending February 1 of the following year.

As added by P.L.29-2009, SEC.2.

IC 16-28-14.5-4

Availability of vaccine

Sec. 4. A health facility is not required to provide or make available to the health facility's employees annual immunizations against the influenza virus if the department determines that the necessary vaccine is not in adequate supply.

As added by P.L.29-2009, SEC.2.

IC 16-28-14.5-5

Exceptions to required immunizations

Sec. 5. Notwithstanding any other provision of this chapter, a health facility shall not require an employee to receive an

immunization under this chapter if:

(1) the health facility:

(A) has written documentation from the employee's physician or other health care provider indicating the date and place that the individual received an immunization required under this chapter; and

(B) determines that no additional immunization is required;

(2) the immunization is medically contraindicated for the employee;

(3) receiving the immunization is against the employee's religious beliefs; or

(4) the employee refuses to permit the immunization after being fully informed of the health risks.

As added by P.L.29-2009, SEC.2.

IC 16-28-14.5-6

Rules

Sec. 6. The state department may adopt rules under IC 4-22-2 to administer this chapter.

As added by P.L.29-2009, SEC.2.

IC 16-28-15

Chapter 15. Health Facility Quality Assessment Fee

IC 16-28-15-1

Initial date fee imposed

Sec. 1. The imposition of a quality assessment fee under this chapter occurs after June 30, 2011.

As added by P.L.229-2011, SEC.162.

IC 16-28-15-2

"Continuing care retirement community"

Sec. 2. As used in this chapter, "continuing care retirement community" means a health care facility that:

(1) provides independent living services and health facility services in a campus setting with common areas;

(2) either:

(A) holds continuing care agreements with at least twenty-five percent (25%) of its residents (as defined in IC 23-2-4-1); or

(B) has continuously maintained, for a continuing care retirement community that was registered under IC 23-2-4 before January 2, 2007, at least one (1) continuing care agreement since on or before January 1, 2007, with an individual residing in the continuing care retirement community;

(3) uses the money from the agreement or agreements described in subdivision (2) to provide services to the resident before the resident may be eligible for Medicaid under IC 12-15; and

(4) meets the requirements of IC 23-2-4.

As added by P.L.229-2011, SEC.162. Amended by P.L.278-2013, SEC.15.

IC 16-28-15-3

"Health facility"

Sec. 3. As used in this chapter, "health facility" refers to a health facility that is licensed under this article as a comprehensive care facility.

As added by P.L.229-2011, SEC.162.

IC 16-28-15-4

"Nursing facility"

Sec. 4. As used in this chapter, "nursing facility" means a health facility that is certified for participation in the federal Medicaid program under Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq.).

As added by P.L.229-2011, SEC.162.

IC 16-28-15-5

"Office"

Sec. 5. As used in this chapter, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6.5-1.

As added by P.L.229-2011, SEC.162. Amended by P.L.160-2012, SEC.46.

IC 16-28-15-6

Collection of fee

Sec. 6. (a) Effective July 1, 2011, the office shall collect a quality assessment fee from each health facility.

(b) The quality assessment fee must apply to all non-Medicare patient days of the health facility. The office shall determine the quality assessment rate per non-Medicare patient day in a manner that collects the maximum amount permitted by federal law as of July 1, 2011, and October 1, 2011, based on the latest nursing facility financial reports and nursing facility quality assessment data collection forms as of July 28, 2010.

(c) The office shall offset the collection of the assessment fee for a health facility:

(1) against a Medicaid payment to the health facility;

(2) against a Medicaid payment to another health facility that is related to the health facility through common ownership or control; or

(3) in another manner determined by the office.

As added by P.L.229-2011, SEC.162.

IC 16-28-15-7

Implementation of waiver

Sec. 7. The office shall implement the waiver approved by the United States Centers for Medicare and Medicaid Services under 42 CFR 433.68(e)(2) that provides for the following:

(1) Nonuniform quality assessment fee rates.

(2) An exemption from collection of a quality assessment fee from the following:

(A) A continuing care retirement community as follows:

(i) A continuing care retirement community that was registered with the securities commissioner as a continuing care retirement community on or before January 1, 2007, and has continuously maintained at least one (1) continuing care agreement since on or before January 1, 2007, with an individual residing in the continuing care retirement community.

(ii) A continuing care retirement community that, for the period January 1, 2007, through June 30, 2009, operated independent living units, at least twenty-five percent (25%) of which are provided under contracts that require the payment of a minimum entrance fee of at least twenty-five thousand dollars ($25,000).

(iii) An organization registered under IC 23-2-4 before July 1, 2009, that provides housing in an independent living unit for a religious order.

(iv) A continuing care retirement community that meets the definition set forth in section 2 of this chapter.

(B) A hospital based health facility.

(C) The Indiana Veterans' Home.

Any revision to the state plan amendment or waiver request under this section is subject to and must comply with this chapter.

As added by P.L.229-2011, SEC.162. Amended by P.L.278-2013, SEC.16.

IC 16-28-15-8

Distribution of revenue from fee

Sec. 8. (a) The money collected from the quality assessment fee during state fiscal year 2012 may be used only as follows:

(1) Sixty-seven and one-tenth percent (67.1%) to pay the state's share of costs for Medicaid nursing facility services provided under Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq.).

(2) Twenty-three and eight-tenths percent (23.8%) to pay the state's share of costs for other Medicaid services provided under Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq.).

(3) Nine and one-tenth percent (9.1%) to pay prior year state nursing facility expenditures.

(b) The money collected from the quality assessment fee during state fiscal year 2013 may be used only as follows:

(1) Sixty-six and five-tenths percent (66.5%) to pay the state's share of costs for Medicaid nursing facility services provided under Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq.).

(2) Twenty-nine and four-tenths percent (29.4%) to pay the state's share of costs for other Medicaid services provided under Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq.).

(3) Four and one-tenth percent (4.1%) to pay prior year state nursing facility expenditures.

(c) The money collected from the quality assessment fee after state fiscal year 2013 may be used only as follows:

(1) Seventy and six-tenths percent (70.6%) to pay the state's share of the costs for Medicaid nursing facility services provided under Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq.).

(2) Twenty-nine and four-tenths percent (29.4%) to pay the state's share of costs for other Medicaid services provided under Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq.).

(3) The office may decrease the percentage specified in subdivision (1) to pay state fiscal year 2011 and prior year state nursing facility expenditures only if the amounts collected in subsections (a)(3) and (b)(3) are insufficient to pay the expenditures. Once the expenditures described in this subdivision have been collected, the percentage specified in subdivision (1) shall be restored.

(d) Any increase in reimbursement for Medicaid nursing facility services resulting from maximizing the quality assessment rate under section 6(b) of this chapter shall be directed exclusively to initiatives determined by the office to promote and enhance improvements in quality of care to nursing facility residents.

(e) The office may establish a method to allow a health facility to enter into an agreement to pay the quality assessment fee collected under this chapter under an installment plan.

As added by P.L.229-2011, SEC.162. Amended by P.L.205-2013, SEC.215.

IC 16-28-15-9

Termination of fee; conditions

Sec. 9. If federal financial participation becomes unavailable to match money collected from the quality assessment fees for the purpose of enhancing reimbursement to nursing facilities for Medicaid services provided under Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq.), the office shall cease collection of the quality assessment fee under this chapter.

As added by P.L.229-2011, SEC.162.

IC 16-28-15-10

Rules

Sec. 10. The office shall adopt rules under IC 4-22-2 necessary to implement this chapter.

As added by P.L.229-2011, SEC.162.

IC 16-28-15-11

Failure to pay fee; interest; report

Sec. 11. (a) If a health facility fails to pay the quality assessment fee under this chapter not later than ten (10) days after the date the payment is due, the health facility shall pay interest on the quality assessment fee at the same rate as determined under IC 12-15-21-3(6)(A).

(b) The office shall report to the state department each nursing facility and each health facility that either:

(1) fails to submit patient day information requested by the office to calculate the quality assessment fee; or

(2) fails to pay the quality assessment fee under this chapter;

not later than one hundred twenty (120) days after the patient day information is requested or payment of the quality assessment fee is

due.
As added by P.L.229-2011, SEC.162.

IC 16-28-15-12
Failure to pay fee; penalties

Sec. 12. (a) The state department shall do the following:

(1) Notify each nursing facility and each health facility reported under section 11 of this chapter that the nursing facility's license or health facility's license under IC 16-28 will be revoked if the patient day information is not submitted or the quality assessment fee is not paid.

(2) Revoke the nursing facility's license or health facility's license under IC 16-28 if the nursing facility or the health facility fails to submit the patient day information or fails to pay the quality assessment fee.

(b) An action taken under subsection (a)(2) is governed by:

(1) IC 4-21.5-3-8; or

(2) IC 4-21.5-4.

As added by P.L.229-2011, SEC.162.

IC 16-28-15-13
Review; implementation of chapter

Sec. 13. The interim study committee on public health, behavioral health, and human services established by IC 2-5-1.3-4 shall review the implementation of this chapter.
As added by P.L.229-2011, SEC.162. Amended by P.L.205-2013, SEC.216; P.L.53-2014, SEC.134.

IC 16-28-15-14
Expiration

Sec. 14. This chapter expires June 30, 2017.
As added by P.L.229-2011, SEC.162. Amended by P.L.205-2013, SEC.217.

IC 16-28-16
Expired

(Expired 6-30-2014 by P.L.229-2011, SEC.163.)

IC 16-29

ARTICLE 29. LIMITATIONS ON VARIOUS HEALTH SERVICE BEDS

IC 16-29-1

Repealed

(Repealed by P.L.1-2001, SEC.51.)

IC 16-29-2
Chapter 2. Specialized Services

IC 16-29-2-1
"Comprehensive care bed" defined

Sec. 1. As used in this chapter, "comprehensive care bed" means a comprehensive care bed that is used solely for a patient who has been diagnosed as having one (1) of the following conditions:

(1) Medically stable twelve (12) to twenty-four (24) hours each day and ventilator dependent.

(2) Medically stable brain and high spinal cord traumatized or has a major progressive neuromuscular disease.

(3) Infected by the human immunodeficiency virus (HIV).

As added by P.L.2-1993, SEC.12.

IC 16-29-2-2
Application for specialized services comprehensive care beds

Sec. 2. An applicant may file an application with the state department for the addition or conversion of beds to comprehensive care beds to be used solely for providing specialized services to patients who have a diagnosis described in section 1 of this chapter.

As added by P.L.2-1993, SEC.12.

IC 16-29-2-3
Review of applications for beds to be certified for participation in state or federal reimbursement program

Sec. 3. The state department shall review all applications for a certificate of need for comprehensive care beds under this chapter that are to be certified for participation in a state or federal reimbursement program, including programs under Title XVIII or Title XIX of the Social Security Act (42 U.S.C. 1395 et seq. or 42 U.S.C. 1396 et seq.).

As added by P.L.2-1993, SEC.12.

IC 16-29-2-4
Findings and recommendations

Sec. 4. (a) The state department shall make a finding based on information prepared by the state department in accordance with IC 16-30 and any other relevant information about the need for the comprehensive care beds under this chapter or the certification of comprehensive care beds as requested in the application.

(b) The state department shall recommend and approve a certificate of need for additional comprehensive care beds or the certification of comprehensive care beds only after finding that the certification or addition of comprehensive care beds in the county is necessary and that the applicant for a certificate of need has illustrated or documented the applicant's experience or capacity to provide quality, effective, and efficient care that includes a

description of any past or current adverse licensure action against any facility owned, operated, or managed by the applicant.
As added by P.L.2-1993, SEC.12.

IC 16-29-2-5
Review and approval requirement under certain circumstances

Sec. 5. (a) Comprehensive care beds may not be constructed or added and beds may not be converted to comprehensive care beds without the review and approval required in this chapter.

(b) Comprehensive care beds that are not certified for participation in a state or federal reimbursement program, including programs under Title XVIII or Title XIX of the federal Social Security Act (42 U.S.C. 1395 et seq. or 42 U.S.C. 1396 et seq.), shall not be certified without the review and approval required in this chapter.

(c) The review and approval required in this chapter is a condition to the licensure of the facility.
As added by P.L.2-1993, SEC.12.

IC 16-29-2-6
Certificate of need voidable; conditions

Sec. 6. A certificate of need for a project to construct, add, or convert beds that receives final approval of the state department under this chapter or IC 16-10-4 (before its repeal) becomes void eighteen (18) months after the determination becomes final unless the following conditions are met:

(1) Construction plans for the project are approved by the state department and the department of fire and building safety.

(2) The applicant has completed construction of the project's foundation in conformity with the approved plans as certified by an independent architect licensed under IC 25-4 or an independent professional engineer licensed under IC 25-31.

(3) Construction work on the project is continuous and in conformity with the approved plans.

As added by P.L.2-1993, SEC.12. Amended by P.L.1-1993, SEC.170.

IC 16-29-2-7
Ownership interest in certificates of need; transfer or alienation

Sec. 7. The individual, partnership, corporation, or other legal entity to whom a certificate of need has been granted after the review and approval required by this chapter is the owner of the certificate of need until the individual or legal entity transfers or alienates that ownership interest in the certificate. Unless the certificate of need expires or is voided, the issued certificate of need is the personal property of the owner and is freely transferable or alienable, except that the certificate of need may not be used outside of the county with respect to which the certificate was issued.
As added by P.L.2-1993, SEC.12.

IC 16-29-2-8
Rules; fees

Sec. 8. (a) The state department shall adopt rules under IC 4-22-2 to implement this chapter and to establish a reasonable fee for filing and review of an application under this chapter. Notwithstanding IC 16-21-1-9 or IC 16-21-1-10, a rule adopted under this chapter may not be waived.

(b) Fees imposed in connection with the certificate of need review under this article are payable to the state department for use in administration of the certificate of need program created by this chapter.

As added by P.L.2-1993, SEC.12. Amended by P.L.156-2011, SEC.28.

IC 16-29-3

Chapter 3. Hospital Conversion of Beds

IC 16-29-3-1

Conversion of acute care beds to comprehensive care beds to be certified for participation in state or federal reimbursement program

Sec. 1. A hospital licensed under IC 16-21-2 may convert:

(1) not more than thirty (30) acute care beds to skilled care comprehensive long term care beds; and

(2) not more than an additional twenty (20) acute care beds to either intermediate care comprehensive long term care beds or skilled care comprehensive long term care beds;

that are to be certified for participation in a state or federal reimbursement program, including a program under Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) or the state Medicaid program, if those beds will function essentially as beds licensed under IC 16-28.

As added by P.L.2-1993, SEC.12. Amended by P.L.96-2006, SEC.1.

IC 16-29-3-2

License requirement

Sec. 2. If the number of comprehensive care beds in a hospital licensed under IC 16-21-2 that function essentially as beds licensed under IC 16-28 exceeds fifty percent (50%) of the beds in the hospital, the comprehensive care beds must be licensed under IC 16-28.

As added by P.L.2-1993, SEC.12.

IC 16-29-3-3

Administrative review

Sec. 3. A decision of the state department under this chapter is subject to review under IC 4-21.5. IC 16-28-10 applies to review hearings and appeals.

As added by P.L.2-1993, SEC.12. Amended by P.L.156-2011, SEC.29; P.L.197-2011, SEC.70.

\IC 16-29-4

Chapter 4. ICF/MR Beds

IC 16-29-4-1
Application of chapter

Sec. 1. This chapter applies to the following:

(1) The conversion of existing health facility beds to ICF/IID beds.

(2) The construction of new ICF/IID facilities after June 30, 1987.

As added by P.L.2-1993, SEC.12. Amended by P.L.35-2016, SEC.81.

IC 16-29-4-2
"ICF/IID"

Sec. 2. (a) As used in this chapter, "ICF/IID" refers to an intermediate care facility for individuals with intellectual disabilities.

(b) The term does not include a facility administered under IC 12-11-1.1 or IC 12-22-2.

As added by P.L.2-1993, SEC.12. Amended by P.L.272-1999, SEC.50; P.L.35-2016, SEC.82.

IC 16-29-4-3
Preliminary approval of proposed project

Sec. 3. Before the conversion of existing health facility beds to ICF/IID beds or the construction of a new ICF/IID facility, the state department may issue a preliminary approval of the proposed project, but only if the state department determines that there is an insufficient number of available beds to care for all the persons who are determined under IC 12-11-2.1 to be appropriate for placement in an ICF/IID facility.

As added by P.L.2-1993, SEC.12. Amended by P.L.272-1999, SEC.51; P.L.156-2011, SEC.30; P.L.197-2011, SEC.71; P.L.6-2012, SEC.118; P.L.141-2014, SEC.14; P.L.35-2016, SEC.83.

IC 16-29-4-4
Number of beds; limit; licensing of facility

Sec. 4. A proposed project that receives preliminary approval under this chapter may not add more beds than the number determined by the state department to be necessary to provide an available bed for each person determined under IC 12-11-2.1 to be appropriate for placement in an ICF/IID facility. Upon completion of the proposed project and compliance with the other requirements for licensure under IC 16-28, the state department shall issue a license to the facility.

As added by P.L.2-1993, SEC.12. Amended by P.L.272-1999, SEC.52; P.L.156-2011, SEC.31; P.L.197-2011, SEC.72; P.L.6-2012, SEC.119; P.L.141-2014, SEC.15; P.L.35-2016, SEC.84.

IC 16-29-5

Chapter 5. Miscellaneous Provisions

IC 16-29-5-1

Compulsory medical treatment or examination not required

Sec. 1. This article does not authorize or require any form of compulsory medical treatment or physical or mental examination of any person who:

(1) is a resident, a guest, a patient, an employee, a registrant, or an enrollee of an exempt institution specified in IC 16-18-2-167(c); and

(2) is being treated by prayer or spiritual means alone for healing;

or deny to the person the right to rely solely upon prayer or spiritual means by receiving only the treatment given by an accredited practitioner of the religious denomination known as the Church of Christ, Scientist, if the laws pertaining to the safe condition of the premises, cleanliness of the operation of the premises, and the physical equipment on the premises are complied with.

As added by P.L.2-1993, SEC.12. Amended by P.L.2-1995, SEC.71.

IC 16-29-6
Expired

(Expired 7-1-2015 by P.L.257-2015, SEC.5.)

IC 16-30

ARTICLE 30. HEALTH PLANNING

IC 16-30-1

Chapter 1. Health Planning Functions of the State Department of Health

IC 16-30-1-1

Health planning and resource development

Sec. 1. The state department shall carry out health planning and resources development responsibilities and functions within Indiana. The state department shall do the following in the state department's planning activities:

(1) Promote health and wellness activities.

(2) Encourage the prevention of disease.

(3) Encourage innovations in the financing and delivery systems for health services.

(4) Foster competition.

(5) Consider the accessibility and quality of health care services.

As added by P.L.2-1993, SEC.13.

IC 16-30-2

Chapter 2. Health Needs Assessment

IC 16-30-2-1

Health needs assessment; reports

Sec. 1. (a) The state department shall identify and assess the health needs of the citizens and communities of Indiana.

(b) The state department shall submit annually to the governor and to the general assembly a report of the health needs and the state department's recommendations. Each report must be submitted by November 1 of each year. A report submitted to the general assembly must be in an electronic format under IC 5-14-6.

(c) The report required by subsection (b) must address, on a county by county basis, the health needs of Indiana concerning the provision of the following types of services:

(1) Public health services described in this title.

(2) Disease treatment services described in IC 16-45 and IC 16-46.

(3) Food and drug control services described in IC 16-42 and IC 16-43.

(4) All other services within the jurisdiction of the state department.

(d) The report required by subsection (b) must, under section 4 of this chapter, assess the adequacy of the existing number of beds in health care facilities and the need for the addition of beds.

As added by P.L.2-1993, SEC.13. Amended by P.L.28-2004, SEC.137.

IC 16-30-2-2

Assessment factors

Sec. 2. The state department shall consider the following factors in assessing the health needs of the citizens and communities of Indiana:

(1) The availability of alternative, less costly, or more effective methods of providing services.

(2) The availability of resources, including health manpower, management personnel, and funds for capital and operating needs for sources to meet the identified need.

(3) The availability of alternative uses of available resources for the provision of other health care services.

(4) The capacity of existing market conditions to improve quality assurance, cost containment, and responsiveness to consumer's preferences.

(5) The capacity of existing public or private reimbursement and utilization review programs, and other public and private cost control measures, to give effect to consumer preferences and establish appropriate incentives for capital allocation.

(6) The competitive factors of the free enterprise system, with

the goal of encouraging competition and efficiency in the utilization of health resources.

As added by P.L.2-1993, SEC.13.

IC 16-30-2-3

Consultation with public and private agencies and organizations

Sec. 3. In assessing the health needs of Indiana under this chapter, the state department shall consult with and take into consideration the findings and recommendations of public or nonprofit private agencies and organizations that assume any responsibility for regional, metropolitan, or local health planning regarding the health needs for that regional, metropolitan, or local area. The state department may determine the agencies or organizations that best represent the community interests, including interests of the indigent, in advising the state department with regard to the identification of health needs.

As added by P.L.2-1993, SEC.13.

IC 16-30-2-4

Adequacy of number of beds; comprehensive care beds

Sec. 4. (a) Subsection (b) does not apply to the addition of comprehensive care beds described under IC 16-29-2.

(b) Except as provided in subsection (c), for purposes of the health needs reports, when determining the adequacy of the existing number of beds:

(1) that are located in a health care facility licensed under:

(A) IC 16-21-2; or

(B) IC 16-28-2; and

(2) that function as beds licensed under IC 16-28-2;

the state department may determine that if the utilization rate of all the beds in a county is not more than ninety percent (90%), the existing number of the beds in the county is adequate.

(c) The state department shall identify and assess the need for the addition of comprehensive care beds that are used solely to provide specialized services described under IC 16-29-2.

As added by P.L.2-1993, SEC.13.

IC 16-30-3
Chapter 3. State Health Plan

IC 16-30-3-1
State health plan

Sec. 1. The state department shall develop and promote a state health plan and recommend to the governor and the general assembly means by which programs and activities can be developed and implemented to effectively and efficiently meet the identified needs.
As added by P.L.2-1993, SEC.13.

IC 16-30-4

Chapter 4. Allocation of Resources

IC 16-30-4-1

AIDS prevention; allocation of resources

Sec. 1. The state department shall consider the following factors in determining the allocation to a political subdivision of resources or funds that are appropriated from the general fund to the state department for the prevention of the spread of acquired immune deficiency syndrome (AIDS):

(1) The population size.

(2) The reported incidence of the human immunodeficiency virus (HIV).

(3) The availability of resources.

As added by P.L.2-1993, SEC.13.

IC 16-30-5
Chapter 5. Penalties

IC 16-30-5-1
Violations

Sec. 1. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this article commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.
As added by P.L.2-1993, SEC.13.

IC 16-31

ARTICLE 31. EMERGENCY MEDICAL SERVICES

IC 16-31-1

Chapter 1. General Provisions

IC 16-31-1-1

Intent

Sec. 1. (a) The general assembly declares that the provision of emergency medical services is a matter of vital concern affecting the public health, safety, and welfare of the people of Indiana.

(b) It is the purpose of this article:

(1) to promote the establishment and maintenance of an effective system of emergency medical service, including the necessary equipment, personnel, and facilities to ensure that all emergency patients receive prompt and adequate medical care throughout the range of emergency conditions encountered;

(2) that the emergency medical services commission established under IC 16-31-2 shall cooperate with other agencies empowered to license persons engaged in the delivery of health care so as to coordinate the efforts of the commission and other agencies; and

(3) to establish standards and requirements for the furnishing of emergency medical services by persons not licensed or regulated by other appropriate agencies.

As added by P.L.2-1993, SEC.14.

IC 16-31-1-2

Essential purpose of political subdivisions

Sec. 2. The provision of emergency medical service is an essential purpose of the political subdivisions of the state.

As added by P.L.2-1993, SEC.14.

IC 16-31-1-3

Religious objections to medical treatment

Sec. 3. This article or a rule adopted under this article does not authorize transporting to a hospital or medical treatment of a person who objects to medical treatment on religious grounds.

As added by P.L.2-1993, SEC.14.

IC 16-31-2
Chapter 2. Indiana Emergency Medical Services Commission

IC 16-31-2-1
Creation

Sec. 1. The Indiana emergency medical services commission is created.

As added by P.L.2-1993, SEC.14.

IC 16-31-2-2
Membership

Sec. 2. (a) The commission is composed of thirteen (13) members. The governor shall appoint the members for four (4) year terms as follows:

(1) One (1) must be appointed from a volunteer fire department that provides emergency medical service.

(2) One (1) must be appointed from a full-time municipal fire or police department that provides emergency medical service.

(3) One (1) must be a nonprofit provider of emergency ambulance services organized on a volunteer basis other than a volunteer fire department.

(4) One (1) must be a provider of private ambulance services.

(5) One (1) must be a state licensed paramedic.

(6) One (1) must be a licensed physician who:

(A) has a primary interest, training, and experience in emergency medical services; and

(B) is currently practicing in an emergency medical services facility.

(7) One (1) must be a chief executive officer of a hospital that provides emergency ambulance services.

(8) One (1) must be a registered nurse who has supervisory or administrative responsibility in a hospital emergency department.

(9) One (1) must be a licensed physician who:

(A) has a primary interest, training, and experience in trauma care; and

(B) is practicing in a trauma facility.

(10) One (1) must be a state certified emergency medical service technician.

(11) One (1) must be an individual who:

(A) represents the public at large; and

(B) is not in any way related to providing emergency medical services.

(12) One (1) must be a program director (as defined in 836 IAC 4-2-2(12)(B)(iii)) for a commission certified advanced life support training institution.

(13) One (1) must be the deputy executive director appointed under IC 10-19-5-3 to manage the division of preparedness and

training of the department of homeland security or the designee of the deputy executive director.

(b) The chief executive officer of a hospital appointed under subsection (a)(7) may designate another administrator of the hospital to serve for the chief executive officer on the commission.

(c) Not more than seven (7) members may be from the same political party.

As added by P.L.2-1993, SEC.14. Amended by P.L.110-2000, SEC.1; P.L.68-2009, SEC.1; P.L.77-2012, SEC.15.

IC 16-31-2-3
Vacancies

Sec. 3. An appointment to fill a vacancy occurring on the commission is for the unexpired term.

As added by P.L.2-1993, SEC.14.

IC 16-31-2-4
Compensation and expenses

Sec. 4. (a) Each member of the commission who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the commission who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

As added by P.L.2-1993, SEC.14.

IC 16-31-2-5
Meetings

Sec. 5. The commission may meet as often as is necessary upon call of the chairman but meetings shall be held at least four (4) times each year.

As added by P.L.2-1993, SEC.14.

IC 16-31-2-6
Seal

Sec. 6. The commission may adopt and use a seal, the description of which shall be filed at the office of the secretary of state, which may be used for the authentication of the acts of the commission.

As added by P.L.2-1993, SEC.14.

IC 16-31-2-7

Emergency medical program; emergency medical services; financial assistance

Sec. 7. (a) The commission shall do the following:

(1) Develop and promote, in cooperation with state, regional, and local public and private organizations, agencies, and persons, a statewide program for the provision of emergency medical services that must include the following:

(A) Preparation of state, regional, and local emergency ambulance service plans.

(B) Provision of consultative services to state, regional, and local organizations and agencies in developing and implementing emergency ambulance service programs.

(C) Promotion of a statewide system of emergency medical service facilities by developing minimum standards, procedures, and guidelines in regard to personnel, equipment, supplies, communications, facilities, and location of such centers.

(D) Promotion of programs for the training of personnel providing emergency medical services and programs for the education of the general public in first aid techniques and procedures. The training shall be held in various local communities of the state and shall be conducted by agreement with publicly and privately supported educational institutions or hospitals licensed under IC 16-21, wherever appropriate.

(E) Promotion of coordination of emergency communications, resources, and procedures throughout Indiana and, in cooperation with interested state, regional, and local public and private agencies, organizations, and persons, the development of an effective state, regional, and local emergency communications system.

(F) Organizing and sponsoring a statewide emergency medical services conference to provide continuing education for persons providing emergency medical services.

(2) Regulate, inspect, and certify or license services, facilities, and personnel engaged in providing emergency medical services as provided in this article.

(3) Adopt rules required to implement an approved system of emergency medical services.

(4) Adopt rules concerning triage and transportation protocols for the transportation of trauma patients consistent with the field triage decision scheme of the American College of Surgeons Committee on Trauma.

(5) Apply for, receive, and accept gifts, bequests, grants-in-aid, state, federal, and local aid, and other forms of financial assistance for the support of emergency medical services.

(6) Employ necessary administrative staff.

(b) The commission shall include the provision of the mental

health first aid training program developed under IC 12-21-5-4 in the promotion of continuing education programs under subsection (a)(1)(D).

As added by P.L.2-1993, SEC.14. Amended by P.L.20-2008, SEC.1; P.L.77-2012, SEC.16; P.L.185-2015, SEC.16.

IC 16-31-2-8

First responder training and certification; reciprocal certification for military personnel; appointment of state emergency medical services medical director

Sec. 8. The commission may do the following:

(1) Develop training and certification standards for emergency medical responders under this article.

(2) Require emergency medical responders to be certified under the standards developed under subdivision (1).

(3) Develop reciprocal certification training standards for individuals who have received medical training by a branch of the United States armed forces.

(4) Not later than thirty (30) days after the executive director of the department of homeland security submits an appointment for state emergency medical services medical director to the commission, vote concerning whether to approve the appointment in accordance with IC 10-19-7-5(d). If the commission votes on the appointment in accordance with IC 10-19-7-5(d), a vote by a majority of the members of the commission is necessary under this subdivision in order to approve or not approve the appointment.

As added by P.L.2-1993, SEC.14. Amended by P.L.77-2012, SEC.17; P.L.188-2014, SEC.2.

IC 16-31-2-9

Emergency medical personnel; standards

Sec. 9. The commission shall establish the following:

(1) Standards for persons who provide emergency medical services and who are not licensed or regulated under IC 16-31-3.

(2) Training standards for the administration of antidotes, vaccines, and antibiotics to prepare for or respond to a terrorist or military attack.

(3) Training and certification standards for the administration of epinephrine through an auto-injector by an emergency medical technician.

(4) Training standards to permit the use of antidote kits containing atropine and pralidoxime chloride for the treatment of exposure to nerve agents by an emergency medical technician or an emergency medical responder.

(5) Standards for distribution, administration, use, and training in the use of an overdose intervention drug.

(6) Protocols for persons who provide emergency medical services to notify law enforcement officials when services have been provided to an individual who has attempted to commit suicide and who has indicated that the attempt was due in part to bullying.

As added by P.L.2-1993, SEC.14. Amended by P.L.156-2001, SEC.2; P.L.17-2002, SEC.4; P.L.93-2002, SEC.2; P.L.205-2003, SEC.21; P.L.74-2006, SEC.2; P.L.77-2012, SEC.18; P.L.156-2014, SEC.7; P.L.164-2014, SEC.3.

IC 16-31-2-10
Technical advisory committee

Sec. 10. (a) In adopting rules concerning the duties of the commission, the commission shall appoint a technical advisory committee.

(b) Members of the technical advisory committee shall be selected by the commission subject to the approval of the governor on the basis of technical expertise and competency in the specific area of emergency medical service concerned.

(c) Each member of a technical advisory committee who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(d) Each member of a technical advisory committee who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

As added by P.L.2-1993, SEC.14.

IC 16-31-2-11
Pre-hospital ambulance rescue and report records

Sec. 11. (a) The commission shall develop procedures for ongoing review of all emergency ambulance services.

(b) The commission may review any pre-hospital ambulance rescue or report record regarding an emergency patient that is utilized or compiled by an emergency ambulance service employing paramedics, advanced emergency medical technicians, or emergency medical technicians. However, except as provided in subsection (d), those records shall remain confidential and may be used solely for the purpose of compiling data and statistics. The use of such data or statistics is subject to IC 4-1-6.

(c) The commission may develop and oversee experimental study projects conducted by ambulance service providers in limited geographic areas of Indiana. These study projects must be developed and conducted in accordance with rules adopted by the commission under IC 4-22-2. These study projects must be designed to test the efficacy of new patient care techniques and new ambulance service systems.

(d) This subsection applies to emergency ambulance services that are provided by or under a contract with an entity that is a public agency for purposes of IC 5-14-3. The following information, if contained in a pre-hospital ambulance rescue or report record regarding an emergency patient, is public information and must be made available for inspection and copying under IC 5-14-3:

(1) The date and time of the request for ambulance services.

(2) The reason for the request for assistance.

(3) The time and nature of the response to the request for ambulance services.

(4) The time of arrival at the scene where the patient was located.

(5) The time of departure from the scene where the patient was located.

(6) The name of the facility, if any, to which the patient was delivered for further treatment and the time of arrival at that facility.

As added by P.L.2-1993, SEC.14. Amended by P.L.127-2001, SEC.2; P.L.205-2003, SEC.22; P.L.77-2012, SEC.19.

IC 16-31-2-12
Fee

Sec. 12. The commission may impose a reasonable fee for the issuance of a certification or license under this chapter. The commission shall deposit the fee in the emergency medical services fund established by IC 16-31-8.5-3.

As added by P.L.101-2006, SEC.25. Amended by P.L.77-2012, SEC.20.

IC 16-31-2-13
Expired

(As added by P.L.77-2012, SEC.21. Expired 7-1-2013 by P.L.77-2012, SEC.21.)

IC 16-31-3

Chapter 3. Certification Requirements for the Provision of Emergency Medical Services

IC 16-31-3-0.5

"Nontransporting emergency medical services vehicle"

Sec. 0.5. (a) As used in this chapter, "nontransporting emergency medical services vehicle" means a motor vehicle, other than an ambulance, used for emergency medical services.

(b) The term does not include an employer owned or employer operated vehicle used for first aid purposes within or upon the employer's premises.

As added by P.L.186-1995, SEC.7.

IC 16-31-3-1

Certification or license required

Sec. 1. (a) Except as provided in subsection (b), a person other than:

(1) a licensed physician;

(2) a registered nurse or an individual acting under the supervision of a licensed physician; or

(3) a person providing health care in a hospital or an ambulatory outpatient surgical center licensed under IC 16-21;

may not furnish, operate, conduct, maintain, advertise, or otherwise be engaged in providing emergency medical services, except for the use of an automated external defibrillator, as a part of the regular course of doing business, either paid or voluntary, unless that person holds a valid certificate or license issued by the commission.

(b) A:

(1) licensed physician;

(2) registered nurse or an individual acting under the supervision of a licensed physician; or

(3) person providing health care in a hospital or an ambulatory outpatient surgical center licensed under IC 16-21;

who operates a business of transporting emergency patients by ambulance or using a nontransporting emergency medical services vehicle must hold a valid certificate issued by the commission under this article.

As added by P.L.2-1993, SEC.14. Amended by P.L.186-1995, SEC.8; P.L.74-2006, SEC.3; P.L.77-2012, SEC.22.

IC 16-31-3-2

Standards for certification and licensure

Sec. 2. The commission shall establish standards for persons required to be certified or licensed by the commission to provide emergency medical services. To be certified or licensed, a person must meet the following minimum requirements:

(1) The personnel certified or licensed under this chapter must

do the following:

(A) Meet the standards for education and training established by the commission by rule.

(B) Successfully complete a basic or an inservice course of education and training on sudden infant death syndrome that is certified by the commission in conjunction with the state health commissioner.

(C) Beginning January 1, 2009, successfully complete a basic or an inservice course of education and training on autism that is certified by the commission.

(2) Ambulances to be used must conform with the requirements of the commission and must either be:

(A) covered by insurance issued by a company licensed to do business in Indiana in the amounts and under the terms required in rules adopted by the commission; or

(B) owned by a governmental entity covered under IC 34-13-3.

(3) Emergency ambulance service shall be provided in accordance with rules adopted by the commission. However, the rules adopted under this chapter may not prohibit the dispatch of an ambulance to aid an emergency patient because an emergency medical technician is not immediately available to staff the ambulance.

(4) Ambulances must be equipped with a system of emergency medical communications approved by the commission. The emergency medical communication system must properly integrate and coordinate appropriate local and state emergency communications systems and reasonably available area emergency medical facilities with the general public's need for emergency medical services.

(5) Emergency medical communications shall be provided in accordance with rules adopted by the commission.

(6) A nontransporting emergency medical services vehicle must conform with the commission's requirements.

As added by P.L.2-1993, SEC.14. Amended by P.L.22-1994, SEC.4; P.L.186-1995, SEC.9; P.L.1-1998, SEC.117; P.L.22-2005, SEC.19; P.L.71-2008, SEC.1; P.L.77-2012, SEC.23.

IC 16-31-3-3

Exceptions to certification or licensure requirement

Sec. 3. (a) A certificate or license is not required for a person who provides emergency ambulance service, an emergency medical technician, an ambulance, a nontransporting emergency medical services vehicle, or advanced life support when doing any of the following:

(1) Providing assistance to persons certified to provide emergency ambulance service or to emergency medical technicians.

(2) Operating from a location or headquarters outside Indiana to provide emergency ambulance services to patients who are picked up outside Indiana for transportation to locations within Indiana.

(3) Providing emergency medical services during a major catastrophe or disaster with which persons or ambulances certified to provide emergency ambulance services are insufficient or unable to cope.

(b) An agency or instrumentality of the United States and any paramedic, advanced emergency medical technician, emergency medical technician, or emergency medical responder of the agency or instrumentality is not required to:

(1) be certified or licensed; or

(2) conform to the standards prescribed under this chapter.

As added by P.L.2-1993, SEC.14. Amended by P.L.186-1995, SEC.10; P.L.22-2005, SEC.20; P.L.77-2012, SEC.24.

IC 16-31-3-4

Agencies and instrumentalities of the United States; exception to certification requirement

Sec. 4. An agency or instrumentality of the United States and emergency medical technicians or ambulances of the agency or instrumentality are not required to be certified or to conform to the standards prescribed under this article.

As added by P.L.2-1993, SEC.14.

IC 16-31-3-5

Waiver of rules; requirements; expiration date; renewal

Sec. 5. (a) The commission shall waive any rule for a person who provides emergency ambulance service, an emergency medical technician, an advanced emergency medical technician, a paramedic, or an ambulance when operating from a location in an adjoining state by contract with an Indiana unit of government to provide emergency ambulance or medical services to patients who are picked up or treated in Indiana.

(b) The commission may waive any rule, including a rule establishing a fee, for a person who submits facts demonstrating that:

(1) compliance with the rule will impose an undue hardship on the person; and

(2) either:

(A) noncompliance with the rule; or

(B) compliance with an alternative requirement approved by the commission;

will not jeopardize the quality of patient care. However, the commission may not waive a rule that sets forth educational requirements for a person regulated under this article.

(c) A waiver granted under subsection (b)(2)(B) is conditioned upon compliance with the alternative requirement approved under

subsection (b).

(d) The commission shall establish an expiration date for any waiver that is granted.

(e) The commission may renew a waiver if the person makes the same demonstration required for the original waiver.

As added by P.L.2-1993, SEC.14. Amended by P.L.205-2003, SEC.23; P.L.77-2012, SEC.25.

IC 16-31-3-6

Volunteer fire departments and firefighters; exception to certification or licensure requirement

Sec. 6. (a) As used in this section, "volunteer fire department" has the meaning set forth in IC 36-8-12-2.

(b) As used in this section, "volunteer firefighter" has the meaning set forth in IC 36-8-12-2.

(c) A certificate or paramedic license is not required for a volunteer fire department or volunteer firefighter to engage in extrication or rescue services.

As added by P.L.2-1993, SEC.14. Amended by P.L.1-1999, SEC.44; P.L.77-2012, SEC.26.

IC 16-31-3-7

Withholding of certificate or license

Sec. 7. The commission may not withhold certification or licensure from a person providing emergency medical services that include extrication and rescue services because the person is not affiliated with a hospital, law enforcement agency, or fire department.

As added by P.L.2-1993, SEC.14. Amended by P.L.77-2012, SEC.27.

IC 16-31-3-8

Applications for certificates and licenses

Sec. 8. An application for a certificate or license must be made upon the forms, provide the information, and be in accordance with the procedures prescribed by the commission.

As added by P.L.2-1993, SEC.14. Amended by P.L.77-2012, SEC.28.

IC 16-31-3-9

Duration of certificate or license

Sec. 9. Except as otherwise provided in this chapter, all certificates and licenses are valid for a period specified by the commission unless earlier suspended, revoked, or terminated.

As added by P.L.2-1993, SEC.14. Amended by P.L.77-2012, SEC.29.

IC 16-31-3-10

Renewal of certificates and licenses; conditions

Sec. 10. (a) Except as provided in subsection (b), to renew a certificate or license issued under this chapter upon expiration of the

certificate or license for any reason, a person must comply with any continuing education requirements that have been established by the commission. To renew a certificate or license issued under this chapter after a revocation of the certificate or license, a person must comply with all the requirements of this chapter that apply to the original certification or licensure.

(b) A renewal of an emergency medical technician or advanced emergency medical technician certificate or a paramedic license shall be issued to an individual who meets the following conditions:

(1) While holding a valid certificate or license, enters the armed forces of the United States, including:

(A) the Army;

(B) the Navy;

(C) the Air Force;

(D) the Marines; or

(E) the Coast Guard;

but excluding the guard and reserve components of those forces.

(2) Is discharged from the armed forces of the United States within forty-eight (48) months after the individual entered the armed forces.

(3) Successfully completes, not more than nine (9) months after the individual's discharge from the armed forces of the United States, a refresher course approved by the commission.

(4) Applies for the certificate or license renewal not more than one (1) year after the individual's discharge from the armed forces of the United States.

(5) Passes the written and practical skills examinations.

(c) A renewal of an emergency medical technician or advanced emergency medical technician certificate or a paramedic license must be issued to an individual who meets the following conditions:

(1) While holding a valid certificate or license, the individual is called to active military duty as a member of the Indiana National Guard or a reserve component of the armed forces of the United States, including:

(A) the Army;

(B) the Navy;

(C) the Air Force;

(D) the Marines; or

(E) the Coast Guard.

(2) The individual provides the emergency medical services commission with a copy of the document from the armed forces that called the individual to active duty.

(3) The individual applies for the certificate or license renewal not more than one hundred twenty (120) days after the individual leaves active duty.

As added by P.L.2-1993, SEC.14. Amended by P.L.205-2003, SEC.24; P.L.77-2012, SEC.30.

IC 16-31-3-11
Certificates and licenses nonassignable and nontransferable

Sec. 11. A certificate or license issued under this chapter is not assignable or transferable.

As added by P.L.2-1993, SEC.14. Amended by P.L.77-2012, SEC.31.

IC 16-31-3-12
Defacing, removal, and obliteration of entries on official entries on certificate or license

Sec. 12. An official entry made upon a certificate or license may not be defaced, removed, or obliterated.

As added by P.L.2-1993, SEC.14. Amended by P.L.77-2012, SEC.32.

IC 16-31-3-13
Repealed

(As added by P.L.2-1993, SEC.14. Repealed by P.L.101-2006, SEC.39.)

IC 16-31-3-13.5
Fee

Sec. 13.5. The commission may impose a reasonable fee for the issuance of a certification or license under this chapter. The commission shall deposit the fee in the emergency medical services fund established by IC 16-31-8.5-3.

As added by P.L.101-2006, SEC.26. Amended by P.L.77-2012, SEC.33.

IC 16-31-3-14
Disciplinary sanctions; denial, suspension, or revocation; appeals; investigations; reinstatement; consistency of sanctions

Sec. 14. (a) A person holding a certificate or license issued under this article must comply with the applicable standards and rules established under this article. A certificate holder or license holder is subject to disciplinary sanctions under subsection (b) if the department of homeland security determines that the certificate holder or license holder:

(1) engaged in or knowingly cooperated in fraud or material deception in order to obtain a certificate or license, including cheating on a certification or licensure examination;

(2) engaged in fraud or material deception in the course of professional services or activities;

(3) advertised services or goods in a false or misleading manner;

(4) falsified or knowingly allowed another person to falsify attendance records or certificates of completion of continuing education courses required under this article or rules adopted under this article;

(5) is convicted of a crime, if the act that resulted in the

conviction has a direct bearing on determining if the certificate holder or license holder should be entrusted to provide emergency medical services;

(6) is convicted of violating IC 9-19-14.5;

(7) fails to comply and maintain compliance with or violates any applicable provision, standard, or other requirement of this article or rules adopted under this article;

(8) continues to practice if the certificate holder or license holder becomes unfit to practice due to:

(A) professional incompetence that includes the undertaking of professional activities that the certificate holder or license holder is not qualified by training or experience to undertake;

(B) failure to keep abreast of current professional theory or practice;

(C) physical or mental disability; or

(D) addiction to, abuse of, or dependency on alcohol or other drugs that endanger the public by impairing the certificate holder's or license holder's ability to practice safely;

(9) engages in a course of lewd or immoral conduct in connection with the delivery of services to the public;

(10) allows the certificate holder's or license holder's name or a certificate or license issued under this article to be used in connection with a person who renders services beyond the scope of that person's training, experience, or competence;

(11) is subjected to disciplinary action in another state or jurisdiction on grounds similar to those contained in this chapter. For purposes of this subdivision, a certified copy of a record of disciplinary action constitutes prima facie evidence of a disciplinary action in another jurisdiction;

(12) assists another person in committing an act that would constitute a ground for disciplinary sanction under this chapter; or

(13) allows a certificate or license issued by the commission to be:

(A) used by another person; or

(B) displayed to the public when the certificate or license is expired, inactive, invalid, revoked, or suspended.

(b) The department of homeland security may issue an order under IC 4-21.5-3-6 to impose one (1) or more of the following sanctions if the department of homeland security determines that a certificate holder or license holder is subject to disciplinary sanctions under subsection (a):

(1) Revocation of a certificate holder's certificate or license holder's license for a period not to exceed seven (7) years.

(2) Suspension of a certificate holder's certificate or license holder's license for a period not to exceed seven (7) years.

(3) Censure of a certificate holder or license holder.

(4) Issuance of a letter of reprimand.

(5) Assessment of a civil penalty against the certificate holder or license holder in accordance with the following:

(A) The civil penalty may not exceed five hundred dollars ($500) per day per violation.

(B) If the certificate holder or license holder fails to pay the civil penalty within the time specified by the department of homeland security, the department of homeland security may suspend the certificate holder's certificate or license holder's license without additional proceedings.

(6) Placement of a certificate holder or license holder on probation status and requirement of the certificate holder or license holder to:

(A) report regularly to the department of homeland security upon the matters that are the basis of probation;

(B) limit practice to those areas prescribed by the department of homeland security;

(C) continue or renew professional education approved by the department of homeland security until a satisfactory degree of skill has been attained in those areas that are the basis of the probation; or

(D) perform or refrain from performing any acts, including community restitution or service without compensation, that the department of homeland security considers appropriate to the public interest or to the rehabilitation or treatment of the certificate holder or license holder.

The department of homeland security may withdraw or modify this probation if the department of homeland security finds after a hearing that the deficiency that required disciplinary action is remedied or that changed circumstances warrant a modification of the order.

(c) If an applicant or a certificate holder or license holder has engaged in or knowingly cooperated in fraud or material deception to obtain a certificate or license, including cheating on the certification or licensure examination, the department of homeland security may rescind the certificate or license if it has been granted, void the examination or other fraudulent or deceptive material, and prohibit the applicant from reapplying for the certificate or license for a length of time established by the department of homeland security.

(d) The department of homeland security may deny certification or licensure to an applicant who would be subject to disciplinary sanctions under subsection (b) if that person were a certificate holder or license holder, has had disciplinary action taken against the applicant or the applicant's certificate or license to practice in another state or jurisdiction, or has practiced without a certificate or license in violation of the law. A certified copy of the record of disciplinary action is conclusive evidence of the other jurisdiction's disciplinary

action.

(e) The department of homeland security may order a certificate holder or license holder to submit to a reasonable physical or mental examination if the certificate holder's or license holder's physical or mental capacity to practice safely and competently is at issue in a disciplinary proceeding. Failure to comply with a department of homeland security order to submit to a physical or mental examination makes a certificate holder or license holder liable to temporary suspension under subsection (i).

(f) Except as provided under subsection (a), subsection (g), and section 14.5 of this chapter, a certificate or license may not be denied, revoked, or suspended because the applicant, certificate holder, or license holder has been convicted of an offense. The acts from which the applicant's, certificate holder's, or license holder's conviction resulted may be considered as to whether the applicant or certificate holder or license holder should be entrusted to serve the public in a specific capacity.

(g) The department of homeland security may deny, suspend, or revoke a certificate or license issued under this article if the individual who holds or is applying for the certificate or license is convicted of any of the following:

(1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.

(2) Possession of methamphetamine under IC 35-48-4-6.1.

(3) Possession of a controlled substance under IC 35-48-4-7(a).

(4) Fraudulently obtaining a controlled substance under IC 35-48-4-7(c).

(5) Manufacture of paraphernalia as a Class D felony (for a crime committed before July 1, 2014) or Level 6 felony (for a crime committed after June 30, 2014) under IC 35-48-4-8.1(b).

(6) Dealing in paraphernalia as a Class D felony (for a crime committed before July 1, 2014) or Level 6 felony (for a crime committed after June 30, 2014) under IC 35-48-4-8.5(b).

(7) Possession of paraphernalia as a Class D felony (for a crime committed before July 1, 2014) or Level 6 felony (for a crime committed after June 30, 2014) under IC 35-48-4-8.3(b).

(8) Possession of marijuana, hash oil, hashish, or salvia as a Class D felony (for a crime committed before July 1, 2014) or Level 6 felony (for a crime committed after June 30, 2014) under IC 35-48-4-11.

(9) Possession of a synthetic drug or synthetic drug lookalike substance as a Class D felony (for a crime committed before July 1, 2014) or Level 6 felony (for a crime committed after June 30, 2014) under IC 35-48-4-11.5 (or under IC 35-48-4-11 before its amendment in 2013).

(10) Maintaining a common nuisance under IC 35-48-4-13 (repealed) or IC 35-45-1-5, if the common nuisance involves a controlled substance.

(11) An offense relating to registration, labeling, and

prescription forms under IC 35-48-4-14.

(12) Conspiracy under IC 35-41-5-2 to commit an offense listed in this section.

(13) Attempt under IC 35-41-5-1 to commit an offense listed in this section.

(14) An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described in this section.

(h) A decision of the department of homeland security under subsections (b) through (g) may be appealed to the commission under IC 4-21.5-3-7.

(i) The department of homeland security may temporarily suspend a certificate holder's certificate or license holder's license under IC 4-21.5-4 before a final adjudication or during the appeals process if the department of homeland security finds that a certificate holder or license holder would represent a clear and immediate danger to the public's health, safety, or property if the certificate holder or license holder were allowed to continue to practice.

(j) On receipt of a complaint or information alleging that a person certified or licensed under this chapter or IC 16-31-3.5 has engaged in or is engaging in a practice that is subject to disciplinary sanctions under this chapter, the department of homeland security must initiate an investigation against the person.

(k) The department of homeland security shall conduct a factfinding investigation as the department of homeland security considers proper in relation to the complaint.

(l) The department of homeland security may reinstate a certificate or license that has been suspended under this section if the department of homeland security is satisfied that the applicant is able to practice with reasonable skill, competency, and safety to the public. As a condition of reinstatement, the department of homeland security may impose disciplinary or corrective measures authorized under this chapter.

(m) The department of homeland security may not reinstate a certificate or license that has been revoked under this chapter.

(n) The department of homeland security must be consistent in the application of sanctions authorized in this chapter. Significant departures from prior decisions involving similar conduct must be explained in the department of homeland security's findings or orders.

(o) A certificate holder may not surrender the certificate holder's certificate, and a license holder may not surrender the license holder's license, without the written approval of the department of homeland security, and the department of homeland security may impose any conditions appropriate to the surrender or reinstatement of a surrendered certificate or license.

(p) For purposes of this section, "certificate holder" means a

person who holds:

(1) an unlimited certificate;

(2) a limited or probationary certificate; or

(3) an inactive certificate.

(q) For purposes of this section, "license holder" means a person who holds:

(1) an unlimited license;

(2) a limited or probationary license; or

(3) an inactive license.

As added by P.L.2-1993, SEC.14. Amended by P.L.65-1998, SEC.1; P.L.205-2003, SEC.25; P.L.22-2005, SEC.21; P.L.1-2006, SEC.300; P.L.151-2006, SEC.6; P.L.138-2011, SEC.2; P.L.182-2011, SEC.2; P.L.78-2012, SEC.3; P.L.77-2012, SEC.34; P.L.196-2013, SEC.4; P.L.158-2013, SEC.234; P.L.168-2014, SEC.30; P.L.59-2016, SEC.2.

IC 16-31-3-14.5

Denial or permanent revocation for conviction of specified crimes

Sec. 14.5. The department of homeland security may issue an order under IC 4-21.5-3-6 to deny an applicant's request for certification or licensure or permanently revoke a certificate or license under procedures provided by section 14 of this chapter if the individual who holds the certificate or license issued under this title is convicted of any of the following:

(1) Dealing in or manufacturing cocaine or a narcotic drug under IC 35-48-4-1.

(2) Dealing in methamphetamine under IC 35-48-4-1.1.

(3) Dealing in a schedule I, II, or III controlled substance under IC 35-48-4-2.

(4) Dealing in a schedule IV controlled substance under IC 35-48-4-3.

(5) Dealing in a schedule V controlled substance under IC 35-48-4-4.

(6) Dealing in a substance represented to be a controlled substance under IC 35-48-4-4.5.

(7) Knowingly or intentionally manufacturing, advertising, distributing, or possessing with intent to manufacture, advertise, or distribute a substance represented to be a controlled substance under IC 35-48-4-4.6.

(8) Dealing in a counterfeit substance under IC 35-48-4-5.

(9) Dealing in marijuana, hash oil, hashish, or salvia as a felony under IC 35-48-4-10.

(10) Dealing in a synthetic drug or synthetic drug lookalike substance under IC 35-48-4-10.5 (or under IC 35-48-4-10(b) before its amendment in 2013).

(11) Conspiracy under IC 35-41-5-2 to commit an offense listed in this section.

(12) Attempt under IC 35-41-5-1 to commit an offense listed in

this section.

(13) A crime of violence (as defined in IC 35-50-1-2(a)).

(14) An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described under this section.

As added by P.L.65-1998, SEC.2. Amended by P.L.17-2001, SEC.2; P.L.1-2002, SEC.74; P.L.205-2003, SEC.26; P.L.1-2006, SEC.301; P.L.151-2006, SEC.7; P.L.138-2011, SEC.3; P.L.182-2011, SEC.3; P.L.78-2012, SEC.4; P.L.77-2012, SEC.35; P.L.196-2013, SEC.5; P.L.238-2015, SEC.3.

IC 16-31-3-15
Repealed

(As added by P.L.2-1993, SEC.14. Repealed by P.L.205-2003, SEC.44.)

IC 16-31-3-16
Misrepresentation of certification or licensure; penalty

Sec. 16. A person who is not certified or licensed under this chapter and identifies or holds out to other persons that the person is:

(1) certified or licensed under this chapter; or

(2) authorized to do any act allowed under this chapter;

commits a Class C misdemeanor.

As added by P.L.2-1993, SEC.14. Amended by P.L.77-2012, SEC.36.

IC 16-31-3-17
Violation; penalty

Sec. 17. (a) The department of homeland security established by IC 10-19-2-1 may issue an order to a person who has practiced without a certificate or license in violation of this article imposing a civil penalty of not more than five hundred dollars ($500) per occurrence.

(b) A decision of the department of homeland security under subsection (a) may be appealed to the commission under IC 4-21.5-3-7.

As added by P.L.2-1993, SEC.14. Amended by P.L.205-2003, SEC.27; P.L.1-2009, SEC.116; P.L.77-2012, SEC.37.

IC 16-31-3-18
Advanced life support; scope

Sec. 18. This chapter does not limit the scope of advanced life support.

As added by P.L.2-1993, SEC.14.

IC 16-31-3-19
Repealed

(As added by P.L.186-1995, SEC.11. Amended by P.L.205-2003,

SEC.28. Repealed by P.L.22-2005, SEC.55.)

IC 16-31-3-20
Advanced life support services development; licensure requirements for paramedics; rules

Sec. 20. The commission shall adopt rules under IC 4-22-2 that promote the orderly development of advanced life support services in Indiana. The rules must include the following:

(1) Requirements and procedures for the certification of provider organizations, advanced emergency medical technicians, and supervising hospitals.

(2) Requirements and procedures for the licensure of paramedics.

(3) Rules governing the operation of advanced life support services, including the medications and procedures that may be administered and performed by paramedics and advanced emergency medical technicians.

As added by P.L.186-1995, SEC.12. Amended by P.L.205-2003, SEC.29; P.L.77-2012, SEC.38.

IC 16-31-3-21
Persons permitted to perform advanced life support

Sec. 21. (a) Notwithstanding any other law, a licensed paramedic or a certified advanced emergency medical technician may perform advanced life support in an emergency according to the rules of the commission.

(b) Notwithstanding any other law, a person may, during a course of instruction in advanced life support, perform advanced life support according to the rules of the commission.

As added by P.L.186-1995, SEC.13. Amended by P.L.205-2003, SEC.30; P.L.77-2012, SEC.39.

IC 16-31-3-22
Advanced life support certification; exemptions; offenses

Sec. 22. (a) Except as provided in subsection (c), this section does not apply to the following:

(1) A licensed physician.

(2) A registered nurse or an individual acting under the supervision of a licensed physician.

(3) A person providing health care in a hospital or an ambulatory outpatient surgical center licensed under IC 16-21.

(b) A person may not furnish, operate, conduct, maintain, or advertise advanced life support as a part of the regular course of doing business unless the person holds a valid certificate or provisional certificate issued by the commission to provide advanced life support.

(c) A:

(1) licensed physician;

(2) registered nurse or an individual acting under the supervision of a licensed physician; or

(3) person providing health care in a hospital or an ambulatory outpatient surgical center licensed under IC 16-21;

who operates a business of operating an emergency ambulance service that provides advanced life support must hold a valid certificate issued by the commission under this chapter.

(d) A person who violates this section commits a Class C misdemeanor. Each day of continued violation of this section is a separate offense.

As added by P.L.186-1995, SEC.14.

IC 16-31-3-23

Use of an auto-injector by a certified emergency medical technician

Sec. 23. An emergency medical technician who is certified under this article may administer epinephrine through an auto-injector to an individual who is experiencing symptoms of an allergic reaction or anaphylaxis.

As added by P.L.17-2002, SEC.5. Amended by P.L.205-2003, SEC.31; P.L.77-2012, SEC.40.

IC 16-31-3-23.5

Use of overdose intervention drugs; prescription, drug order, or protocol

Sec. 23.5. (a) The following may administer an overdose intervention drug to an individual who is suffering from an overdose:

(1) An advanced emergency medical technician.

(2) An emergency medical responder.

(3) An emergency medical technician.

(4) A firefighter or volunteer firefighter.

(5) A law enforcement officer.

(6) A paramedic.

(b) A health care provider who is licensed in Indiana and whose scope of practice includes the prescribing of medication may write a prescription, drug order, standing order, or protocol for an overdose intervention drug for any of the following:

(1) An advanced emergency medical technician.

(2) An emergency medical responder.

(3) An emergency medical technician.

(4) A fire department or volunteer fire department.

(5) A law enforcement agency.

(6) A paramedic.

(c) A pharmacist licensed under IC 25-26 may dispense a valid prescription, drug order, standing order, or protocol for an overdose intervention drug issued in the name of any of the following:

(1) An advanced emergency medical technician.

(2) An emergency medical responder.

(3) An emergency medical technician.

(4) A fire department or volunteer fire department.
(5) A law enforcement agency.
(6) A paramedic.

As added by P.L.156-2014, SEC.8. Amended by P.L.32-2015, SEC.4.

IC 16-31-3-23.7
Administration of an overdose intervention drug; report

Sec. 23.7. (a) An advanced emergency medical technician, an emergency medical responder, an emergency medical technician, a firefighter, a volunteer firefighter, a law enforcement officer, or a paramedic who:

(1) administers an overdose intervention drug; or
(2) is summoned immediately after an overdose intervention drug is administered;

shall inform the emergency ambulance service responsible for submitting the report to the commission of the number of times an overdose intervention drug has been administered.

(b) The emergency ambulance service shall include information received under subsection (a) in the emergency ambulance service's report to the commission under the emergency medical services system review in accordance with the commission's rules.

As added by P.L.32-2015, SEC.5. Amended by P.L.6-2016, SEC.4.

IC 16-31-3-24
Authority for implementation of certification program for emergency services personnel

Sec. 24. The commission may implement a certification program for emergency services personnel regulated by the commission through emergency rules adopted under IC 4-22-2-37.1. An emergency rule adopted under this section expires on the later of the following:

(1) July 1, 2014.
(2) The date permanent rules are adopted to replace the emergency rules.

As added by P.L.77-2012, SEC.41.

IC 16-31-3-25
Tactical emergency medicine provider; qualifications; rules

Sec. 25. (a) An individual who meets the following qualifications may operate as a tactical emergency medicine provider:

(1) Is an emergency medical technician, an advanced emergency medical technician, or a paramedic.
(2) Is employed by:
    (A) a law enforcement agency; or
    (B) an emergency medical services agency established by IC 16-31-5-1 that has an agreement with a law enforcement agency;

to provide retrieval and field medical treatment to victims of

violent confrontations.

(3) Has successfully completed an accredited educational training program in tactical emergency medicine that meets the core curriculum requirements approved by the commission. However, the commission may approve a program provided by:

(A) a military, naval, or air service of the armed forces of the United States;

(B) a program accredited by a federal or state governmental agency; or

(C) a program provided by the National Association of Emergency Medical Technicians that is accredited by the Continuing Education Coordinating Board for Emergency Medical Services;

that substantially meets the core curriculum requirements approved by the commission.

(b) An individual who meets the requirements set forth in subsection (a) may practice emergency medicine according to the individual's scope of training and as approved by the medical director of the law enforcement agency or an emergency medical services agency supervising the individual.

(c) A law enforcement agency or an emergency medical services agency established by IC 16-31-5-1 that has an agreement with a law enforcement agency to operate under this section must be certified as a provider organization by the commission.

(d) The commission shall adopt rules under IC 4-22-2 to implement this section.

(e) Before August 31, 2013, the commission shall adopt emergency rules in the manner provided under IC 4-22-2-37.1 to implement this section. The emergency rules must incorporate the following:

(1) Criteria for basic and advanced life support personnel to function as tactical medical support for law enforcement agencies as adopted by the commission under IC 4-22-7-7 in nonrule policy statement EMS-02-2002 adopted on March 15, 2002.

(2) Tactical emergency medical support core curriculum requirements approved by the commission on September 13, 2007.

This subsection expires on the earlier of the date a permanent rule to implement this section is adopted under IC 4-22-2 or June 30, 2014.
As added by P.L.64-2013, SEC.1.

IC 16-31-3-26
Audit by provider organization; confidentiality; rules

Sec. 26. (a) Each provider organization shall conduct an audit and review at least quarterly to assess, monitor, and evaluate the quality of patient care as follows:

(1) The audit must evaluate patient care and personnel

performance.

(2) The results of the audit must be reviewed with the emergency medical service personnel.

(3) Documentation for the audit and review must include the following:

(A) The criteria used to select audited runs.

(B) Problem identification and resolution.

(C) Date of review.

(D) Attendance at the review.

(E) A summary of the discussion at the review.

(4) The audit and review must be conducted under the direction of one (1) of the following:

(A) The provider organization medical director.

(B) An emergency department committee that is supervised by a medical director with a provider organization representative serving as a member of the committee.

(C) A committee established by the provider organization and under the direction of the medical director or medical director's designee. If the medical director selects a designee, the designee must:

(i) be a physician licensed under IC 25-22.5;

(ii) have an active role in the delivery of emergency care; and

(iii) be designated in writing by the medical director as the medical director's designee.

(5) The audit must provide a method for identifying the need for staff development programs, basic training, in-service training, and orientation.

(6) The audit must evaluate all levels of care by emergency medical service personnel.

(b) An audit and review proceeding under this section is confidential, and any communication at the audit and review proceeding is a privileged communication.

(c) This section does not prevent participation by a provider organization in a peer review committee proceeding under IC 34-30-15.

(d) The commission may adopt rules under IC 4-22-2 to implement this section.

As added by P.L.79-2016, SEC.1.

IC 16-31-3.5

Chapter 3.5. Emergency Medical Dispatch

IC 16-31-3.5-1

Definitions; applicability

Sec. 1. (a) The definitions in this section apply throughout this chapter.

(b) "Emergency medical dispatching" means the reception, evaluation, processing, and provision of dispatch life support, management of requests for emergency medical assistance, and participation in ongoing evaluation and improvement of the emergency medical dispatch process. This process includes identifying the nature of the request, prioritizing the severity of the request, dispatching the necessary resources, providing medical aid and safety instructions to the callers, and coordinating the responding resources as needed, but does not include call routing itself.

(c) "Emergency medical dispatch agency" means any person that provides emergency medical dispatching for emergency medical assistance.

As added by P.L.205-2003, SEC.32. Amended by P.L.68-2009, SEC.2; P.L.77-2012, SEC.42.

IC 16-31-3.5-2

Exclusion

Sec. 2. This chapter does not apply to the following:

(1) A person who solely dispatches prescheduled emergency medical transports.

(2) A person who provides emergency medical dispatching during a major catastrophe or disaster with which individuals or dispatch agencies certified to provide emergency medical dispatching are unable to cope.

As added by P.L.205-2003, SEC.32. Amended by P.L.22-2005, SEC.22.

IC 16-31-3.5-3

Training requirement

Sec. 3. A person may not furnish, operate, conduct, maintain, or advertise services as an emergency medical dispatcher or otherwise be engaged as an emergency medical dispatch agency unless the person performing the emergency medical dispatch has completed training that meets or exceeds the standards established by the National Highway Traffic Safety Administration in the Emergency Medical Dispatch Program Implementation and Administration Managers Guide, as in effect July 1, 2012.

As added by P.L.205-2003, SEC.32. Amended by P.L.22-2005, SEC.23; P.L.68-2009, SEC.3; P.L.77-2012, SEC.43.

IC 16-31-3.5-4

(As added by P.L.205-2003, SEC.32. Amended by P.L.22-2005, SEC.24. Repealed by P.L.68-2009, SEC.7.)

IC 16-31-3.5-4.5
Repealed
(As added by P.L.22-2005, SEC.25. Repealed by P.L.68-2009, SEC.7.)

IC 16-31-3.5-5
Repealed
(As added by P.L.205-2003, SEC.32. Amended by P.L.22-2005, SEC.26; P.L.68-2009, SEC.4. Repealed by P.L.77-2012, SEC.44.)

IC 16-31-3.5-6
Repealed
(As added by P.L.205-2003, SEC.32. Amended by P.L.22-2005, SEC.27; P.L.1-2006, SEC.302. Repealed by P.L.68-2009, SEC.7.)

IC 16-31-3.5-7
Repealed
(As added by P.L.205-2003, SEC.32. Repealed by P.L.77-2012, SEC.45.)

IC 16-31-4
Repealed

(Repealed by P.L.186-1995, SEC.19.)

IC 16-31-5

Chapter 5. Provision or Authorization of Emergency Medical Services by Local Governments

IC 16-31-5-1 Version a

Provision or authorization of emergency medical services; procedures

Note: This version of section effective until 1-1-2017. See also following version of this section, effective 1-1-2017.

Sec. 1. The governing body of a city, town, township, or county by the governing body's action or in any combination may do the following:

(1) Establish, operate, and maintain emergency medical services.

(2) Levy taxes under and limited by IC 6-3.5 and expend appropriated funds of the political subdivision to pay the costs and expenses of establishing, operating, maintaining, or contracting for emergency medical services.

(3) Except as provided in section 2 of this chapter, authorize, franchise, or contract for emergency medical services. However:

(A) a county may not provide, authorize, or contract for emergency medical services within the limits of any city without the consent of the city; and

(B) a city or town may not provide, authorize, franchise, or contract for emergency medical services outside the limits of the city or town without the approval of the governing body of the area to be served.

(4) Apply for, receive, and accept gifts, bequests, grants-in-aid, state, federal, and local aid, and other forms of financial assistance for the support of emergency medical services.

(5) Establish and provide for the collection of reasonable fees for emergency ambulance services the governing body provides under this chapter.

(6) Pay the fees or dues for individual or group membership in any regularly organized volunteer emergency medical services association on their own behalf or on behalf of the emergency medical services personnel serving that unit of government.

As added by P.L.2-1993, SEC.14.

IC 16-31-5-1 Version b

Provision or authorization of emergency medical services; procedures

Note: This version of section effective 1-1-2017. See also preceding version of this section, effective until 1-1-2017.

Sec. 1. The governing body of a city, town, township, or county by the governing body's action or in any combination may do the following:

(1) Establish, operate, and maintain emergency medical services.

(2) Levy taxes under and limited by IC 6-3.6 and expend appropriated funds of the political subdivision to pay the costs and expenses of establishing, operating, maintaining, or contracting for emergency medical services.

(3) Except as provided in section 2 of this chapter, authorize, franchise, or contract for emergency medical services. However:

(A) a county may not provide, authorize, or contract for emergency medical services within the limits of any city without the consent of the city; and

(B) a city or town may not provide, authorize, franchise, or contract for emergency medical services outside the limits of the city or town without the approval of the governing body of the area to be served.

(4) Apply for, receive, and accept gifts, bequests, grants-in-aid, state, federal, and local aid, and other forms of financial assistance for the support of emergency medical services.

(5) Establish and provide for the collection of reasonable fees for emergency ambulance services the governing body provides under this chapter.

(6) Pay the fees or dues for individual or group membership in any regularly organized volunteer emergency medical services association on their own behalf or on behalf of the emergency medical services personnel serving that unit of government.

As added by P.L.2-1993, SEC.14. Amended by P.L.197-2016, SEC.116.

IC 16-31-5-2

Restrictions on provision of emergency medical services

Sec. 2. A city, town, or county may not adopt an ordinance that restricts a person from providing emergency ambulance services in the city, town, township, or county if:

(1) the person is authorized to provide emergency ambulance services in any part of another county; and

(2) the person has been requested to provide emergency ambulance services:

(A) to the county in which the person is authorized to provide emergency ambulance services, and those services will originate in another county; or

(B) from the county in which the person is authorized to provide emergency ambulance services, and those services will terminate in another county.

As added by P.L.2-1993, SEC.14.

IC 16-31-6
Chapter 6. Immunity From Liability

IC 16-31-6-1
Emergency medical technician services

Sec. 1. (a) A certified emergency medical technician who provides emergency medical services to an emergency patient is not liable for an act or omission in providing those services unless the act or omission constitutes negligence or willful misconduct. If the emergency medical technician is not liable for an act or omission, no other person incurs liability by reason of an agency relationship with the emergency medical technician.

(b) This section does not affect the liability of a driver of an ambulance for negligent operation of the ambulance.

As added by P.L.2-1993, SEC.14. Amended by P.L.205-2003, SEC.33; P.L.77-2012, SEC.46.

IC 16-31-6-2
Use of defibrillators

Sec. 2. (a) Except for an act of negligence or willful misconduct, a certified emergency medical responder who uses an automatic or semiautomatic defibrillator on an emergency patient according to the training procedures established by the commission under IC 16-31-2-9 is immune from civil liability for acts or omissions when rendering those services.

(b) If the emergency medical responder is immune from civil liability for the emergency medical responder's act or omission, a person who has only an agency relationship with the emergency medical responder is also immune from civil liability for the act or omission.

As added by P.L.2-1993, SEC.14. Amended by P.L.77-2012, SEC.47.

IC 16-31-6-2.5
Use of overdose intervention drugs; civil immunity

Sec. 2.5. (a) Except for an act of gross negligence or willful misconduct, an advanced emergency medical technician, an emergency medical responder, an emergency medical technician, a firefighter or volunteer firefighter, a law enforcement officer, or a paramedic who administers an overdose intervention drug according to standards established by:

(1) the department or agency that oversees the individual's employment in providing emergency medical services; or

(2) the commission under IC 16-31-2-9;

to an individual suffering from an overdose is immune from civil liability for acts or omissions when administering the drug.

(b) If:

(1) an advanced emergency medical technician;

(2) an emergency medical responder;

(3) an emergency medical technician;
(4) a firefighter or volunteer firefighter;
(5) a law enforcement officer; or
(6) a paramedic;

is immune from civil liability for the individual's act or omission when administering an overdose intervention drug, a person who has only an agency relationship with the advanced emergency medical technician, emergency medical responder, emergency medical technician, firefighter or volunteer firefighter, law enforcement officer, or paramedic is also immune from civil liability for the act or omission.

As added by P.L.156-2014, SEC.9. Amended by P.L.32-2015, SEC.6.

IC 16-31-6-3

Advanced life support; liability

Sec. 3. An act or omission of a paramedic or an advanced emergency medical technician done or omitted in good faith while providing advanced life support to a patient or trauma victim does not impose liability upon the paramedic or advanced emergency medical technician, the authorizing physician, the hospital, or the officers, members of the staff, nurses, or other employees of the hospital or the local governmental unit if the advanced life support is provided:

(1) in connection with an emergency;
(2) in good faith; and
(3) under the written or oral direction of a licensed physician;

unless the act or omission was a result of negligence or willful misconduct.

As added by P.L.2-1993, SEC.14. Amended by P.L.205-2003, SEC.34; P.L.77-2012, SEC.48.

IC 16-31-6-4

Life support provided in connection with disaster emergency

Sec. 4. (a) This section does not apply to an act or omission that was a result of gross negligence or willful or intentional misconduct.

(b) An act or omission of a paramedic, an advanced emergency medical technician, an emergency medical technician, or a person with equivalent certification or licensure from another state that is performed or made while providing advanced life support or basic life support to a patient or trauma victim does not impose liability upon the paramedic, the advanced emergency medical technician, an emergency medical technician, the person with equivalent certification or licensure from another state, a hospital, a provider organization, a governmental entity, or an employee or other staff of a hospital, provider organization, or governmental entity if the advanced life support or basic life support is provided in good faith:

(1) in connection with a disaster emergency declared by the governor under IC 10-14-3-12 in response to an act that the

governor in good faith believes to be an act of terrorism (as defined in IC 35-31.5-2-329); and

(2) in accordance with the rules adopted by the Indiana emergency medical services commission or the disaster emergency declaration of the governor.

As added by P.L.156-2001, SEC.3. Amended by P.L.2-2003, SEC.53; P.L.205-2003, SEC.35; P.L.97-2004, SEC.64; P.L.114-2012, SEC.40; P.L.77-2012, SEC.49.

IC 16-31-6.5

Chapter 6.5. Automatic External Defibrillators

IC 16-31-6.5-1

Repealed

(As added by P.L.24-1998, SEC.1. Repealed by P.L.205-2003, SEC.44.)

IC 16-31-6.5-2

Exemptions

Sec. 2. This chapter does not apply to the following:

(1) A licensed physician.

(2) A hospital, an ambulatory outpatient surgical center, an abortion clinic, or a birthing center.

(3) A person providing health care in a hospital, an ambulatory outpatient surgical center, an abortion clinic, or a birthing center licensed under IC 16-21.

(4) A person or entity certified under IC 16-31-3.

As added by P.L.24-1998, SEC.1. Amended by P.L.96-2005, SEC.12.

IC 16-31-6.5-3

"Defibrillator" defined

Sec. 3. As used in this chapter, "defibrillator" means an automatic external defibrillator.

As added by P.L.24-1998, SEC.1.

IC 16-31-6.5-4

Duties of person or entity acquiring defibrillator

Sec. 4. A person or entity acquiring a defibrillator shall ensure that the defibrillator is maintained and tested according to the manufacturer's operational guidelines.

As added by P.L.24-1998, SEC.1. Amended by P.L.74-2006, SEC.4.

IC 16-31-6.5-5

Notice of acquisition and location of defibrillator

Sec. 5. A person or entity in possession of a defibrillator shall notify the:

(1) ambulance service provider that serves the area where the person or entity is located; or

(2) emergency medical services commission;

of the acquisition and location of the defibrillator.

As added by P.L.24-1998, SEC.1.

IC 16-31-6.5-6

Contact with ambulance service provider following use of defibrillator

Sec. 6. A person who uses a defibrillator is required to contact:

(1) the ambulance service provider; or

(2) a fire department that provides ambulance service;

for the area as soon as practicable following the use of the defibrillator.

As added by P.L.24-1998, SEC.1.

IC 16-31-7

Chapter 7. Emergency Medical Services Education Fund

IC 16-31-7-1

Establishment of fund

Sec. 1. The emergency medical services education fund is established.

As added by P.L.2-1993, SEC.14.

IC 16-31-7-2

Administration of fund; use of fund

Sec. 2. The commission shall administer the fund. Money from the fund may be used to fund inservice training programs promoted by the commission.

As added by P.L.2-1993, SEC.14.

IC 16-31-7-3

Approval of expenditures

Sec. 3. Expenditures from the fund must be approved by the budget agency.

As added by P.L.2-1993, SEC.14.

IC 16-31-7-4

Sources of fund

Sec. 4. The fund consists of income derived as follows:

(1) Generated by the state emergency medical services conference authorized under IC 16-31-2-7(a)(1)(F).

(2) Generated by education programs conducted by the commission.

(3) From civil penalties imposed by the commission.

As added by P.L.2-1993, SEC.14.

IC 16-31-7-5

Repealed

(Repealed by P.L.65-1998, SEC.3.)

IC 16-31-7-6

Investment of unneeded money

Sec. 6. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

As added by P.L.2-1993, SEC.14.

IC 16-31-7-7

Reversion of unused money

Sec. 7. Money in the fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.2-1993, SEC.14.

IC 16-31-8
Chapter 8. Emergency Medical Services Restitution Fund

IC 16-31-8-1
Establishment of fund; purpose

Sec. 1. The emergency medical services restitution fund is established for the purpose of reimbursing persons who:

(1) are certified or licensed under IC 16-31-3; and

(2) provided emergency medical services to individuals injured as a result of an accident caused by an individual who:

(A) was operating a vehicle while intoxicated at the time the accident occurred; and

(B) was subsequently convicted under IC 9-30-5 of that offense.

As added by P.L.2-1993, SEC.14. Amended by P.L.77-2012, SEC.50.

IC 16-31-8-2
Administration of fund

Sec. 2. The department of homeland security shall administer the fund. The expenses of administering the fund shall be paid from money in the fund.

As added by P.L.2-1993, SEC.14. Amended by P.L.1-2006, SEC.303.

IC 16-31-8-3
Reversion of unused money; transfer of excess money

Sec. 3. Money remaining in the fund at the end of a state fiscal year does not revert to the state general fund. However, if the money in the fund at the close of a particular fiscal year exceeds ten thousand dollars ($10,000), the treasurer of state shall transfer the excess from the fund into the emergency medical services education fund established under IC 16-31-7.

As added by P.L.2-1993, SEC.14.

IC 16-31-8-4
Reimbursement from fund; conditions

Sec. 4. A person is entitled to reimbursement from the fund for emergency medical services provided under section 1(2) of this chapter if the following conditions are met:

(1) The person files with the commission a claim not more than one hundred eighty (180) days after the entry of a conviction under IC 9-30-5 of the individual who caused the accident necessitating the emergency medical services.

(2) The court, as part of the entry of conviction, has ordered the individual to make restitution for emergency medical services under IC 9-30-5-17.

(3) The commission has received a copy of the order for restitution as required under IC 9-30-5-17.

(4) The fund has been paid the restitution ordered by the court

under IC 9-30-5-17.
As added by P.L.2-1993, SEC.14.

IC 16-31-8-5
Schedule of costs

Sec. 5. (a) The commission shall prepare a schedule of costs for the following:

(1) Emergency medical services.

(2) Administering a claim made against the fund.

The schedule must be based on the different levels of emergency response required in the types of accidents caused by operators of motor vehicles who are intoxicated.

(b) The commission shall distribute the schedule to all courts in Indiana having jurisdiction over individuals who have been charged with an offense under IC 9-30-5.
As added by P.L.2-1993, SEC.14.

IC 16-31-8.5

Chapter 8.5. Emergency Medical Services Fund

IC 16-31-8.5-1

"Department"

Sec. 1. As used in this chapter, "department" refers to the department of homeland security established by IC 10-19-2-1.

As added by P.L.205-2003, SEC.36. Amended by P.L.97-2004, SEC.65; P.L.22-2005, SEC.28; P.L.101-2006, SEC.27.

IC 16-31-8.5-2

"Fund"

Sec. 2. As used in this chapter, "fund" refers to the emergency medical services fund established by section 3 of this chapter.

As added by P.L.205-2003, SEC.36.

IC 16-31-8.5-3

Emergency medical services fund

Sec. 3. (a) The emergency medical services fund is established to defray the personal services expense, other operating expense, and capital outlay of the:

(1) commission; and

(2) employees of the department.

(b) The fund includes money collected under IC 16-31-2, IC 16-31-3, and IC 16-31-3.5.

As added by P.L.205-2003, SEC.36. Amended by P.L.22-2005, SEC.29; P.L.101-2006, SEC.28.

IC 16-31-8.5-4

Administration

Sec. 4. (a) The department shall administer the fund.

(b) The department shall deposit money collected under IC 16-31-2, IC 16-31-3, and IC 16-31-3.5 in the fund at least monthly.

(c) Expenses of administering the fund shall be paid from money in the fund.

As added by P.L.205-2003, SEC.36. Amended by P.L.22-2005, SEC.30; P.L.101-2006, SEC.29.

IC 16-31-8.5-5

Investment

Sec. 5. The treasurer of state shall invest the money in the fund that is not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

As added by P.L.205-2003, SEC.36.

IC 16-31-8.5-6

Money remains in fund

Sec. 6. Money in the fund at the end of a state fiscal year does not revert to the state general fund.
As added by P.L.205-2003, SEC.36.

IC 16-31-9
Chapter 9. Emergency Choke Saving Methods

IC 16-31-9-1
Food service establishment defined

Sec. 1. (a) As used in this chapter, "food service establishment" means a fixed or mobile establishment that serves food to the public for consumption on the premises.

(b) The term does not include establishments operated on a temporary basis by a charitable or nonprofit corporation, association, or organization.

As added by P.L.2-1993, SEC.14.

IC 16-31-9-2
Instruction placards

Sec. 2. (a) The state department shall adopt rules under IC 4-22-2 to provide for the approval of placards containing instructions in methods that may be used safely and effectively in an emergency by laymen to remove food lodged in a person's throat. The methods must be limited to first aid procedures and must include techniques that do not require the use of instruments or devices.

(b) The placards must be of a size and design suitable for posting in food service establishments. The instructions must, to the extent practicable, be expressed in words and illustrations that are not offensive to restaurant patrons.

As added by P.L.2-1993, SEC.14.

IC 16-31-9-3
Training program guidelines

Sec. 3. The state department shall develop and publish guidelines for training programs that may be used on a voluntary basis by food service establishments to train employees in the approved methods.

As added by P.L.2-1993, SEC.14.

IC 16-31-9-4
Civil liability

Sec. 4. (a) A person is not obligated to remove, assist in removing, or attempt to remove food from another person's throat. A person who in good faith gratuitously removes, assists in removing, or attempts to remove food from another person's throat in an emergency occurring at a food service establishment is not liable for any civil damages as a result of any act or omission by the person providing the emergency assistance unless the act or omission amounts to willful or wanton misconduct.

(b) The owner or operator of a food service establishment is not liable for any civil damages that result from an act or omission by a person rendering or attempting the emergency assistance if there is an approved placard posted in the food service establishment.

As added by P.L.2-1993, SEC.14.

IC 16-31-10
Chapter 10. Enforcement

IC 16-31-10-1
Injunctions

Sec. 1. (a) The:
(1) attorney general;
(2) prosecuting attorney; or
(3) commission;
may, in accordance with the Indiana laws governing injunctions, maintain an action in the name of the state to enjoin a person from violating this article or the rules adopted under this article.

(b) An injunction issued under this section does not relieve a person from criminal prosecution under this article or the rules adopted under this article. An injunctive remedy is in addition to any remedy provided for the criminal prosecution of a violation of this article or the rules adopted under this article.
As added by P.L.2-1993, SEC.14.

IC 16-31-10-2
Violations

Sec. 2. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this article commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.
As added by P.L.2-1993, SEC.14.

IC 16-31-11

Chapter 11. Licensure of Individuals with Military Training

IC 16-31-11-1

"Military service applicant"

Sec. 1. As used in this chapter, "military service applicant" means an applicant for licensure or certification under this article who has performed service as an active member of any of the following:

(1) The armed forces of the United States.

(2) A reserve component of the armed forces of the United States.

(3) The National Guard.

As added by P.L.16-2013, SEC.2; P.L.115-2013, SEC.2.

IC 16-31-11-2

Licensure and certification requirements

Sec. 2. Notwithstanding any other provision of this article, the commission shall issue a license or certificate to a military service applicant to allow the applicant to provide emergency medical services in Indiana if, upon application to the commission, the applicant satisfies the following conditions:

(1) Has:

(A) completed a military program of training;

(B) been awarded a military occupational specialty; and

(C) performed in that occupational specialty;

at a level that is substantially equivalent to or exceeds the academic or experience requirements for the license or certificate the applicant is seeking from the commission.

(2) Has engaged in the active practice of the occupation for which the applicant is seeking licensure or certification for at least two (2) of the five (5) years preceding the date of the application under this section.

(3) Has not committed any act in any jurisdiction that would have constituted grounds for refusal, suspension, or revocation of a license or certificate to provide emergency medical services in Indiana at the time the act was committed.

(4) Has paid any fees required by the commission under IC 16-31-3-13.5 for the license or certificate the applicant is seeking from the commission.

As added by P.L.16-2013, SEC.2; P.L.115-2013, SEC.2.

IC 16-31-11-3

Credit for official duties; academic requirements

Sec. 3. (a) All relevant experience of a military service applicant in the discharge of the applicant's official duties while performing service described in section 1 of this chapter must be credited in the calculation of the number of years the applicant has provided emergency medical services for purposes of section 2 of this chapter.

(b) In determining if a military service applicant substantially meets the academic requirements for a license or certificate issued by the commission, the commission shall consider the recommendations in the Guide to the Evaluation of Educational Experiences in the Armed Services published by the American Council on Education or the council's successor organization.
As added by P.L.16-2013, SEC.2; P.L.115-2013, SEC.2.

IC 16-31-11-4
Nonresidents
Sec. 4. A nonresident who is issued a license or certificate under this chapter is entitled to the same rights and subject to the same obligations as required of a resident who is issued a license or certificate by the commission.
As added by P.L.16-2013, SEC.2; P.L.115-2013, SEC.2.

IC 16-31-11-5
Temporary practice certificate and provisional license
Sec. 5. (a) Notwithstanding any other provision of this article, the commission may issue a temporary practice certificate or provisional license to a military service applicant while the military service applicant is satisfying certain requirements, as determined by the commission, for a license or certificate under section 2 of this chapter.
(b) The military service applicant may practice under a temporary practice certificate or provisional license issued under subsection (a) until:
(1) a license or certification is granted or denied by the commission;
(2) the temporary certificate expires; or
(3) the military service applicant fails to comply with the terms of the provisional license.
As added by P.L.16-2013, SEC.2; P.L.115-2013, SEC.2.

IC 16-31-11-6
Rules
Sec. 6. The commission may adopt rules under IC 4-22-2 necessary to implement this chapter.
As added by P.L.16-2013, SEC.2; P.L.115-2013, SEC.2.

IC 16-31-11-7
Ability to obtain license or certificate under other provisions
Sec. 7. This chapter does not prohibit a military service applicant from proceeding under the licensure or certification requirements established by the commission under the other provisions of this article.
As added by P.L.16-2013, SEC.2; P.L.115-2013, SEC.2.

IC 16-32

ARTICLE 32. PERSONS WITH DISABILITIES

IC 16-32-1

Chapter 1. Plan for Diagnostic and Evaluative Services for Persons With Disabilities

IC 16-32-1-1

Legislative intent; purpose

Sec. 1. (a) It is the intent of the state to develop, within the limits of the state's capabilities and resources, a program that gives the greatest assurance of enabling a person with a disability to achieve the individual's maximum potential and achieve the highest degree of independence possible.

(b) The purpose of this chapter is to develop a plan for a system of diagnostic and evaluative services for persons with disabilities in Indiana.

As added by P.L.2-1993, SEC.15. Amended by P.L.23-1993, SEC.59.

IC 16-32-1-2

Development of plan for diagnostic and evaluative services

Sec. 2. The state health commissioner shall, in cooperation with appropriate state departments and institutions, as well as professional organizations and voluntary agencies, develop a plan by which diagnostic and evaluative services for persons with disabilities will be available so that the individual may be referred to a rehabilitation service or services that will assure the maximum development of the individual's potential and the highest degree of independence possible.

As added by P.L.2-1993, SEC.15. Amended by P.L.23-1993, SEC.60.

IC 16-32-1-3

Scope of plan

Sec. 3. The recommended plan must give attention to the following:

(1) The nature of the diagnostic and evaluative procedures.

(2) Procedures for referral of individuals to such services.

(3) Geographical availability of the services.

(4) Staffing pattern or patterns of services.

(5) Financing of the services.

(6) The manner and procedures of referring individuals diagnosed and evaluated to rehabilitation.

(7) The location within state government for the administration of the program.

As added by P.L.2-1993, SEC.15.

IC 16-32-1-4

Effect of plan on departmental and agency procedures

Sec. 4. It is not the intent of any system or procedures developed to void the intake procedures of a state department or agency providing rehabilitation services directly to individuals.
As added by P.L.2-1993, SEC.15.

IC 16-32-2

Chapter 2. The Committee for the Purchase of Products and Services of Persons With Severe Disabilities

IC 16-32-2-1

Purpose of chapter

Sec. 1. It is the purpose of this chapter to enhance employment opportunities for persons with severe disabilities by encouraging state agencies and units of local government to purchase products made by persons with severe disabilities employed by qualified nonprofit agencies.

As added by P.L.2-1993, SEC.15. Amended by P.L.23-1993, SEC.61.

IC 16-32-2-2

Creation of committee

Sec. 2. There is created a committee for the purchase of products and services of persons who are so severely disabled by a physical or mental disability that the persons cannot engage in normal competitive employment because of the disability.

As added by P.L.2-1993, SEC.15. Amended by P.L.23-1993, SEC.62.

IC 16-32-2-3

Membership

Sec. 3. The committee shall be composed of the following members:

(1) The director of the division of disability and rehabilitative services or the director's designee.

(2) The commissioner of the Indiana department of administration or the commissioner's designee.

(3) The executive director of the governor's planning council on people with disabilities.

(4) The director of the division of mental health and addiction or the director's designee.

(5) The commissioner of the state department of health or the commissioner's designee.

(6) Three (3) members appointed by the governor to represent the public at large.

As added by P.L.2-1993, SEC.15. Amended by P.L.4-1993, SEC.231; P.L.5-1993, SEC.244; P.L.192-1995, SEC.1; P.L.215-2001, SEC.82; P.L.141-2006, SEC.86.

IC 16-32-2-4

Per diem

Sec. 4. The members of the committee shall be reimbursed for expenses at a rate equal to that of state employees on a per diem basis by the division of disability and rehabilitative services.

As added by P.L.2-1993, SEC.15. Amended by P.L.4-1993, SEC.232; P.L.5-1993, SEC.245; P.L.141-2006, SEC.87.

IC 16-32-2-5
Executive secretary

Sec. 5. The director of the division of disability and rehabilitative services shall designate a staff member to act as executive secretary to the committee.

As added by P.L.2-1993, SEC.15. Amended by P.L.4-1993, SEC.233; P.L.5-1993, SEC.246; P.L.141-2006, SEC.88.

IC 16-32-2-6
Voting by members

Sec. 6. All members of the committee are entitled to vote on issues before the committee.

As added by P.L.2-1993, SEC.15.

IC 16-32-2-7
Powers and duties

Sec. 7. The committee shall do the following:

(1) Request from any agency of the state or any unit of local government information concerning product specification and service requirements to enable the committee to carry out the intent of this chapter. The requested information shall be furnished to the executive secretary of the committee.

(2) Meet as often as necessary to carry out the purposes of this chapter. However, the committee shall meet at least quarterly.

(3) Request from each participating qualified nonprofit agency for persons with severe disabilities a quarterly report that describes employment data and the volume of sales for each product or service sold under this chapter. These reports shall be made available to the Indiana department of administration.

(4) Establish the price for all products and services provided by persons with severe disabilities and offered for sale to state agencies and units of local government under IC 5-22-13 that the committee determines are suitable for use. The price fixed must recover for the qualified nonprofit agency for persons with severe disabilities the cost of raw materials, labor, overhead, and delivery cost. The committee shall periodically revise the prices in accordance with changing cost factors and adopt necessary rules regarding specifications, time of delivery, and fair market price.

(5) Approve and prepare a publication that lists all products and services available from any qualified nonprofit agency for persons with severe disabilities that the committee determines are suitable for procurement. The procurement list and revisions of the procurement list shall be distributed to all purchasing officers of state agencies and units of local government for purchase under IC 5-22-13.

(6) Encourage diversity in products and services provided by qualified nonprofit agencies for persons with severe disabilities

and discourage unnecessary duplication or competition between facilities.

(7) Update the state use catalog not less than every ninety (90) days starting January 1 of each year. The web based electronic version shall be considered the catalog of record.

As added by P.L.2-1993, SEC.15. Amended by P.L.23-1993, SEC.63; P.L.192-1995, SEC.2; P.L.49-1997, SEC.51; P.L.46-2007, SEC.5.

IC 16-32-2-8
Repealed

(Repealed by P.L.49-1997, SEC.86.)

IC 16-32-3

Chapter 3. Rights of Blind and Other Physically Disabled Persons

IC 16-32-3-1

Public policy

Sec. 1. It is the policy of this state to encourage and enable individuals who are blind, individuals with a visual disability, and other individuals with a physical or mental disability to participate fully in the social and economic life of the state and to engage in remunerative employment.

As added by P.L.2-1993, SEC.15. Amended by P.L.23-1993, SEC.65; P.L.99-2007, SEC.155; P.L.155-2009, SEC.1.

IC 16-32-3-1.5

Service animals

Sec. 1.5. As used in this chapter, "service animal" refers to an animal trained as:

(1) a hearing animal;
(2) a guide animal;
(3) an assistance animal;
(4) a seizure alert animal;
(5) a mobility animal;
(6) a psychiatric service animal; or
(7) an autism service animal.

As added by P.L.155-2009, SEC.2.

IC 16-32-3-2

Public accommodations; service animals

Sec. 2. (a) As used in this section, "public accommodation" means an establishment that caters or offers services, facilities, or goods to the general public.

(b) A person who:

(1) is totally or partially blind;
(2) is deaf or hard of hearing; or
(3) has a physical or mental disability;

is entitled to be accompanied by a service animal, especially trained for the purpose, in any public accommodation without being required to pay an extra charge for the service animal. However, the person is liable for any damage done to the accommodation by the service animal.

(c) A person who:

(1) refuses access to a public accommodation; or
(2) charges a fee for access to a public accommodation;

to a person who is totally or partially blind, who is deaf or hard of hearing, or who has a physical or mental disability, because that person is accompanied by a service animal commits a Class C infraction.

(d) A service animal trainer, while engaged in the training process of a service animal, is entitled to access to any public accommodation granted by this section.

As added by P.L.2-1993, SEC.15. Amended by P.L.99-2007, SEC.156; P.L.155-2009, SEC.3; P.L.109-2012, SEC.12; P.L.233-2015, SEC.27.

IC 16-32-3-3

Offenses; failure to take precautions to avoid injury to blind pedestrian; unauthorized carrying of cane

Sec. 3. (a) A person not totally blind who:

(1) approaches a totally or partially blind pedestrian carrying a cane predominantly white or metallic in color, with or without a red tip, or using a service animal; and

(2) fails to take all necessary precautions to avoid injury to the blind pedestrian;

commits a Class C infraction.

(b) A person not totally or partially blind who carries, in a public place, a cane or walking stick that is white and tipped with red commits a Class C infraction.

As added by P.L.2-1993, SEC.15. Amended by P.L.155-2009, SEC.4.

IC 16-32-3-4

White Cane Safety Day

Sec. 4. Each year the governor shall take suitable public notice of October 15 as "White Cane Safety Day". The governor shall issue a proclamation in which the governor does the following:

(1) Comments upon the significance of the white cane.

(2) Calls upon the citizens of Indiana to observe the provisions of the white cane law and to take precautions necessary to the safety of individuals with a disability.

(3) Reminds the citizens of Indiana of the policies with respect to individuals with a disability and urges the citizens to cooperate in giving effect to the policies.

(4) Emphasizes the need of the citizens to do the following:

(A) Be aware of the presence of individuals with a disability in the community.

(B) Keep safe and functional for individuals with a disability the streets, highways, sidewalks, walkways, public buildings, public facilities, other public places, places of public accommodation, amusement, and resort, and other places to which the public is invited.

(C) Offer assistance to individuals with a disability upon appropriate occasions.

As added by P.L.2-1993, SEC.15. Amended by P.L.99-2007, SEC.157.

IC 16-32-3-5

Public employment; terms and conditions

Sec. 5. It is the policy of this state that individuals who are blind, individuals with a visual disability, and other individuals with a physical or mental disability shall be employed in:

(1) the state service;

(2) the service of the political subdivisions of the state;

(3) the public schools; and

(4) all other employment supported in whole or in part by public funds;

on the same terms and conditions as the able-bodied, unless it is shown that the particular disability prevents the performance of the work involved.

As added by P.L.2-1993, SEC.15. Amended by P.L.23-1993, SEC.66; P.L.99-2007, SEC.158; P.L.155-2009, SEC.5.

IC 16-32-4

Chapter 4. Developmental Disability Bracelet and Identification Card

IC 16-32-4-1

"Autism spectrum disorder"

Sec. 1. As used in this chapter, "autism spectrum disorder" has the meaning set forth in the most recent edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders.

As added by P.L.56-2016, SEC.2.

IC 16-32-4-2

"Developmental disability"

Sec. 2. As used in this chapter, "developmental disability" has the meaning set forth in IC 12-7-2-61.

As added by P.L.56-2016, SEC.2.

IC 16-32-4-3

Request for bracelet or identification card; presentation to law enforcement officer; rules

Sec. 3. (a) Upon the request of:

(1) an individual who has been medically diagnosed with a developmental disability, including autism spectrum disorder;

(2) the parent or guardian acting on behalf of an individual who is described in subdivision (1) and is a minor; or

(3) the parent or guardian acting on behalf of an individual who is described in subdivision (1) and is an incapacitated person (as defined in IC 29-3-1-7.5);

the state department shall issue a bracelet or an identification card indicating that the individual has been medically diagnosed with a developmental disability. An individual described in this subsection may request, and the state department shall issue, both a bracelet and the identification card.

(b) The:

(1) bracelet or identification card issued under this chapter; and

(2) individual's driver's license (as defined in IC 9-28-2-4) or identification card (as defined in IC 9-13-2-74.5);

may be presented to a law enforcement officer, as necessary.

(c) The state department shall adopt rules under IC 4-22-2 concerning the information that must be submitted to obtain a bracelet or an identification card under subsection (a).

As added by P.L.56-2016, SEC.2.

IC 16-32-4-4

Fees; rules

Sec. 4. (a) The state department may charge a reasonable fee, as determined by the state department, for a bracelet and an

identification card issued under this chapter.

(b) The state department shall adopt rules under IC 4-22-2 concerning the information that appears on a bracelet or an identification card, including information that identifies an individual's specific developmental disability.

As added by P.L.56-2016, SEC.2.

IC 16-32-4-5

Confidential information; release of information prohibited; court orders; liberal construction of section

Sec. 5. (a) Except as provided in subsection (c), information collected under this chapter:

(1) is confidential; and

(2) is exempt from disclosure.

(b) Information collected under this chapter may not be released under a subpoena, search warrant, or any civil discovery proceedings.

(c) A court, acting on a pleading or motion, may issue an order directing the release of specific information collected under this chapter after all the following have occurred:

(1) The person requesting the court order has sent the state department a pleading or motion:

(A) stating that an emergency exists and that the information cannot be collected through any other means; and

(B) requesting that the information be released.

(2) The state department has been allowed to respond to the pleading or motion requesting the release of information.

(3) The court has conducted an in camera review of the requested information.

(4) After considering the response of the state department and reviewing the information submitted to the court, the court finds by clear and convincing evidence that:

(A) an emergency exists and that the information cannot be collected through any other means; and

(B) the reasons for ordering release of the information outweigh the reasons for not disclosing the information.

(d) This section shall be construed liberally to protect the confidentiality and prevent the disclosure of the information collected by the state department under this chapter.

As added by P.L.56-2016, SEC.2.

IC 16-33

ARTICLE 33. SPECIAL INSTITUTIONS

IC 16-33-1

Repealed

(Repealed by P.L.69-1999, SEC.12.)

IC 16-33-2
Repealed

(Repealed by P.L.69-1999, SEC.12.)

IC 16-33-3

Chapter 3. Silvercrest Children's Development Center

IC 16-33-3-1

Center defined

Sec. 1. As used in this chapter, "center" refers to the Silvercrest children's development center.

As added by P.L.2-1993, SEC.16.

IC 16-33-3-2

Establishment

Sec. 2. The Silvercrest children's development center is established as a state center.

As added by P.L.2-1993, SEC.16.

IC 16-33-3-3

Care provided

Sec. 3. The center shall provide for the educational diagnosis, evaluation, assessment, short term remediation, referral, and care of children who may benefit from such service, but who, because of serious disabling conditions, cannot make satisfactory progress in the programs of public schools or special institutions of the state. The provision of services shall be for the purpose of properly referring these children to more appropriate programs operated by other agencies or institutions and providing reassessment of these children as indicated.

As added by P.L.2-1993, SEC.16. Amended by P.L.23-1993, SEC.73; P.L.142-1995, SEC.14.

IC 16-33-3-4

Administration

Sec. 4. The state department shall administer the center. The state health commissioner, subject to IC 20-35-2, has complete administrative control and responsibility for the center.

As added by P.L.2-1993, SEC.16. Amended by P.L.1-2005, SEC.144.

IC 16-33-3-5

Programs of center

Sec. 5. The center shall provide the following:

(1) Educational diagnosis, needs assessment, evaluation, short term remediation, reassessment, referral, and follow-up, in cooperation with other agencies or institutions, necessary to assure continuity of services and proper placement.

(2) Short term training and retraining allowable within the confines of the client's stay to permit the client to achieve maximum potential to benefit from the services of the receiving agency or institution.

(3) Reassessment of clients whose behavioral needs, family

structure, or services available at a receiving agency or institution change to the extent that the original assessment of the client's needs are no longer descriptive or useful to the client, the client's family, or the receiving agency or institution.

As added by P.L.2-1993, SEC.16.

IC 16-33-3-6

Director; appointment and qualifications

Sec. 6. (a) The director of the center is responsible for the immediate supervision of the center.

(b) The state health commissioner shall appoint the director of the center. The director of the center must possess the following qualifications:

(1) The director must possess the appropriate knowledge, skill, and ability in education or rehabilitation.

(2) The director must have experience and association with training programs for persons with multiple disabilities.

(3) The director must have a master's degree or higher degree.

(4) The director must be competent and qualified to provide the administrative services essential to the achievement of the center's intended goals.

As added by P.L.2-1993, SEC.16. Amended by P.L.23-1993, SEC.74.

IC 16-33-3-7

Director; powers and duties

Sec. 7. (a) The director of the center, subject to the approval of the state health commissioner, has complete charge and management of the center and is charged with the direction of the development program for the clients in attendance.

(b) The director of the center is the chief appointing authority for all employees necessary to properly conduct and operate the center.

As added by P.L.2-1993, SEC.16.

IC 16-33-3-8

Clients; qualifications

Sec. 8. Subject to the review and approval of the department of education and the state health commissioner or the commissioner's designee, the director of the center shall receive as clients in the center children with multiple disabilities who meet the following conditions:

(1) Are expected to benefit from residence in the center as part of an individualized education program (as defined in IC 20-18-2-9).

(2) Are residents of Indiana.

(3) Possess at least two (2) major disabling conditions.

(4) Are less than twenty-two (22) years of age.

(5) Whose admissions have been approved by the department of education in accordance with the procedures implementing

IC 20-35-6-2.

As added by P.L.2-1993, SEC.16. Amended by P.L.23-1993, SEC.75; P.L.142-1995, SEC.15; P.L.291-2001, SEC.220; P.L.1-2005, SEC.145.

IC 16-33-3-8.5

Placement review committee

Sec. 8.5. (a) A placement review committee for the center is established. The committee consists of one (1) representative of each of the following:

(1) The office of the secretary of family and social services.

(2) The state department.

(3) The superintendent of public instruction.

(b) The placement review committee shall meet on a quarterly basis to review the following:

(1) Applications to the center denied through the process described in section 8 of this chapter.

(2) All instances of dismissal from the center for reasons other than graduation, voluntary transition to another educational facility, or voluntary departure from the center.

(c) The director shall serve as an advisor to the placement review committee. The director shall provide the placement review committee with information and justification for all application denials and dismissals under review.

(d) The placement review committee may recommend that application denials or dismissals be reconsidered.

As added by P.L.55-1997, SEC.6. Amended by P.L.253-1997(ss), SEC.17.

IC 16-33-3-9

Duties of parents and center to provide for child's care

Sec. 9. (a) The center shall provide tuition, board, room, laundry, and ordinary medical attention, including emergencies.

(b) The parents, guardian, or other persons shall provide medical, optical, and dental care involving special medication or prostheses.

(c) When a client is properly admitted to the center, the client's parents, guardian, responsible relative, or other person shall suitably provide the client with clothing at the time of the client's entrance into the center and during the client's stay at the center.

(d) The client's parent or guardian shall bear the cost of transportation not required by the client's individualized education program (as defined by IC 20-18-2-9). The school corporation in which the client has legal settlement shall bear the cost of transportation required by the client's individualized education program under IC 20-35-8-2.

(e) The client's parents, guardian, or responsible relative or other person shall provide incidental expense money needed by the client.

As added by P.L.2-1993, SEC.16. Amended by P.L.1-2005, SEC.146.

IC 16-33-3-10

Parents of child in center unable to pay for costs for services; payment by county

Sec. 10. Whenever the circuit court, superior court, or probate court having jurisdiction finds, upon application by the county office of the division of family resources, that the parent or guardian of a client placed in the center is unable to meet the costs that the parent or guardian is required to pay for the services of the center, the court shall order payment of the costs from the county general fund.

As added by P.L.2-1993, SEC.16. Amended by P.L.4-1993, SEC.236; P.L.5-1993, SEC.249; P.L.146-2008, SEC.436; P.L.44-2009, SEC.31; P.L.84-2016, SEC.91.

IC 16-33-3-11

Gifts, legacies, devises, and conveyances

Sec. 11. The director, subject to IC 4-24-3, may receive, for the use of the center, gifts, legacies, devises, and conveyances of real and personal property that may be made, given, or granted to or for the center or in the center's name.

As added by P.L.2-1993, SEC.16.

IC 16-33-4

Chapter 4. Indiana Soldiers' and Sailors' Children's Home

IC 16-33-4-1

Armed forces of the United States defined

Sec. 1. As used in this chapter, "armed forces of the United States" means the forces and components of the Army, Navy, Air Force, Marine Corps, and Coast Guard.

As added by P.L.2-1993, SEC.16.

IC 16-33-4-2

County of residence of the child defined

Sec. 2. As used in this chapter, the "county of residence of the child":

(1) is the county of residence of the responsible parent; or

(2) if there is no responsible parent, is the county within which the guardianship or wardship is established by appointment of the court.

As added by P.L.2-1993, SEC.16.

IC 16-33-4-3

Home defined

Sec. 3. As used in this chapter, "home" refers to the Indiana Soldiers' and Sailors' Children's Home established by this chapter.

As added by P.L.2-1993, SEC.16.

IC 16-33-4-4

Member of the armed forces defined

Sec. 4. As used in this chapter, "member of the armed forces" means a person who:

(1) is on active duty in the armed forces of the United States;

(2) has:

(A) served on active duty in the armed forces of the United States during any of its wars, including the Korean War, for not less than ninety (90) days; or

(B) while on active duty in the armed forces of the United States:

(i) suffered a service connected disability necessitating discharge; or

(ii) died in the line of duty;

before the completion of ninety (90) days of service if the person has received a discharge or certificate of service other than dishonorable from the armed forces of the United States, or the survivors of the person have received a letter of mourning or certificate of death in case of death in the armed forces of the United States; or

(3) has:

(A) served on active duty in any of the authorized campaigns

or declared emergencies of the United States as evidenced by an award of authorized decorations for service outside the continental limits; and

(B) received a discharge other than dishonorable, or the survivors of the person have received a letter of mourning or certificate of death in the case of death in the armed forces.

As added by P.L.2-1993, SEC.16.

IC 16-33-4-5
Establishment

Sec. 5. The Indiana Soldiers' and Sailors' Children's Home is established as a state residential school and home for the care of Indiana children who are in need of residential care and would qualify for educational service. Preference shall be given to the admission of children of members of the armed forces and children of families of veterans who meet these admission criteria. A child who requires residential placement in a secure facility (as defined in IC 31-9-2-114), a juvenile detention facility, or a detention center for the safety of the child or others may not be placed at the home.

As added by P.L.2-1993, SEC.16. Amended by P.L.142-1995, SEC.16; P.L.55-1997, SEC.7.

IC 16-33-4-6
Administration

Sec. 6. The state department shall administer the home. The state health commissioner has administrative control and responsibility for the home.

As added by P.L.2-1993, SEC.16.

IC 16-33-4-7
Superintendent; appointment; qualifications

Sec. 7. (a) Except as provided in subsection (b), the superintendent of the home shall be appointed in the manner prescribed by law and must meet all of the following conditions:

(1) Be a teacher licensed by the state or have at least a baccalaureate degree from an accredited college or university in a field related to education or child growth and development.

(2) Have experience working with children.

(3) At the time of appointment, be a resident and citizen of Indiana.

(4) Have other qualifications as required by the state health commissioner.

(b) When at least two (2) candidates meet the conditions listed in subsection (a), the state health commissioner shall give preference to individuals who have been honorably discharged after service in the armed forces of the United States in appointing a candidate to the position of superintendent of the home.

As added by P.L.2-1993, SEC.16. Amended by P.L.105-2002, SEC.1.

IC 16-33-4-8
Superintendent; powers and duties

Sec. 8. The superintendent of the home, subject to the approval of the state health commissioner:

(1) has charge and management of the home;

(2) shall direct the care, education, and maintenance of the children of the home; and

(3) is the chief appointing authority for all employees necessary to properly conduct and operate the home.

As added by P.L.2-1993, SEC.16.

IC 16-33-4-9
Education or training of children of home; requirements

Sec. 9. (a) The children of the home shall be:

(1) taught and treated in a manner that promotes the children's physical, intellectual, and moral improvement; and

(2) trained in habits of industry, studiousness, and morality.

(b) The superintendent of the home:

(1) shall afford to the children of the home literary, art, technical, and industrial education as can reasonably be provided;

(2) may conduct a school at the home, which must be accredited, or may otherwise arrange for the education of the children in county reorganized schools near the institution; and

(3) shall make certain that a child attending a county school receives instruction that is not inferior in any respect to the curriculum offered in a school possessing a first class commission from the state.

(c) If a school is maintained at the home, the superintendent shall do the following:

(1) Cause to be provided the proper educational materials for use in the school.

(2) Employ the necessary teachers.

(d) A person who teaches in a department of the school must be qualified and properly certified by the Indiana state board of education.

As added by P.L.2-1993, SEC.16.

IC 16-33-4-10
Vocational school; establishment and maintenance on grounds of home; financing

Sec. 10. (a) The superintendent shall establish and maintain a vocational school on the grounds of the home and maintain suitable facilities in which vocational trades and arts are taught.

(b) The superintendent may utilize donated money or state money without limitation to finance vocational construction projects that are:

(1) authorized by the budget agency; and

(2) in accordance with designs approved by the public works division of the Indiana department of administration.

As added by P.L.2-1993, SEC.16. Amended by P.L.142-1995, SEC.17.

IC 16-33-4-11

Admission of children as residents of home; requirements

Sec. 11. (a) After an adequate investigation as determined by the superintendent of the home or the superintendent's designee, including consideration of appropriateness of placement, and with the approval of the state health commissioner or the commissioner's designee, the superintendent of the home shall receive as a resident in the home a child if the child meets the requirements under subsection (b).

(b) Before the child may be received as a resident in the home under subsection (a) the child must meet the following requirements:

(1) The parent or parents of the child are Indiana residents immediately before application or the child is physically present in Indiana immediately before application.

(2) The child is at least three (3) years of age but less than eighteen (18) years of age.

(3) The child is in need of residential care and education.

(c) If the applications of all children of members of the armed forces have been considered and space is available, the superintendent of the home may, if a child meets the requirements under subsection (b), receive as residents in the home the:

(1) grandchildren;

(2) stepchildren;

(3) brothers;

(4) sisters;

(5) nephews; and

(6) nieces;

of members of the armed forces who are in need of residential care and education.

(d) If the applications of all children eligible for residence under subsections (a) through (c) have been considered and if space is available, the superintendent may accept for residence children referred:

(1) by the department of child services established by IC 31-25-1-1; or

(2) by the division of special education established by IC 20-35-2-1;

subject to an adequate investigation as determined by the superintendent of the home or the superintendent's designee, including a consideration of appropriateness of placement, and the approval of the state health commissioner or the commissioner's designee.

As added by P.L.2-1993, SEC.16. Amended by P.L.142-1995,

SEC.18; P.L.55-1997, SEC.8; P.L.253-1997(ss), SEC.18; P.L.105-2002, SEC.2; P.L.1-2005, SEC.147; P.L.145-2006, SEC.136; P.L.1-2007, SEC.135.

IC 16-33-4-12
Application for admission to home; requisites

Sec. 12. (a) An application for admission to the home may be made by a responsible parent, a guardian, a representative of the court, or the department of child services.

(b) If an application is submitted by a person other than a responsible parent or guardian, the superintendent of the home shall cooperate with the department of child services to ensure that an appropriate case study is made upon application and continued throughout the period the child resides at the home.

As added by P.L.2-1993, SEC.16. Amended by P.L.4-1993, SEC.237; P.L.5-1993, SEC.250; P.L.142-1995, SEC.19; P.L.145-2006, SEC.137; P.L.146-2008, SEC.437.

IC 16-33-4-13
Care, control, and training of children; responsibilities

Sec. 13. (a) The superintendent is responsible for the care, control, and training of children admitted to and living in the home from the day a child is admitted to the home until the child is:

(1) eighteen (18) years of age; or
(2) discharged from the home.

(b) The superintendent shall make certain in the case of every child in the home that:

(1) there is a responsible parent;
(2) there is a responsible relative; or
(3) if a responsible parent or relative is not available, the child is a ward of the department of child services from which there is a representative;

who is regularly and frequently concerned with the welfare of the child.

(c) If:

(1) the parent or parents have been deprived of the custody and control of a child by order of the court; and
(2) custody has been given by the court to the department of child services;

the wardship shall be retained by the department of child services.

As added by P.L.2-1993, SEC.16. Amended by P.L.4-1993, SEC.238; P.L.5-1993, SEC.251; P.L.146-2008, SEC.438.

IC 16-33-4-14
Placement of child upon admission; removal or discharge of child

Sec. 14. (a) Either parent, a guardian, a relative, or the department of child services applying for the admission of a child to the home shall, in securing admittance of the child, place the child in the home

for the length of time determined to be in the best interests of the child.

(b) A child shall be returned at any time to the:

(1) parent or parents;

(2) relative; or

(3) department of child services that placed the child in the home;

if removal of the child from the home is applied for upon written application. The superintendent may require not more than thirty (30) days notice when a discharge is requested.

(c) If the superintendent finds that a child does not adjust to institutional living or is not educable, the superintendent:

(1) may:

(A) with the approval of the state health commissioner; and

(B) upon proper notification;

discharge the child to the applicant placing the child in the home; and

(2) shall cooperate with the department of child services for further disposition of the case as necessary.

As added by P.L.2-1993, SEC.16. Amended by P.L.4-1993, SEC.239; P.L.5-1993, SEC.252; P.L.142-1995, SEC.20; P.L.146-2008, SEC.439.

IC 16-33-4-15

Removal or other placement of child; approval

Sec. 15. A child admitted to the home may not be permanently removed from the home and placed elsewhere without the express approval of the:

(1) parent or parents who;

(2) guardian who;

(3) relative who; or

(4) department of child services that;

applied for admission of the child to the home.

As added by P.L.2-1993, SEC.16. Amended by P.L.4-1993, SEC.240; P.L.5-1993, SEC.253; P.L.142-1995, SEC.21; P.L.146-2008, SEC.440.

IC 16-33-4-16

Visitation

Sec. 16. Either parent, a guardian, a relative, a representative of the department of child services, or other person approved by the superintendent may visit a child being maintained in the home at times or places the superintendent prescribes.

As added by P.L.2-1993, SEC.16. Amended by P.L.4-1993, SEC.241; P.L.5-1993, SEC.254; P.L.142-1995, SEC.22; P.L.146-2008, SEC.441.

IC 16-33-4-17

Maintenance charges; liability for payment; procedures

Sec. 17. (a) Each child, the estate of the child, the parent or parents of the child, or the guardian of the child, individually or collectively, are liable for the payment of the costs of maintenance of the child of up to one hundred percent (100%) of the per capita cost, except as otherwise provided. The cost shall be computed annually by dividing the total annual cost of operation for the fiscal year, exclusive of the cost of education programs, construction, and equipment, by the total child days each year. The maintenance cost shall be referred to as maintenance charges. The charge may not be levied against any of the following:

(1) The department of child services.

(2) A county or any person or office, to be derived from county tax sources.

(3) A child orphaned by reason of the death of the natural parents.

(b) The billing and collection of the maintenance charges as provided for in subsection (a) shall be made by the superintendent of the home based on the per capita cost for the preceding fiscal year. All money collected shall be deposited in a fund to be known as the Indiana soldiers' and sailors' children's home maintenance fund. The fund shall be used by the state health commissioner for the:

(1) preventative maintenance; and

(2) repair and rehabilitation;

of buildings of the home that are used for housing, food service, or education of the children of the home.

(c) The superintendent of the home may, with the approval of the state health commissioner, agree to accept payment at a lesser rate than that prescribed in subsection (a). The superintendent of the home shall, in determining whether or not to accept the lesser amount, take into consideration the amount of money that is necessary to maintain or support any member of the family of the child. All agreements to accept a lesser amount are subject to cancellation or modification at any time by the superintendent of the home with the approval of the state health commissioner.

(d) A person who has been issued a statement of amounts due as maintenance charges may petition the superintendent of the home for a release from or modification of the statement and the superintendent shall provide for hearings to be held on the petition. The superintendent of the home may, with the approval of the state health commissioner and after the hearing, cancel or modify the former statement and at any time for due cause may increase the amounts due for maintenance charges to an amount not to exceed the maximum cost as determined under subsection (a).

(e) The superintendent of the home may arrange for the establishment of a graduation or discharge trust account for a child by arranging to accept a lesser rate of maintenance charge. The trust fund must be of sufficient size to provide for immediate expenses

upon graduation or discharge.

(f) The superintendent may make agreements with instrumentalities of the federal government for application of any monetary awards to be applied toward the maintenance charges in a manner that provides a sufficient amount of the periodic award to be deposited in the child's trust account to meet the immediate personal needs of the child and to provide a suitable graduation or discharge allowance. The amount applied toward the settlement of maintenance charges may not exceed the amount specified in subsection (a).

(g) The superintendent of the home may do the following:

(1) Investigate, either with the superintendent's own staff or on a contractual or other basis, the financial condition of each person liable under this chapter.

(2) Make determinations of the ability of:

(A) the estate of the child;

(B) the legal guardian of the child; or

(C) each of the responsible parents of the child;

to pay maintenance charges.

(3) Set a standard as a basis of judgment of ability to pay that shall be recomputed periodically to do the following:

(A) Reflect changes in the cost of living and other pertinent factors.

(B) Provide for unusual and exceptional circumstances in the application of the standard.

(4) Issue to any person liable under this chapter statements of amounts due as maintenance charges, requiring the person to pay monthly, quarterly, or otherwise as may be arranged, an amount not exceeding the maximum cost as determined under this chapter.

As added by P.L.2-1993, SEC.16. Amended by P.L.4-1993, SEC.242; P.L.5-1993, SEC.255; P.L.142-1995, SEC.23; P.L.145-2006, SEC.138; P.L.146-2008, SEC.442.

IC 16-33-4-17.5

Reimbursement for costs of services ordered by juvenile court; nonresident child

Sec. 17.5. (a) In the case of a child who is:

(1) adjudicated to be a delinquent child or child in need of services by a juvenile court; and

(2) placed by or with the consent of the department of child services in the home;

the department of child services shall reimburse the cost of services provided to the child, including related transportation costs, and any cost incurred by a county where the home is located to transport or detain the child before the child is adjudicated to be a delinquent child or child in need of services.

(b) The department of child services shall reimburse and pay costs under this section.

(c) The department of child services may require the parent or guardian of the child, other than a parent, guardian, or custodian associated with the home, to reimburse the department for an amount paid under this section.

(d) A child who is admitted to the home does not become a resident of the county where the home is located.

(e) When an unemancipated child is released from the home, the department of child services is responsible for transporting the child to the parent or guardian of the child. If a parent or guardian does not exist for an unemancipated child released from the home, the department of child services shall obtain custody of the child.

As added by P.L.55-1997, SEC.9. Amended by P.L.146-2008, SEC.443.

IC 16-33-4-18

Maintenance charges and agreements; enforcement

Sec. 18. (a) The attorney general shall, upon notification by the superintendent of the home through the state health commissioner, bring suit in the name of the state of Indiana on behalf of the superintendent of the home against the estate of a person failing to make payments as required in this chapter.

(b) If a judgment is obtained under this section, the judgment constitutes a lien against that part of the estate of a person as described in the complaint.

(c) The attorney general may bring suit against the parent or parents or legal guardian of a child for failure to comply with the maintenance agreement established or for failure to make an agreement. Suit may be brought for the amount due the state for the maintenance charges of the child. The court may order the payment of amounts due for maintenance charges for a period of time as the circumstances require. The order may be entered against any or all of the defendants and may be based upon the proportionate ability of each defendant to contribute to the payment of amounts representing maintenance charges. Orders for the payment of money may be enforced by attachment as in contempt proceedings against the persons of the defendants, and in addition as other judgments at law, and costs may be adjudged against and apportioned among the defendants.

As added by P.L.2-1993, SEC.16.

IC 16-33-4-19

Maintenance of home and grounds; cultivation of connected lands; assistance of children

Sec. 19. (a) The superintendent shall do the following:

(1) Cause the grounds of the home to be:

(A) kept in proper order; and

(B) ornamented with trees, shrubs, and flowers.

(2) Provide and maintain conservatories or greenhouses.

(b) The superintendent:

(1) may have any suitable land connected with the home cultivated for the use and benefit of the home; and

(2) shall have the children in the home assist in the work.

As added by P.L.2-1993, SEC.16.

IC 16-33-4-20

Housekeeping, manufacturing and repair of clothing, and other necessary services; assistance of children

Sec. 20. The superintendent shall have the children in the home assist in the following:

(1) Housekeeping services of the home.

(2) Manufacture and repair of the clothing of children.

(3) The provision of services necessary for the home.

As added by P.L.2-1993, SEC.16.

IC 16-33-4-21

Labor, service, and study prescribed for children; consideration given proper education and training of children

Sec. 21. In prescribing labor, service, and study for the children of the home, the superintendent shall consider the proper education and training of the children.

As added by P.L.2-1993, SEC.16.

IC 16-33-4-22

Gifts, legacies, devises, and conveyances

Sec. 22. The superintendent may, subject to IC 4-24-3-2, receive for the use of the home:

(1) gifts;

(2) legacies;

(3) devises; and

(4) conveyances of real and personal property;

that are made, given, or granted to or for the home or in the name of the home.

As added by P.L.2-1993, SEC.16.

IC 16-33-4-23

Employee wage payment arrangements

Sec. 23. (a) Notwithstanding IC 22-2-5-2, the home and:

(1) an employee if there is no representative described under subdivision (2) or (3) for that employee;

(2) the exclusive representative of its certificated employees with respect to those employees; or

(3) a labor organization representing its noncertificated employees with respect to those employees;

may agree in writing to a wage payment arrangement.

(b) A wage payment arrangement under subsection (a) may provide that compensation earned during a school year may be paid:

(1) using equal installments or any other method; and

(2) over:

(A) all or part of that school year; or

(B) any other period that begins not earlier than the first day of that school year and ends not later than thirteen (13) months after the wage payment arrangement period begins.

Such an arrangement may provide that compensation earned in a calendar year is paid in the next calendar year, so long as all the compensation is paid within the thirteen (13) month period beginning with the first day of the school year.

(c) A wage payment arrangement under subsection (a) must be structured in such a manner so that it is not considered:

(1) a nonqualified deferred compensation plan for purposes of Section 409A of the Internal Revenue Code; or

(2) deferred compensation for purposes of Section 457(f) of the Internal Revenue Code.

(d) Absent an agreement under subsection (a), the home remains subject to IC 22-2-5-1.

(e) Wage payments required under a wage payment arrangement entered into under subsection (a) are enforceable under IC 22-2-5-2.

(f) If an employee leaves employment for any reason, either permanently or temporarily, the amount due the employee under IC 22-2-5-1 and IC 22-2-9-2 is the total amount of the wages earned and unpaid.

(g) Employment with the home may not be conditioned upon the acceptance of a wage payment arrangement under subsection (a).

(h) An employee may revoke a wage payment arrangement under subsection (a) at the beginning of each school year.

As added by P.L.41-2009, SEC.3.

IC 16-34

ARTICLE 34. ABORTION

IC 16-34-1

Chapter 1. Public Policy Concerning Performance of Abortions; Use of Public Funds; Civil Actions

IC 16-34-1-1

Childbirth preferred

Sec. 1. Childbirth is preferred, encouraged, and supported over abortion.

As added by P.L.2-1993, SEC.17.

IC 16-34-1-2

Public funds; payment restricted

Sec. 2. Neither the state nor any political subdivision of the state may make a payment from any fund under its control for the performance of an abortion unless the abortion is necessary to preserve the life of the pregnant woman.

As added by P.L.2-1993, SEC.17.

IC 16-34-1-3

Private or denominational hospitals; mandatory abortion services

Sec. 3. No private or denominational hospital shall be required to permit its facilities to be utilized for the performance of abortions.

As added by P.L.2-1993, SEC.17.

IC 16-34-1-4

Physician or employee; mandatory participation in abortion

Sec. 4. No:

(1) physician; or

(2) employee or member of the staff of a hospital or other facility in which an abortion may be performed;

shall be required to perform an abortion or to assist or participate in the medical procedures resulting in or intended to result in an abortion, if that individual objects to such procedures on ethical, moral, or religious grounds.

As added by P.L.2-1993, SEC.17.

IC 16-34-1-5

Participation as condition of training, promotion, or privileges; prohibition

Sec. 5. No person shall be required, as a condition of training, employment, pay, promotion, or privileges, to agree to perform or participate in the performing of abortions.

As added by P.L.2-1993, SEC.17.

IC 16-34-1-6

Discrimination based upon moral beliefs; prohibition

Sec. 6. No hospital or other person shall discriminate against or discipline a person because of the person's moral beliefs concerning abortion.

As added by P.L.2-1993, SEC.17.

IC 16-34-1-7

Civil actions

Sec. 7. A civil action for damages or reinstatement of employment, or both, may be brought for any violation of sections 4 through 6 of this chapter.

As added by P.L.2-1993, SEC.17.

IC 16-34-1-8

Prohibition on coverage of abortion by qualified health plan; exceptions

Sec. 8. A qualified health plan (as defined in IC 27-8-33-3) offered under Subtitle D of Title 1 of the federal Patient Protection and Affordable Care Act (P.L. 111-148) may not provide coverage for abortion, except in the following cases:

(1) The pregnant woman became pregnant through an act of rape or incest.

(2) An abortion is necessary to avert the pregnant woman's death or a substantial and irreversible impairment of a major bodily function of the pregnant woman.

As added by P.L.193-2011, SEC.5.

IC 16-34-1-9

Findings; compelling state interest

Sec. 9. (a) The general assembly finds the following:

(1) There is substantial medical evidence that a fetus at twenty (20) weeks of postfertilization age has the physical structures necessary to experience pain.

(2) There is substantial medical evidence that a fetus of at least twenty (20) weeks of postfertilization age seeks to evade certain stimuli in a manner similar to an infant's or adult's response to pain.

(3) Anesthesia is routinely administered to a fetus of at least twenty (20) weeks of postfertilization age when prenatal surgery is performed.

(4) A fetus has been observed to exhibit hormonal stress responses to painful stimuli earlier than at twenty (20) weeks of postfertilization age.

(b) Indiana asserts a compelling state interest in protecting the life of a fetus from the state at which substantial medical evidence indicates that the fetus is capable of feeling pain.

As added by P.L.193-2011, SEC.6.

IC 16-34-2

Chapter 2. Requirements for Performance of Abortion; Criminal Penalties

IC 16-34-2-0.5

Medical emergency

Sec. 0.5. A medical emergency, for purposes of this chapter, does not include a patient's claim or diagnosis that the patient would engage in conduct that would result in the patient's death or substantial physical impairment. Under the circumstances described in this section and unless the following would pose a great risk of death or substantial physical impairment of the patient, the physician shall terminate the patient's pregnancy in a manner that, in a physician's reasonable medical judgment, would result in the best opportunity for the fetus to survive.

As added by P.L.193-2011, SEC.7.

IC 16-34-2-1

Required circumstances of legal abortion

Sec. 1. (a) Abortion shall in all instances be a criminal act, except when performed under the following circumstances:

(1) Except as prohibited in IC 16-34-4, during the first trimester of pregnancy for reasons based upon the professional, medical judgment of the pregnant woman's physician if:

(A) the abortion is performed by the physician;

(B) the woman submitting to the abortion has filed her consent with her physician. However, if in the judgment of the physician the abortion is necessary to preserve the life of the woman, her consent is not required; and

(C) the woman submitting to the abortion has filed with her physician the written consent of her parent or legal guardian if required under section 4 of this chapter.

However, an abortion inducing drug may not be dispensed, prescribed, administered, or otherwise given to a pregnant woman after nine (9) weeks of postfertilization age unless the Food and Drug Administration has approved the abortion inducing drug to be used for abortions later than nine (9) weeks of postfertilization age. A physician shall examine a pregnant woman in person before prescribing or dispensing an abortion inducing drug. As used in this subdivision, "in person" does not include the use of telehealth or telemedicine services.

(2) Except as prohibited by IC 16-34-4, for an abortion performed by a surgical procedure, after the first trimester of pregnancy and before the earlier of viability of the fetus or twenty (20) weeks of postfertilization age, for reasons based upon the professional, medical judgment of the pregnant woman's physician if:

(A) all the circumstances and provisions required for legal

abortion during the first trimester are present and adhered to; and

(B) the abortion is performed in a hospital or ambulatory outpatient surgical center (as defined in IC 16-18-2-14).

(3) Except as provided in subsection (b) or as prohibited by IC 16-34-4, and for an abortion performed by a surgical procedure, at the earlier of viability of the fetus or twenty (20) weeks of postfertilization age and any time after, for reasons based upon the professional, medical judgment of the pregnant woman's physician if:

(A) all the circumstances and provisions required for legal abortion before the earlier of viability of the fetus or twenty (20) weeks of postfertilization age are present and adhered to;

(B) the abortion is performed in compliance with section 3 of this chapter; and

(C) before the abortion the attending physician shall certify in writing to the hospital in which the abortion is to be performed, that in the attending physician's professional, medical judgment, after proper examination and review of the woman's history, the abortion is necessary to prevent a substantial permanent impairment of the life or physical health of the pregnant woman. All facts and reasons supporting the certification shall be set forth by the physician in writing and attached to the certificate.

(b) A person may not knowingly or intentionally perform a partial birth abortion unless a physician reasonably believes that:

(1) performing the partial birth abortion is necessary to save the mother's life; and

(2) no other medical procedure is sufficient to save the mother's life.

As added by P.L.2-1993, SEC.17. Amended by P.L.145-1997, SEC.2; P.L.193-2011, SEC.8; P.L.136-2013, SEC.5; P.L.213-2016, SEC.13.

IC 16-34-2-1.1

Voluntary and informed consent required; viewing of fetal ultrasound and hearing auscultation of fetal heart tone; information required if a lethal fetal anomaly has been diagnosed

Sec. 1.1. (a) An abortion shall not be performed except with the voluntary and informed consent of the pregnant woman upon whom the abortion is to be performed. Except in the case of a medical emergency, consent to an abortion is voluntary and informed only if the following conditions are met:

(1) At least eighteen (18) hours before the abortion and in the private, not group, presence of the pregnant woman, the physician who is to perform the abortion, the referring physician or a physician assistant (as defined in IC 25-27.5-2-10), an advanced practice nurse (as defined in

IC 25-23-1-1(b)), or a certified nurse midwife (as defined in IC 34-18-2-6.5) to whom the responsibility has been delegated by the physician who is to perform the abortion or the referring physician has informed the pregnant woman orally and in writing of the following:

(A) The name of the physician performing the abortion, the physician's medical license number, and an emergency telephone number where the physician or the physician's designee may be contacted on a twenty-four (24) hour a day, seven (7) day a week basis.

(B) That follow-up care by the physician or the physician's designee (if the designee is licensed under IC 25-22.5) is available on an appropriate and timely basis when clinically necessary.

(C) The nature of the proposed procedure or information concerning the abortion inducing drug.

(D) Objective scientific information of the risks of and alternatives to the procedure or the use of an abortion inducing drug, including:

(i) the risk of infection and hemorrhage;

(ii) the potential danger to a subsequent pregnancy; and

(iii) the potential danger of infertility.

(E) That human physical life begins when a human ovum is fertilized by a human sperm.

(F) The probable gestational age of the fetus at the time the abortion is to be performed, including:

(i) a picture of a fetus;

(ii) the dimensions of a fetus; and

(iii) relevant information on the potential survival of an unborn fetus;

at this stage of development.

(G) That objective scientific information shows that a fetus can feel pain at or before twenty (20) weeks of postfertilization age.

(H) The medical risks associated with carrying the fetus to term.

(I) The availability of fetal ultrasound imaging and auscultation of fetal heart tone services to enable the pregnant woman to view the image and hear the heartbeat of the fetus and how to obtain access to these services.

(J) That the pregnancy of a child less than fifteen (15) years of age may constitute child abuse under Indiana law if the act included an adult and must be reported to the department of child services or the local law enforcement agency under IC 31-33-5.

(K) That Indiana does not allow a fetus to be aborted solely because of the fetus's race, color, national origin, ancestry, sex, or diagnosis or potential diagnosis of the fetus having

Down syndrome or any other disability.

(2) At least eighteen (18) hours before the abortion, the pregnant woman will be informed orally and in writing of the following:

(A) That medical assistance benefits may be available for prenatal care, childbirth, and neonatal care from the county office of the division of family resources.

(B) That the father of the unborn fetus is legally required to assist in the support of the child. In the case of rape, the information required under this clause may be omitted.

(C) That adoption alternatives are available and that adoptive parents may legally pay the costs of prenatal care, childbirth, and neonatal care.

(D) That there are physical risks to the pregnant woman in having an abortion, both during the abortion procedure and after.

(E) That Indiana has enacted the safe haven law under IC 31-34-2.5.

(F) The:

(i) Internet web site address of the state department of health's web site; and

(ii) description of the information that will be provided on the web site and that are;

described in section 1.5 of this chapter.

(G) For the facility in which the abortion is to be performed, an emergency telephone number that is available and answered on a twenty-four (24) hour a day, seven (7) day a week basis.

(H) On a form developed by the state department and as described in IC 16-34-3, that the pregnant woman has a right to determine the final disposition of the remains of the aborted fetus.

(I) On a form developed by the state department, information concerning the available options for disposition of the aborted fetus.

(J) On a form developed by the state department, information concerning any counseling that is available to a pregnant woman after having an abortion.

The state department shall develop and distribute the forms required by clauses (H) through (J).

(3) The pregnant woman certifies in writing, on a form developed by the state department, before the abortion is performed, that:

(A) the information required by subdivisions (1) and (2) has been provided to the pregnant woman;

(B) the pregnant woman has been offered by the provider the opportunity to view the fetal ultrasound imaging and hear the auscultation of the fetal heart tone if the fetal heart tone

is audible and that the woman has:

(i) viewed or refused to view the offered fetal ultrasound imaging; and

(ii) listened to or refused to listen to the offered auscultation of the fetal heart tone if the fetal heart tone is audible; and

(C) the pregnant woman has been given a written copy of the printed materials described in section 1.5 of this chapter.

(4) At least eighteen (18) hours before the abortion and in the presence of the pregnant woman, the physician who is to perform the abortion, the referring physician or a physician assistant (as defined in IC 25-27.5-2-10), an advanced practice nurse (as defined in IC 25-23-1-1(b)), or a midwife (as defined in IC 34-18-2-19) to whom the responsibility has been delegated by the physician who is to perform the abortion or the referring physician has provided the pregnant woman with a color copy of the informed consent brochure described in section 1.5 of this chapter by printing the informed consent brochure from the state department's Internet web site and including the following information on the back cover of the brochure:

(A) The name of the physician performing the abortion and the physician's medical license number.

(B) An emergency telephone number where the physician or the physician's designee may be contacted twenty-four (24) hours a day, seven (7) days a week.

(C) A statement that follow-up care by the physician or the physician's designee who is licensed under IC 25-22.5 is available on an appropriate and timely basis when clinically necessary.

(5) At least eighteen (18) hours before an abortion is performed and at the same time that the pregnant woman receives the information required by subdivision (1), the provider shall perform, and the pregnant woman shall view, the fetal ultrasound imaging and hear the auscultation of the fetal heart tone if the fetal heart tone is audible unless the pregnant woman certifies in writing, on a form developed by the state department, before the abortion is performed, that the pregnant woman:

(A) does not want to view the fetal ultrasound imaging; and

(B) does not want to listen to the auscultation of the fetal heart tone if the fetal heart tone is audible.

(b) This subsection applies to a pregnant woman whose unborn child has been diagnosed with a lethal fetal anomaly. The requirements of this subsection are in addition to the other requirements of this section. At least eighteen (18) hours before an abortion is performed on the pregnant woman, the physician who will perform the abortion shall:

(1) orally and in person, inform the pregnant woman of the

availability of perinatal hospice services; and

(2) provide the pregnant woman copies of the perinatal hospice brochure developed by the state department under IC 16-25-4.5-4 and the list of perinatal hospice providers and programs developed under IC 16-25-4.5-5, by printing the perinatal hospice brochure and list of perinatal hospice providers from the state department's Internet web site.

(c) If a pregnant woman described in subsection (b) chooses to have an abortion rather than continuing the pregnancy in perinatal hospice care, the pregnant woman shall certify in writing, on a form developed by the state department under IC 16-25-4.5-6, at least eighteen (18) hours before the abortion is performed, that the pregnant woman has been provided the information described in subsection (b) in the manner required by subsection (b).

As added by P.L.187-1995, SEC.4. Amended by P.L.1-1998, SEC.118; P.L.36-2005, SEC.1; P.L.146-2008, SEC.444; P.L.44-2009, SEC.32; P.L.193-2011, SEC.9; P.L.136-2013, SEC.6; P.L.232-2013, SEC.2; P.L.98-2014, SEC.2; P.L.113-2015, SEC.5; P.L.213-2016, SEC.14.

IC 16-34-2-1.2

Physician's duty to inform women in medical emergency of necessity for abortion

Sec. 1.2. When a medical emergency compels the performance of an abortion, the physician who will perform the abortion shall inform the woman, before the abortion if possible, of the medical indications supporting the physician's judgment that an abortion is necessary to avert:

(1) the woman's death; or

(2) a substantial and irreversible impairment of a major bodily function.

As added by P.L.187-1995, SEC.5.

IC 16-34-2-1.5

Informed consent brochure; requirements

Sec. 1.5. (a) The state department shall develop an informed consent brochure and post the informed consent brochure on the state department's Internet web site.

(b) The state department shall develop an informed consent brochure that includes the following:

(1) Objective scientific information concerning the probable anatomical and physiological characteristics of a fetus every two (2) weeks of gestational age, including the following:

(A) Realistic pictures in color for each age of the fetus, including the dimensions of the fetus.

(B) Whether there is any possibility of the fetus surviving outside the womb.

(2) Objective scientific information concerning the medical

risks associated with each abortion procedure or the use of an abortion inducing drug, including the following:

(A) The risks of infection and hemorrhaging.

(B) The potential danger:

(i) to a subsequent pregnancy; or

(ii) of infertility.

(3) Information concerning the medical risks associated with carrying the child to term.

(4) Information that medical assistance benefits may be available for prenatal care, childbirth, and neonatal care.

(5) Information that the biological father is liable for assistance in support of the child, regardless of whether the biological father has offered to pay for an abortion.

(6) Information regarding telephone 211 dialing code services for accessing human services as described in IC 8-1-19.5, and the types of services that are available through this service.

(c) In complying with subsection (b)(6), the state department shall consult with the recognized 211 service providers and the Indiana utility regulatory commission as required by IC 8-1-19.5-9.

(d) In the development of the informed consent brochure described in this section, the state department shall use information and pictures that are available at no cost or nominal cost to the state department.

(e) The informed consent brochure must include the requirements specified in this chapter.

As added by P.L.193-2011, SEC.10. Amended by P.L.136-2013, SEC.7.

IC 16-34-2-2

Responsibilities of attending physician; determination of postfertilization age; disciplinary action for violation

Sec. 2. (a) It shall be the responsibility of the attending physician to do the following:

(1) Determine in accordance with accepted medical standards the postfertilization age of the fetus and which trimester the pregnant woman receiving the abortion is in.

(2) Determine whether the fetus is viable.

(3) Certify that determination as part of any written reports required of the attending physician by the state department or the facility in which the abortion is performed.

(b) In making a determination under this section of the postfertilization age of the fetus, the attending physician shall do the following:

(1) Question the patient concerning the date of fertilization.

(2) Perform or cause to be performed medical examinations and tests that a reasonably prudent physician would conduct to accurately diagnose the postfertilization age of the fetus.

(c) Except in the case of a medical emergency (as described in

section 0.5 of this chapter), a physician that violates this section is subject to disciplinary action under IC 25-1-9.
As added by P.L.2-1993, SEC.17. Amended by P.L.193-2011, SEC.11.

IC 16-34-2-3
Conditions for abortion after viability or 20 weeks; attendance of physician for preservation of life and health of viable unborn child; certificates of birth or death; offense for violation; ward

Sec. 3. (a) All abortions performed on and after the earlier of the time a fetus is viable or the time the postfertilization age of the fetus is at least twenty (20) weeks shall be:

(1) governed by section 1(a)(3) and 1(b) of this chapter;
(2) performed in a hospital having premature birth intensive care units, unless compliance with this requirement would result in an increased risk to the life or health of the mother; and
(3) performed in the presence of a second physician as provided in subsection (b).

(b) An abortion may be performed after the earlier of the time a fetus is viable or the time the postfertilization age of the fetus is at least twenty (20) weeks only if there is in attendance a physician, other than the physician performing the abortion, who shall take control of and provide immediate care for a child born alive as a result of the abortion. During the performance of the abortion, the physician performing the abortion, and after the abortion, the physician required by this subsection to be in attendance, shall take all reasonable steps in keeping with good medical practice, consistent with the procedure used, to preserve the life and health of the viable unborn child. However, this subsection does not apply if compliance would result in an increased risk to the life or health of the mother.

(c) Any fetus born alive shall be treated as a person under the law, and a birth certificate shall be issued certifying the child's birth even though the child may subsequently die, in which event a death certificate shall be issued. Failure to take all reasonable steps, in keeping with good medical practice, to preserve the life and health of the live born person shall subject the responsible persons to Indiana laws governing homicide, manslaughter, and civil liability for wrongful death and medical malpractice.

(d) If, before the abortion, the mother, and if married, her husband, has or have stated in writing that she does or they do not wish to keep the child in the event that the abortion results in a live birth, and this writing is not retracted before the abortion, the child, if born alive, shall immediately upon birth become a ward of the department of child services.
As added by P.L.2-1993, SEC.17. Amended by P.L.4-1993, SEC.243; P.L.5-1993, SEC.256; P.L.145-1997, SEC.3; P.L.146-2008, SEC.445; P.L.193-2011, SEC.12.

IC 16-34-2-4

Written consent of parent or guardian of unemancipated pregnant woman under 18 years of age; conditions of waiver; representation by attorney; appeal; confidential records; emergency abortions

Sec. 4. (a) No physician shall perform an abortion on an unemancipated pregnant woman less than eighteen (18) years of age without first having obtained the written consent of one (1) of the parents or the legal guardian of the minor pregnant woman.

(b) A minor:

(1) who objects to having to obtain the written consent of her parent or legal guardian under this section; or

(2) whose parent or legal guardian refuses to consent to an abortion;

may petition, on her own behalf or by next friend, the juvenile court in the county in which the pregnant woman resides or in which the abortion is to be performed, for a waiver of the parental consent requirement under subsection (a). A next friend may not be a physician or provider of abortion services, representative of the physician or provider, or other person that may receive a direct financial benefit from the performance of an abortion.

(c) A physician who feels that compliance with the parental consent requirement in subsection (a) would have an adverse effect on the welfare of the pregnant minor or on her pregnancy may petition the juvenile court within twenty-four (24) hours of the abortion request for a waiver of the parental consent requirement under subsection (a).

(d) The juvenile court must rule on a petition filed by a pregnant minor under subsection (b) or by her physician under subsection (c) within forty-eight (48) hours of the filing of the petition. Before ruling on the petition, the court shall consider the concerns expressed by the pregnant minor and her physician. The requirement of parental consent under this section shall be waived by the juvenile court if the court finds that the minor is mature enough to make the abortion decision independently or that an abortion would be in the minor's best interests.

(e) Unless the juvenile court finds that the pregnant minor is already represented by an attorney, the juvenile court shall appoint an attorney to represent the pregnant minor in a waiver proceeding brought by the minor under subsection (b) and on any appeals. The cost of legal representation appointed for the minor under this section shall be paid by the county.

(f) A minor or her physician who desires to appeal an adverse judgment of the juvenile court in a waiver proceeding under subsection (b) or (c) is entitled to an expedited appeal, under rules to be adopted by the supreme court.

(g) All records of the juvenile court and of the supreme court or the court of appeals that are made as a result of proceedings conducted under this section are confidential.

(h) A minor who initiates legal proceedings under this section is exempt from the payment of filing fees.

(i) This section shall not apply where there is an emergency need for a medical procedure to be performed such that continuation of the pregnancy provides an immediate threat and grave risk to the life or health of the pregnant woman and the attending physician so certifies in writing.

As added by P.L.2-1993, SEC.17. Amended by P.L.193-2011, SEC.13.

IC 16-34-2-4.5

Admitting privileges requirement; notification to patient of hospital location; confirmation of admitting privileges; redaction

Sec. 4.5. (a) A physician may not perform an abortion unless the physician:

(1) has admitting privileges in writing at a hospital located in the county where abortions are provided or in a contiguous county; or

(2) has entered into a written agreement with a physician who has written admitting privileges at a hospital in the county or contiguous county concerning the management of possible complications of the services provided.

A written agreement described in subdivision (2) must be renewed annually.

(b) A physician who performs an abortion shall notify the patient of the location of the hospital at which the physician or a physician with whom the physician has entered into an agreement under subsection (a)(2) has admitting privileges and where the patient may receive follow-up care by the physician if complications arise.

(c) An abortion clinic shall:

(1) keep at the abortion clinic a copy of the admitting privileges of a physician described in subsection (a)(1) and (a)(2); and

(2) submit a copy of the admitting privileges described in subdivision (1) to the state department as part of the abortion clinic's licensure. The state department shall verify the validity of the admitting privileges document. The state department shall remove any identifying information from the admitting privileges document before releasing the document under IC 5-14-3.

(d) The state department shall annually submit a copy of the admitting privileges described in subsection (a)(1) and a copy of the written agreement described in subsection (a)(2) to:

(1) each hospital located in the county in which the hospital granting the admitting privileges described in subsection (a) is located; and

(2) each hospital located in a county that is contiguous to the county described in subdivision (1);

where abortions are performed.

(e) The state department shall confirm to a member of the public, upon request, that the admitting privileges required to be submitted under this section for an abortion clinic have been received by the state department.

(f) Notwithstanding IC 5-14-3-6 and IC 5-14-3-6.5, this section only allows for the redaction of information that is described in subsection (c). This section does not allow the state department to limit the disclosure of information in other public documents.

As added by P.L.193-2011, SEC.14. Amended by P.L.98-2014, SEC.3; P.L.213-2016, SEC.15.

IC 16-34-2-5

Forms to be supplied to health care provider; purpose; completion by health care provider; offense of failing to complete or timely transmit; annual public report

Sec. 5. (a) Every health care provider who performs a surgical abortion or provides, prescribes, administers, or dispenses an abortion inducing drug for the purposes of inducing an abortion shall report the performance of the abortion or the provision, prescribing, administration, or dispensing of an abortion inducing drug on a form drafted by the state department, the purpose and function of which shall be the improvement of maternal health and life through the compilation of relevant maternal life and health factors and data, and a further purpose and function shall be to monitor all abortions performed in Indiana to assure the abortions are done only under the authorized provisions of the law. For each abortion performed and abortion inducing drug provided, prescribed, administered, or dispensed, the report shall include, among other things, the following:

(1) The age of the patient.

(2) The date and location the abortion was performed or the abortion inducing drug was provided, prescribed, administered, or dispensed.

(3) The health care provider's full name and address, including the name of the physicians performing the abortion or providing, prescribing, administering, or dispensing the abortion inducing drug.

(4) The name of the father if known.

(5) The age of the father, or the approximate age of the father if the father's age is unknown.

(6) The following information concerning the abortion or the provision, prescribing, administration, or dispensing of the abortion inducing drug:

(A) The postfertilization age of the fetus.

(B) The manner in which the postfertilization age was determined.

(C) The gender of the fetus, if detectable.

(D) Whether the fetus has been diagnosed with or has a

potential diagnosis of having Down syndrome or any other disability.

(E) If after the earlier of the time the fetus obtains viability or the time the postfertilization age of the fetus is at least twenty (20) weeks, the medical reason for the performance of the abortion or the provision, prescribing, administration, or dispensing of the abortion inducing drug.

(7) For a surgical abortion, the medical procedure used for the abortion and, if the fetus was viable or had a postfertilization age of at least twenty (20) weeks:

(A) whether the procedure, in the reasonable judgment of the health care provider, gave the fetus the best opportunity to survive; and

(B) the basis for the determination that the pregnant woman had a condition described in this chapter that required the abortion to avert the death of or serious impairment to the pregnant woman.

(8) For a nonsurgical abortion, the precise drugs provided, prescribed, administered, or dispensed, and the means of delivery of the drugs to the patient.

(9) For an early pre-viability termination, the medical indication by diagnosis code for the fetus and the mother.

(10) The mother's obstetrical history, including dates of other abortions, if any.

(11) The results of pathological examinations if performed.

(12) For a surgical abortion, whether the fetus was delivered alive, and if so, how long the fetus lived.

(13) Records of all maternal deaths occurring at the location where the abortion was performed or the abortion inducing drug was provided, prescribed, administered, or dispensed.

(14) The date the form was transmitted to the state department and, if applicable, separately to the department of child services.

(b) The health care provider shall complete the form provided for in subsection (a) and shall transmit the completed form to the state department, in the manner specified on the form, not later than July 30 for each abortion occurring in the first six (6) months of that year and not later than January 30 for each abortion occurring in the last six (6) months of the preceding year. However, if an abortion is for a female who is less than fourteen (14) years of age, the health care provider shall transmit the form to the state department of health and separately to the department of child services within three (3) days after the abortion is performed.

(c) The dates supplied on the form may not be redacted for any reason before the form is transmitted as provided in this section.

(d) Each failure to complete or timely transmit a form, as required under this section, for each abortion performed or abortion inducing drug that was provided, prescribed, administered, or dispensed, is a

Class B misdemeanor.

(e) Not later than June 30 of each year, the state department shall compile a public report providing the following:

(1) Statistics for the previous calendar year from the information submitted under this section.

(2) Statistics for previous calendar years compiled by the state department under this subsection, with updated information for the calendar year that was submitted to the state department after the compilation of the statistics.

The state department shall ensure that no identifying information of a pregnant woman is contained in the report.

As added by P.L.2-1993, SEC.17. Amended by P.L.74-2011, SEC.1; P.L.193-2011, SEC.15; P.L.6-2012, SEC.120; P.L.92-2015, SEC.5; P.L.213-2016, SEC.16.

IC 16-34-2-5.1

Documentation of signatures and credentials of physicians and other providers

Sec. 5.1. Each form or other written document that must be completed or provided by a physician or other provider under this chapter, including a signed copy retained in the pregnant woman's patient file, must include the following:

(1) A line for the signature of the physician or other provider.

(2) A line for the professional credentials and license number of the physician or other provider.

As added by P.L.213-2016, SEC.17.

IC 16-34-2-5.5

State department duty to develop electronic program concerning submission of forms completed by physicians

Sec. 5.5. The state department shall develop a program enabling the report required by section 5 of this chapter to be completed, transmitted, and received in an electronic format.

As added by P.L.177-2015, SEC.1.

IC 16-34-2-6

Prohibitions on performing experiments on and the transport of an aborted fetus; transport of aborted fetus for purpose of conducting final disposition of the aborted fetus permitted

Sec. 6. (a) No experiments except pathological examinations may be conducted on any fetus aborted under this chapter. A person who conducts such an experiment commits a Class A misdemeanor.

(b) Except as provided by subsection (c), a person who knowingly transports an aborted fetus into, or out of, Indiana commits a Class A misdemeanor.

(c) A person may transport an aborted fetus into, or out of, Indiana for the sole purpose of conducting the final disposition of the aborted fetus by cremation or interment under IC 16-34-3-4.

As added by P.L.2-1993, SEC.17. Amended by P.L.213-2016, SEC.18.

IC 16-34-2-7
Performance of unlawful abortion; offense

Sec. 7. (a) Except as provided in subsections (b) and (c), a person who knowingly or intentionally performs an abortion not expressly provided for in this chapter commits a Level 5 felony.

(b) A physician who performs an abortion intentionally or knowingly in violation of section 1(a)(1)(C) or 4 of this chapter commits a Class A misdemeanor.

(c) A person who knowingly or intentionally performs an abortion in violation of section 1.1 of this chapter commits a Class A infraction.

(d) A woman upon whom a partial birth abortion is performed may not be prosecuted for violating or conspiring to violate section 1(b) of this chapter.

As added by P.L.2-1993, SEC.17. Amended by P.L.187-1995, SEC.6; P.L.145-1997, SEC.4; P.L.158-2013, SEC.235.

IC 16-34-3

Chapter 3. Treatment of Aborted Remains

IC 16-34-3-1

Effective January 1, 2016

Sec. 1. This chapter is effective beginning January 1, 2016.

As added by P.L.113-2015, SEC.6.

IC 16-34-3-2

Right to determine final disposition of aborted fetus; determination; parental consent; documentation

Sec. 2. (a) A pregnant woman who has an abortion under this article has the right to determine the final disposition of the aborted fetus.

(b) After receiving the notification and information required by IC 16-34-2-1.1(2)(H) and IC 16-34-2-1.1(2)(I), the pregnant woman shall inform the abortion clinic or the health care facility:

(1) in writing; and

(2) on a form prescribed by the state department;

of the pregnant woman's decision for final disposition of the aborted fetus before the aborted fetus may be discharged from the abortion clinic or the health care facility.

(c) If the pregnant woman is a minor, the abortion clinic or health care facility shall obtain parental consent in the disposition of the aborted fetus unless the minor has received a waiver of parental consent under IC 16-34-2-4.

(d) The abortion clinic or the health care facility shall document the pregnant woman's decision concerning disposition of the aborted fetus in the pregnant woman's medical record.

As added by P.L.113-2015, SEC.6. Amended by P.L.213-2016, SEC.19.

IC 16-34-3-3

Responsibility for costs

Sec. 3. If the pregnant woman chooses a location for final disposition other than the location of final disposition that is usual and customary for an abortion clinic or a health care facility, the pregnant woman is responsible for the costs related to the final disposition of the aborted fetus at the chosen location.

As added by P.L.113-2015, SEC.6. Amended by P.L.213-2016, SEC.20.

IC 16-34-3-4

Disposition by cremation or interment; permits; confidential information

Sec. 4. (a) An abortion clinic or health care facility having possession of an aborted fetus shall provide for the final disposition of the aborted fetus. The burial transit permit requirements of

IC 16-37-3 apply to the final disposition of an aborted fetus, which must be interred or cremated. However:

(1) a person is not required to designate a name for the aborted fetus on the burial transit permit and the space for a name may remain blank; and

(2) any information submitted under this section that may be used to identify the pregnant woman is confidential and must be redacted from any public records maintained under IC 16-37-3.

Aborted fetuses may be cremated by simultaneous cremation.

(b) The local health officer shall issue a permit for the disposition of the aborted fetus to the person in charge of interment for the interment of the aborted fetus. A certificate of stillbirth is not required to be issued for an aborted fetus with a gestational age of less than twenty (20) weeks of age.

(c) IC 23-14-31-26, IC 23-14-55-2, IC 25-15-9-18, and IC 29-2-19-17 concerning the authorization of disposition of human remains apply to this section.

As added by P.L.113-2015, SEC.6. Amended by P.L.213-2016, SEC.21.

IC 16-34-3-5

Informed consent brochure

Sec. 5. The state department shall make any changes necessary to the informed consent brochure under IC 16-34-2-1.5 that are necessary to comply with IC 16-34-2-1.1 and this chapter.

As added by P.L.113-2015, SEC.6.

IC 16-34-3-6

Development and distribution of forms

Sec. 6. The state department shall develop and distribute the forms required by section 2 of this chapter.

As added by P.L.113-2015, SEC.6.

IC 16-34-4

Chapter 4. Sex Selective and Disability Abortion Ban

IC 16-34-4-1

"Any other disability"

Sec. 1. (a) As used in this chapter, "any other disability" means any disease, defect, or disorder that is genetically inherited. The term includes the following:

(1) A physical disability.
(2) A mental or intellectual disability.
(3) A physical disfigurement.
(4) Scoliosis.
(5) Dwarfism.
(6) Down syndrome.
(7) Albinism.
(8) Amelia.
(9) A physical or mental disease.

(b) The term does not include a lethal fetal anomaly.

As added by P.L.213-2016, SEC.22.

IC 16-34-4-2

"Down syndrome"

Sec. 2. As used in this chapter, "Down syndrome" means a chromosomal disorder associated with an extra chromosome 21 or an effective trisomy for chromosome 21.

As added by P.L.213-2016, SEC.22.

IC 16-34-4-3

"Potential diagnosis"

Sec. 3. As used in this chapter, "potential diagnosis" refers to the presence of some risk factors that indicate that a health problem may occur.

As added by P.L.213-2016, SEC.22.

IC 16-34-4-4

"Sex selective abortion"

Sec. 4. As used in this chapter, "sex selective abortion" means an abortion that is performed solely because of the sex of the fetus.

As added by P.L.213-2016, SEC.22.

IC 16-34-4-5

Sex selective abortion prohibited

Sec. 5. (a) A person may not intentionally perform or attempt to perform an abortion before the earlier of viability of the fetus or twenty (20) weeks of postfertilization age if the person knows that the pregnant woman is seeking a sex selective abortion.

(b) A person may not intentionally perform or attempt to perform an abortion after viability of the fetus or twenty (20) weeks of

postfertilization age if the person knows that the pregnant woman is seeking a sex selective abortion.

(c) This section is severable as specified in IC 1-1-1-8.

As added by P.L.213-2016, SEC.22.

IC 16-34-4-6

Abortion prohibited if a person knows that the pregnant woman is seeking the abortion solely because the fetus has been diagnosed with Down syndrome or has a potential diagnosis of Down syndrome

Sec. 6. (a) A person may not intentionally perform or attempt to perform an abortion before the earlier of viability of the fetus or twenty (20) weeks of postfertilization age if the person knows that the pregnant woman is seeking the abortion solely because the fetus has been diagnosed with Down syndrome or has a potential diagnosis of Down syndrome.

(b) A person may not intentionally perform or attempt to perform an abortion after viability of the fetus or twenty (20) weeks of postfertilization age if the person knows that the pregnant woman is seeking the abortion solely because the fetus has been diagnosed with Down syndrome or has a potential diagnosis of Down syndrome.

(c) This section is severable as specified in IC 1-1-1-8.

As added by P.L.213-2016, SEC.22.

IC 16-34-4-7

Abortion prohibited if the person knows that the abortion is being sought solely because the fetus has been diagnosed with any other disability or has a potential diagnosis of any other disability

Sec. 7. (a) A person may not intentionally perform or attempt to perform an abortion before the earlier of viability of the fetus or twenty (20) weeks of postfertilization age if the person knows that the pregnant woman is seeking the abortion solely because the fetus has been diagnosed with any other disability or has a potential diagnosis of any other disability.

(b) A person may not intentionally perform or attempt to perform an abortion after viability of the fetus or twenty (20) weeks of postfertilization age if the person knows that the pregnant woman is seeking the abortion solely because the fetus has been diagnosed with any other disability or has a potential diagnosis of any other disability.

(c) This section is severable as specified in IC 1-1-1-8.

As added by P.L.213-2016, SEC.22.

IC 16-34-4-8

Abortion prohibited if the person knows that the abortion is being sought solely because of the race, color, national origin, or ancestry of the fetus

Sec. 8. (a) A person may not intentionally perform or attempt to perform an abortion before the earlier of viability of the fetus or twenty (20) weeks of postfertilization age if the person knows that the pregnant woman is seeking the abortion solely because of the race, color, national origin, or ancestry of the fetus.

(b) A person may not intentionally perform or attempt to perform an abortion after viability of the fetus or twenty (20) weeks of postfertilization age if the person knows that the pregnant woman is seeking the abortion solely because of the race, color, national origin, or ancestry of the fetus.

(c) This section is severable as specified in IC 1-1-1-8.

As added by P.L.213-2016, SEC.22.

IC 16-34-4-9

Penalties for performing a prohibited abortion; prohibition on prosecuting a woman on whom a prohibited abortion is performed

Sec. 9. (a) A person who knowingly or intentionally performs an abortion in violation of this chapter may be subject to:

(1) disciplinary sanctions under IC 25-1-9; and

(2) civil liability for wrongful death.

(b) A pregnant woman upon whom an abortion is performed in violation of this chapter may not be prosecuted for violating or conspiring to violate this chapter.

As added by P.L.213-2016, SEC.22.

IC 16-34.5

ARTICLE 34.5. CLONING

IC 16-34.5-1

Chapter 1. Public Policy Against Human Cloning

IC 16-34.5-1-1

Human cloning against public policy

Sec. 1. The general assembly declares that human cloning is against public policy.

As added by P.L.126-2005, SEC.6.

IC 16-34.5-1-2

Prohibition on using public funds, facilities, or employees for cloning

Sec. 2. The state, a state educational institution, or a political subdivision of the state may not use public funds, facilities, or employees to knowingly participate in cloning or attempted cloning.

As added by P.L.126-2005, SEC.6. Amended by P.L.2-2007, SEC.192.

IC 16-35

ARTICLE 35. CHILDREN'S HEALTH

IC 16-35-1

Chapter 1. Maternal and Child Health Services

IC 16-35-1-1

Municipal corporation defined

Sec. 1. As used in this chapter, "municipal corporation" means a:

(1) county;
(2) township;
(3) city;
(4) town; or
(5) school corporation;

that makes provisions for conducting any kind of health work of a character qualified to comply with this chapter.

As added by P.L.2-1993, SEC.18.

IC 16-35-1-2

Cooperation with federal Children's Bureau

Sec. 2. The state department shall cooperate with the Children's Bureau of the United States Department of Labor to do the following:

(1) Extend and improve services for the promotion of the health of mothers and children, especially in rural areas and in areas suffering from severe economic distress.
(2) Provide for the extension and improvement of maternal and child health services administered by municipal corporations and health districts of the state.
(3) Develop demonstration services in needy areas and among groups in special need.
(4) Cooperate with medical, dental, nursing, educational, and welfare groups and organizations of Indiana.
(5) Develop plans necessary to effectuate the services contemplated in this section and to comply with the regulations of the Children's Bureau of the United States Department of Labor issued under the federal Social Security Act (42 U.S.C. 701 et seq.).

As added by P.L.2-1993, SEC.18.

IC 16-35-1-3

Cooperation with federal Public Health Service

Sec. 3. The state department shall cooperate with the Public Health Service of the United States Department of the Treasury to do the following:

(1) Establish and maintain adequate public health services, including the training of the proper personnel to administer the public health work of the state and of the respective municipal

corporations and health districts of the state.

(2) Conduct investigations relating to disease and the problems of sanitation.

(3) Develop plans necessary to effectuate the services contemplated in this section and to comply with the regulations of the Public Health Service of the United States Department of the Treasury issued under the federal Social Security Act (42 U.S.C. 701 et seq.).

As added by P.L.2-1993, SEC.18.

IC 16-35-1-4
Duties of department

Sec. 4. The state department shall do the following:

(1) Make reports that are in the form and that contain the information required by the Children's Bureau of the United States Department of Labor or the Public Health Service of the United States Department of the Treasury.

(2) Comply with any other requirements the United States Department of Labor or the United States Department of the Treasury finds necessary to assure the correctness and verification of reports.

As added by P.L.2-1993, SEC.18.

IC 16-35-1-5
Acceptance of federal Social Security Act

Sec. 5. (a) The state accepts all of the provisions and benefits of the Social Security Act enacted by the United States Congress and approved on August 14, 1935.

(b) Under this chapter, the state department:

(1) may administer; and

(2) shall observe and comply with all of the requirements of;

the Social Security Act and any amendments to the Social Security Act and the regulations issued under the Social Security Act.

As added by P.L.2-1993, SEC.18.

IC 16-35-1-6
Treasurer as custodian of federal Social Security money received

Sec. 6. (a) The treasurer of state shall serve as the custodian of money that is received by the state from appropriations made by the United States Congress for the purpose of cooperating with the several states in the enforcement and administration of the federal Social Security Act.

(b) Under this chapter, the state department may administer the money received under subsection (a), and the treasurer of state may do the following:

(1) Receive the money.

(2) Pay the money into the proper account of the state general fund.

(3) Provide for the proper custody of the money.

(4) Make disbursements from the proper account on the order of the state department on which the warrant of the auditor of state shall be issued.

As added by P.L.2-1993, SEC.18.

IC 16-35-1-7

Disposition of federal Social Security money received; accounts; vouchers

Sec. 7. (a) The money received from the federal government by the treasurer of state to defray the expenses and to pay the claims and obligations incurred in the administration of the federal Social Security Act shall be paid into the following accounts of the state general fund:

(1) Money received as aid for the promotion of the health of mothers and children shall be paid into the maternal and child health account.

(2) Money received as aid for the establishment and maintenance of public health services shall be paid into the public health service account.

(b) Vouchers issued for the disbursement of money from the maternal and child health account and the public health service account shall be issued on order of the state department and shall be signed by the state health commissioner.

As added by P.L.2-1993, SEC.18.

IC 16-35-1-8

Department to cooperate with federal government in administering federal Social Security Act

Sec. 8. (a) The state department is designated as the state agency to cooperate with the federal government in the administration of the provisions of Part I of Title 5 and of Title 6 of the federal Social Security Act.

(b) The state department shall cooperate with the proper departments of the federal government in the enforcement and administration of:

(1) the provisions of;

(2) amendments to; and

(3) regulations issued under;

the federal Social Security Act in the manner prescribed in this chapter or as otherwise provided by law.

As added by P.L.2-1993, SEC.18.

IC 16-35-1-9

Administrative personnel; cooperative agreements with health authorities of municipal corporations or health districts

Sec. 9. (a) The regular employees of the state department may be assigned to the performance of the duties prescribed in this chapter

either on a full-time or part-time basis. Additional qualified personnel may be employed as the state department determines is necessary to administer this chapter.

(b) The state department may enter into a cooperative agreement with the health authorities of a municipal corporation or health district under which assistants, investigators, and employees may be appointed who are necessary and qualified to cooperate with the state department and the federal government in conducting the health work in the municipal corporation or health district, in conformity with the following:

(1) This chapter and rules adopted under this chapter.

(2) The federal Social Security Act and regulations adopted under the federal Social Security Act.

(c) The state department:

(1) may make allotments from the state department's money to a municipal corporation or health district; and

(2) shall cause to be deposited in a separate health fund of the municipal corporation or the health district an amount not to exceed an allotment.

(d) Agreements may be made under which:

(1) at least two (2) municipal corporations or health districts may cooperate with the state department; and

(2) the expenses incurred in conducting health work shall be allocated between or among the municipal corporations and health districts and the state department;

as may be mutually agreed upon. Appointments are subject to the approval of the state department. The state department may pay a proportionate share of the salaries and expenses of assistants, investigators, and employees as may be agreed upon by the state department and the health authorities of a municipal corporation or health district as prescribed in cooperative agreements.

As added by P.L.2-1993, SEC.18.

IC 16-35-1-10

Medical examination or treatment of adult person or dependent child less than 18 years of age; religious objections; discrimination; consent; limitations

Sec. 10. (a) An official, an agent, or a representative of:

(1) the state;

(2) a political subdivision or municipal corporation;

(3) a board, a bureau, a district, a welfare group, or an organization referred to in this chapter; or

(4) the federal Public Health Service when cooperating with an official, an agent, or a representative described in subdivisions (1) through (3);

may not compel an adult person or a dependent child less than eighteen (18) years of age to submit to a medical examination or treatment when the adult person or the parent or guardian of the child

objects to the medical examination or treatment on religious grounds and may not permit discrimination against a dependent child less than eighteen (18) years of age or adult person because of the medical examination or treatment.

(b) This section does not limit the powers of:

(1) the state department;

(2) a local board of health; or

(3) other public health authority;

to establish quarantine, as provided by law, for the purpose of preventing the spread of communicable disease.

(c) A person who is at least eighteen (18) years of age is competent with regard to age to give consent or to object to the treatment or examinations required by this section.

As added by P.L.2-1993, SEC.18.

IC 16-35-1.5

Chapter 1.5. Women, Infants, and Children Program

IC 16-35-1.5-1

Food instrument defined

Sec. 1. As used in this chapter, "food instrument" means a negotiable voucher that specifies the quantity, size, and type of authorized food for a WIC participant within a designated time and that can be taken to a WIC vendor for exchange for a specified quantity of food.

As added by P.L.2-1993, SEC.18.

IC 16-35-1.5-2

WIC defined

Sec. 2. As used in this chapter, "WIC" refers to the women, infants, and children nutrition program.

As added by P.L.2-1993, SEC.18.

IC 16-35-1.5-3

WIC participant defined

Sec. 3. As used in this chapter, "WIC participant" means an authorized pregnant woman, a postpartum woman, an infant, or a child who is receiving supplemental food or a food instrument under the WIC program.

As added by P.L.2-1993, SEC.18.

IC 16-35-1.5-4

WIC vendor defined

Sec. 4. As used in this chapter, "WIC vendor" means the individual, partnership, limited partnership, or corporation authorized by the state department to accept a food instrument and provide supplemental food to a WIC participant.

As added by P.L.2-1993, SEC.18.

IC 16-35-1.5-5

Women, infants, and children nutrition program defined

Sec. 5. As used in this chapter, "women, infants, and children nutrition program" refers to the federal Special Supplemental Food Program for Women, Infants, and Children under 42 U.S.C. 1786.

As added by P.L.2-1993, SEC.18.

IC 16-35-1.5-6

Rules and regulations; penalties and sanctions

Sec. 6. The state department shall adopt rules under IC 4-22-2 specifying a system of civil penalties and other sanctions for a WIC vendor contract under the WIC program or federal regulations under 7 CFR 246. The severity of a sanction must be consistent with the type and frequency of the violation, and may include suspension or

termination from the WIC program and civil penalties.
As added by P.L.2-1993, SEC.18.

IC 16-35-1.5-7
Penalties; deposit in dedicated accounts

Sec. 7. (a) A civil penalty collected by the state department must be deposited in a dedicated account designated by the state department to be used in the administration of the WIC program.

(b) A civil penalty collected under this chapter does not revert to the state general fund, but remains in the account designated under subsection (a).
As added by P.L.2-1993, SEC.18.

IC 16-35-1.6

Chapter 1.6. Voter Registration Services and WIC Program Services

IC 16-35-1.6-1

Purpose of chapter

Sec. 1. This chapter prescribes the procedures to be followed by the state department in processing:

(1) voter registration applications; and

(2) records concerning an individual's declining to register to vote;

under 52 U.S.C. 20506(a)(2)(A) and IC 3-7-15.

As added by P.L.12-1995, SEC.123. Amended by P.L.128-2015, SEC.238.

IC 16-35-1.6-1.5

Repealed

(As added by P.L.4-1996, SEC.101. Repealed by P.L.81-2005, SEC.35.)

IC 16-35-1.6-2

Applicability of definitions

Sec. 2. The definitions set forth in IC 16-35-1.5 apply throughout this chapter.

As added by P.L.12-1995, SEC.123.

IC 16-35-1.6-3

"WIC office" defined

Sec. 3. As used in this chapter, "WIC office" refers to an office providing assistance to a WIC participant.

As added by P.L.12-1995, SEC.123.

IC 16-35-1.6-4

Designated individual

Sec. 4. The commissioner shall designate an employee of each WIC office as the individual responsible for performing the voter registration duties of the bureau under this chapter at that office. The employee designated under this section shall supervise the registration of voters by other employees of the office and shall perform any other registration duty required to be performed by the office under this chapter. Notwithstanding this designation, any employee of the office may perform registration duties in accordance with this chapter.

As added by P.L.12-1995, SEC.123.

IC 16-35-1.6-5

Transmittal of voter registration application or declination forms

Sec. 5. (a) As required under 52 U.S.C. 20506(d)(1), the

designated office employee shall transmit a completed voter registration application:

(1) to the circuit court clerk or board of registration of the county in which the individual's residential address (as indicated on the application) is located; and

(2) not later than five (5) days after the application is accepted at the office.

(b) The employee shall transmit the voter registration application (or a separate declination form) on which the individual declined to register to vote by specifically declining to register or by failing to complete the voter registration portion of the application.

(c) The declination must be transmitted:

(1) to the circuit court clerk or board of registration of the county in which the individual's residential address (as indicated on the application) is located; and

(2) not later than five (5) days after the application is accepted at the office.

As added by P.L.12-1995, SEC.123. Amended by P.L.3-1995, SEC.146; P.L.258-2013, SEC.91; P.L.128-2015, SEC.239.

IC 16-35-1.6-6
Repealed

(Repealed by P.L.3-1995, SEC.155.)

IC 16-35-1.6-7
Methods for transmittal of applications or declinations

Sec. 7. A designated employee may use any of the following methods to transmit voter registration applications or declinations under section 5 of this chapter:

(1) Hand delivery to the circuit court clerk or board of registration.

(2) Delivery by the United States Postal Service, using first class mail.

As added by P.L.12-1995, SEC.123. Amended by P.L.258-2013, SEC.92.

IC 16-35-1.6-8
Hand delivery

Sec. 8. If a designated employee transmits registration applications or declinations by hand delivery under section 7(1) of this chapter, the circuit court clerk or board of registration shall provide the designated employee with a receipt for the forms. The receipt must state the date and time of delivery, and the printed name and signature of the person who received the forms.

As added by P.L.12-1995, SEC.123.

IC 16-35-1.6-9
Information to be provided to commissioner

Sec. 9. The election division shall provide the commissioner with a list of the current address and telephone number of the county voter registration office in each county. The commissioner shall promptly forward the list and each revision of the list to each WIC office.
As added by P.L.12-1995, SEC.123. Amended by P.L.2-1996, SEC.254; P.L.3-1997, SEC.441; P.L.219-2013, SEC.77.

IC 16-35-1.6-10
Confidentiality of information
Sec. 10. Voter registration information received or maintained under this chapter is confidential.
As added by P.L.12-1995, SEC.123.

IC 16-35-1.6-11
Notice regarding elections
Sec. 11. (a) The co-directors of the election division shall notify the commissioner of the following:
(1) The scheduled date of each primary, general, municipal, and special election.
(2) The jurisdiction in which the election will be held.
As added by P.L.12-1995, SEC.123. Amended by P.L.2-1996, SEC.255; P.L.3-1997, SEC.442.

IC 16-35-1.6-12
Information to be provided to election division
Sec. 12. The commissioner shall provide the co-directors of the election division with a list stating the following:
(1) The address and telephone number of each WIC office.
(2) The name of each employee designated by the commissioner to be responsible for performing voter registration duties under this chapter.
As added by P.L.12-1995, SEC.123. Amended by P.L.2-1996, SEC.256; P.L.3-1997, SEC.443.

IC 16-35-2

Chapter 2. Assistance to Children With Special Health Care Needs

IC 16-35-2-1

Children defined

Sec. 1. As used in this chapter, "children" refers to children with special health care needs.

As added by P.L.2-1993, SEC.18.

IC 16-35-2-2

Administering federal Social Security money; cooperation with federal agencies

Sec. 2. (a) The state department shall administer the federal money provided for services to children under the federal Social Security Act (42 U.S.C. 701 et seq.).

(b) In the administration of the money, the state department shall cooperate with the United States Department of Health and Human Services and other federal and state agencies to do the following:

(1) Extend and improve services for locating children and for providing medical, surgical, corrective, and other services and care, and facilities for diagnosis, hospitalization, and aftercare for children who are suffering from conditions that lead to special health care needs.

(2) Cooperate with medical, health, nursing, and welfare groups and organizations of Indiana in the enforcement and administration of this section.

(3) Develop plans that are necessary to effectuate the services contemplated in this section and to comply with the regulations and requirements of the United States Department of Health and Human Services under the federal Social Security Act.

As added by P.L.2-1993, SEC.18.

IC 16-35-2-3

Appointment of director of program

Sec. 3. The state health commissioner shall appoint a director of the program for children with special health care needs.

As added by P.L.2-1993, SEC.18. Amended by P.L.156-2011, SEC.32.

IC 16-35-2-4

Assignment of eligible child for care, services, or treatment; contracting

Sec. 4. (a) A child with special health care needs who has been determined to be financially and medically eligible according to rules adopted by the state department may be assigned for care, services, or treatment to any of the following:

(1) A public or private hospital licensed under IC 16-21-2.

(2) A diagnostic and treatment center.
(3) A licensed physician.
(4) Other participating providers under this chapter.

(b) The state department may contract for any service necessary to administer the program for children with special health care needs, including the following:

(1) The determination of medical eligibility.
(2) The development and implementation of a certification program for physicians serving children with special health care needs.
(3) The development of standards of care for children with special health care needs.

As added by P.L.2-1993, SEC.18.

IC 16-35-2-5
Designation of categories of services, materials, and care to be paid for out of federal Social Security money received

Sec. 5. The state department may designate certain categories of services, materials, and care that shall be paid for out of money received from the federal government for services for children in conformity with the federal Social Security Act (42 U.S.C. 701 et seq.) and the regulations adopted under the federal Social Security Act.

As added by P.L.2-1993, SEC.18.

IC 16-35-2-6
Fees and charges same as Medicaid

Sec. 6. The fees and charges paid to providers of services, care, and materials under this chapter shall be at the same amounts as those allowed by the Medicaid program (42 U.S.C. 1396 et seq.).

As added by P.L.2-1993, SEC.18.

IC 16-35-2-7
Uniform rules; adoption

Sec. 7. The state department shall adopt uniform rules under IC 4-22-2 to do the following:

(1) Determine medical eligibility.
(2) Determine financial eligibility.
(3) Certify licensed physicians serving children with special health care needs.
(4) Develop standards of care for children with special health care needs.
(5) Determine the types of care, services, and materials that the state department will reimburse under this chapter.
(6) Determine the duration of care that the state department will reimburse providers under this chapter.

As added by P.L.2-1993, SEC.18.

IC 16-35-2-8
State or federal higher education awards as not affecting eligibility for assistance

Sec. 8. If an individual receives a state or federal higher education award that is paid directly to an approved postsecondary educational institution for the individual's benefit:

(1) the individual is not required to report that award as income or as a resource of the individual when applying for assistance for a destitute child under this chapter; and

(2) the award shall not be considered as income or a resource of the individual in determining initial or continuing eligibility for assistance under this chapter.

As added by P.L.2-1993, SEC.18. Amended by P.L.2-2007, SEC.193.

IC 16-35-2-9
Cystic fibrosis; services extended to afflicted persons

Sec. 9. The state department shall extend care, services, and materials provided under this chapter to persons with cystic fibrosis who are at least twenty-one (21) years of age. The services shall be extended under the same criteria that are applicable to persons who are less than twenty-one (21) years of age.

As added by P.L.2-1993, SEC.18.

IC 16-35-2-10
Children with autism

Sec. 10. (a) An individual who:

(1) has autism (as defined in IC 12-7-2-19(b)); and

(2) is less than twenty-one (21) years of age;

has an eligible medical condition under this chapter.

(b) The state department shall extend all care, services, and materials provided under this chapter to an individual described in subsection (a) who meets any additional eligibility criteria established by the state department under this chapter.

As added by P.L.79-1999, SEC.2. Amended by P.L.99-2007, SEC.159.

IC 16-35-3
Repealed

(Repealed by P.L.146-2008, SEC.806.)

IC 16-35-4
Repealed
(Repealed by P.L.146-2008, SEC.806.)

IC 16-35-5
Repealed
(Repealed by P.L.146-2008, SEC.806.)

IC 16-35-6
Chapter 6. Breastfeeding

IC 16-35-6-1
Right to breastfeed

Sec. 1. Notwithstanding any other law, a woman may breastfeed her child anywhere the woman has a right to be.

As added by P.L.125-2003, SEC.1.

IC 16-35-7
Chapter 7. Deaths of Children

IC 16-35-7-1
Sources of funding
Sec. 1. The state department may receive funds from any source and expend the funds for the administration of this chapter.
As added by P.L.225-2007, SEC.1.

IC 16-35-7-2
Adoption of rules regarding suspicious deaths of children
Sec. 2. The state department shall adopt rules under IC 4-22-2 requiring hospitals and physicians to identify suspicious deaths of children who are less than eighteen (18) years of age.
As added by P.L.225-2007, SEC.1.

IC 16-35-7-3
Adoptions of rules regarding certification of child death pathologists
Sec. 3. (a) The medical licensing board may adopt rules under IC 4-22-2 to certify a child death pathologist and to require special training to conduct autopsies on child fatalities.
(b) A child death pathologist must be a physician:
(1) who is certified by the American Board of Pathology in forensic pathology;
(2) who is certified in anatomic pathology by:
(A) the American Board of Pathology; or
(B) another certifying organization that:
(i) is comparable to the American Board of Pathology in its adherence to nationally or internationally recognized certification standards; and
(ii) has been approved and recognized by the medical licensing board;
and has received special training in the area of child fatalities that has been approved by the medical licensing board; or
(3) who has received certification in the area of forensic pathology or child death pathology by a certifying organization that:
(A) is comparable to the American Board of Pathology in its adherence to nationally or internationally recognized certification standards; and
(B) that has been approved and recognized by the medical licensing board.
(c) The medical licensing board may approve an annual training program or provide a training program for pathologists concerning new procedures for child death investigations for physicians who want to become child death pathologists under subsection (b)(2). In approving or providing a training program, the medical licensing

board shall consult and coordinate with pathologists who have received:

(1) certification in forensic pathology by the American Board of Pathology; or

(2) a comparable certification in forensic pathology.

As added by P.L.225-2007, SEC.1.

IC 16-35-8

Chapter 8. Hearing Aid Assistance

IC 16-35-8-1

"Child"

Sec. 1. As used in this chapter, "child" means a child enrolled in a public school, accredited nonpublic school, or nonaccredited nonpublic school in kindergarten through grade 12.

As added by P.L.119-2009, SEC.1.

IC 16-35-8-2

"Fund"

Sec. 2. As used in this chapter, "fund" refers to the hearing aid fund established by section 3 of this chapter.

As added by P.L.119-2009, SEC.1.

IC 16-35-8-3

Hearing aid fund; established

Sec. 3. The hearing aid fund is established for the purpose of providing hearing aid assistance to eligible children through the hearing aid assistance program established by section 9 of this chapter.

As added by P.L.119-2009, SEC.1.

IC 16-35-8-4

Fund administration

Sec. 4. The fund shall be administered by the state department.

As added by P.L.119-2009, SEC.1.

IC 16-35-8-5

Fund contents

Sec. 5. The fund consists of appropriations from the general assembly, gifts, bequests, and other sources of funding.

As added by P.L.119-2009, SEC.1.

IC 16-35-8-6

Fund expenses

Sec. 6. The expenses of administering the fund shall be paid from money in the fund.

As added by P.L.119-2009, SEC.1.

IC 16-35-8-7

Fund investments

Sec. 7. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

As added by P.L.119-2009, SEC.1.

IC 16-35-8-8
Nonreversion; appropriation

Sec. 8. (a) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(b) There is annually appropriated to the state department from the fund an amount sufficient for the purposes of this chapter.

As added by P.L.119-2009, SEC.1.

IC 16-35-8-9
Hearing aid assistance program; established; criteria; central information location

Sec. 9. (a) The hearing aid assistance program is established.

(b) The following eligibility criteria apply for funding through the hearing aid assistance program:

(1) The hearing aid must be:

(A) prescribed for a child by a physician who is licensed under IC 25-22.5; and

(B) prescribed, fitted, and dispensed for the child by an audiologist who is licensed under IC 25-35.6.

(2) The child has not received funding from the fund for a hearing aid for the applicable ear during the previous three (3) years.

(3) Reimbursement is not available through any of the following or is not sufficient to pay the full amount required for a hearing aid:

(A) A policy of accident and sickness insurance (IC 27-8-5).

(B) A health maintenance organization contract (IC 27-13).

(C) The Medicaid program (IC 12-15).

(D) The children's health insurance program (IC 12-17.6).

(E) The federal Medicare program or any other federal assistance program.

(c) The state department may use appropriate internal and external resources to administer the hearing aid assistance program in a cost effective manner.

(d) External foundations and other organizations that provide hearing aid assistance may register with the state department to provide a centralized location from which deaf and hard of hearing individuals can obtain information regarding additional sources of hearing aid assistance.

As added by P.L.119-2009, SEC.1. Amended by P.L.109-2012, SEC.13.

IC 16-35-8-10
Application for funding; payment from fund

Sec. 10. (a) The parent or guardian of a child may at any time apply to the state department for funding through the hearing aid assistance program.

(b) Upon receipt of an application made under subsection (a), if

the state department determines that the child is eligible under section 9(b) of this chapter, the state department may pay from the fund any amount not reimbursed through a source described in section 9(b)(3) of this chapter, not to exceed one thousand five hundred dollars ($1,500) per hearing aid.
As added by P.L.119-2009, SEC.1.

IC 16-35-8-11
School assistance with applications
Sec. 11. A public or nonpublic school may identify eligible children and assist the parents or guardians of the eligible children in submitting applications to the state department under this chapter.
As added by P.L.119-2009, SEC.1.

IC 16-35-8-12
Funding priority
Sec. 12. The state department shall give funding priority to applications under this chapter for eligible children who are less than fourteen (14) years of age.
As added by P.L.119-2009, SEC.1.

IC 16-35-8-13
Hearing aid refurbishing program
Sec. 13. (a) The state department may, if economically feasible, create a hearing aid refurbishing program through which hearing aids that are no longer used by eligible children and other individuals are collected and refurbished for the use of other individuals.
(b) The state department may enter into an agreement with another organization to implement this section.
As added by P.L.119-2009, SEC.1.

IC 16-35-8-14
Administrative rules
Sec. 14. The state department may adopt rules under IC 4-22-2 to implement this chapter.
As added by P.L.119-2009, SEC.1.

IC 16-35-9

Chapter 9. Newborn Safety Incubators Recommendations

IC 16-35-9-1

"Emergency medical services provider"

Sec. 1. As used in this chapter, "emergency medical services provider" has the meaning set forth in IC 16-41-10-1.

As added by P.L.61-2015, SEC.7.

IC 16-35-9-2

"Facility"

Sec. 2. As used in this chapter, "facility" means a building in which one (1) or more of the following are located:

(1) A hospital licensed under IC 16-21.

(2) A fire department or volunteer fire department of a unit (as defined in IC 36-1-2-23), staffed twenty-four (24) hours a day by an emergency medical services provider.

(3) A law enforcement agency (as defined in IC 35-47-15-2), staffed twenty-four (24) hours a day by an emergency medical services provider.

As added by P.L.61-2015, SEC.7.

IC 16-35-9-3

"Newborn"

Sec. 3. As used in this chapter, "newborn" means a child who is less than thirty-one (31) days of age.

As added by P.L.61-2015, SEC.7.

IC 16-35-9-4

"Newborn safety incubator"

Sec. 4. As used in this chapter, "newborn safety incubator" means a device that is designed to permit:

(1) a person to anonymously place a newborn in the device with the intent to leave the newborn; and

(2) another person to remove the newborn from the device and take custody of the newborn.

As added by P.L.61-2015, SEC.7.

IC 16-35-9-5

"Qualified service provider"

Sec. 5. As used in this chapter, "qualified service provider" means any of the following:

(1) A hospital licensed under IC 16-21.

(2) A fire department or volunteer fire department of a unit (as defined in IC 36-1-2-23), staffed twenty-four (24) hours a day by an emergency medical services provider.

(3) A law enforcement agency (as defined in IC 35-47-15-2), staffed twenty-four (24) hours a day by an emergency medical

services provider.

As added by P.L.61-2015, SEC.7.

IC 16-35-9-6

Submit recommendations before January 1, 2016; standards and protocols for newborn safety incubators

Sec. 6. The state department shall, before January 1, 2016, prepare and submit to the general assembly in an electronic format under IC 5-14-6 and the governor's office recommendations concerning standards and protocols for the installation and operation of newborn safety incubators. In preparing the recommendations under this section, the state department shall consider the following:

(1) Sanitation standards for newborn safety incubators.

(2) Procedures to provide emergency care for a newborn left in a newborn safety incubator.

(3) Manufacturing and manufacturer standards for newborn safety incubators.

(4) Design and function requirements, including that a newborn safety incubator satisfies all the following:

(A) Is accessible from the exterior of a facility.

(B) Allows a newborn to be placed anonymously in the newborn safety incubator from outside the facility.

(C) The door or window of the newborn safety incubator that allows access outside the facility automatically locks after a newborn is placed in the newborn safety incubator.

(D) A person outside the facility is unable to access the newborn safety incubator after a newborn has been placed in the newborn safety incubator.

(E) Provides a controlled environment for the care and protection of the newborn.

(F) Has a signal that notifies an emergency medical services provider within thirty (30) seconds of a newborn being placed in the newborn safety incubator.

(G) Is accessible to an emergency medical services provider inside the facility.

(5) The operating policies, supervision, and maintenance of a newborn safety incubator, including requiring that only an emergency medical services provider supervise the newborn safety incubator and take custody of a newborn.

(6) Procedures and forms for the registering of qualified service providers that install newborn safety incubators.

(7) Procedures and standards for inspections of newborn safety incubators.

(8) Costs concerning the registration and regulation of newborn safety incubators and fees for registration to offset the costs.

(9) Preparation and posting of signs near or on newborn safety incubators.

(10) Enforcement actions and remedies for violations

concerning newborn safety incubators.

(11) Any other criteria the state department considers necessary to ensure the safety and welfare of a newborn placed in a newborn safety incubator.

As added by P.L.61-2015, SEC.7.

IC 16-35-9-7
Expiration

Sec. 7. This chapter expires July 1, 2016.

As added by P.L.61-2015, SEC.7.

IC 16-35-9.2

Chapter 9.2. Down Syndrome and Other Conditions Diagnosed Prenatally

IC 16-35-9.2-1

Criteria for information; approval of materials

Sec. 1. (a) The state department shall identify current, evidence based, written information that concerns the prenatal diagnosis of Down syndrome and any other condition diagnosed prenatally that meets all the following criteria:

(1) The information is designed for use by an expectant parent or parent who receives a prenatal test result for Down syndrome or any other condition diagnosed prenatally.

(2) The information does not implicitly or explicitly reference pregnancy termination.

(3) The information is culturally and linguistically appropriate for potential recipients of the information.

(4) The information includes a brief description and contact information for state and local advocacy organizations that advocate for people with intellectual and other developmental disabilities, including Down syndrome and other conditions diagnosed prenatally. The information may include information hotlines, resource centers, Internet web sites, and clearinghouses.

(b) The state department may approve material submitted by state and local advocacy organizations that advocate for people with intellectual and other developmental disabilities, including Down syndrome and other conditions diagnosed prenatally, if the information meets the criteria required in subsection (a). The information may include information hotlines, resource centers, Internet web sites, and clearinghouses.

As added by P.L.63-2015, SEC.1.

IC 16-35-9.2-2

Approval of information; web site information

Sec. 2. The state department shall do the following:

(1) Approve the information identified under section 1 of this chapter for use by:

(A) health care facilities and health care providers that furnish prenatal care or genetic counseling to expectant parents who receive a prenatal test result for Down syndrome or any other condition diagnosed prenatally; and

(B) parents of a child diagnosed with Down syndrome or any other condition diagnosed prenatally.

(2) Make available the information identified under section 1 of this chapter on the state department's Internet web site.

As added by P.L.63-2015, SEC.1.

IC 16-35-9.2-3
Information provided to parents

Sec. 3. When a positive result from a test for Down syndrome or any other condition diagnosed prenatally is received, a health care facility or health care provider shall provide to the expectant parent or the parent of the child diagnosed with Down syndrome or any other condition diagnosed prenatally the written information approved and made available by the state department under section 2 of this chapter.

As added by P.L.63-2015, SEC.1.

IC 16-36

ARTICLE 36. MEDICAL CONSENT

IC 16-36-1

Chapter 1. Health Care Consent

IC 16-36-1-1

"Health care"

Sec. 1. As used in this chapter, "health care" means any care, treatment, service, or procedure to maintain, diagnose, or treat an individual's physical or mental condition. The term includes admission to a health care facility.

As added by P.L.2-1993, SEC.19.

IC 16-36-1-2

"Representative"

Sec. 2. As used in this chapter, "representative" means:

(1) an individual at least eighteen (18) years of age;
(2) a corporation;
(3) a trust;
(4) a limited liability company;
(5) a partnership;
(6) a business trust;
(7) an estate;
(8) an association;
(9) a joint venture;
(10) a government or political subdivision;
(11) an agency;
(12) an instrumentality; or
(13) any other legal or commercial entity;

appointed to consent to health care of another under this chapter.

As added by P.L.2-1993, SEC.19. Amended by P.L.81-2015, SEC.5.

IC 16-36-1-3

Consent for own health care; minor's blood donation

Sec. 3. (a) Except as provided in subsections (b) through (d), unless incapable of consenting under section 4 of this chapter, an individual may consent to the individual's own health care if the individual is:

(1) an adult; or
(2) a minor and:
  (A) is emancipated;
  (B) is:
    (i) at least fourteen (14) years of age;
    (ii) not dependent on a parent for support;
    (iii) living apart from the minor's parents or from an individual in loco parentis; and
    (iv) managing the minor's own affairs;

(C) is or has been married;
(D) is in the military service of the United States; or
(E) is authorized to consent to the health care by any other statute.

(b) A person at least seventeen (17) years of age is eligible to donate blood in a voluntary and noncompensatory blood program without obtaining parental permission.

(c) A person who is sixteen (16) years of age is eligible to donate blood in a voluntary and noncompensatory blood program if the person has obtained written permission from the person's parent.

(d) An individual who has, suspects that the individual has, or has been exposed to a venereal disease is competent to give consent for medical or hospital care or treatment of the individual.

As added by P.L.2-1993, SEC.19. Amended by P.L.4-2010, SEC.1.

IC 16-36-1-4

Incapacity to consent; invalid consent

Sec. 4. (a) An individual described in section 3 of this chapter may consent to health care unless, in the good faith opinion of the attending physician, the individual is incapable of making a decision regarding the proposed health care.

(b) A consent to health care under section 5, 6, or 7 of this chapter is not valid if the health care provider has knowledge that the individual has indicated contrary instructions in regard to the proposed health care, even if the individual is believed to be incapable of making a decision regarding the proposed health care at the time the individual indicates contrary instructions.

As added by P.L.2-1993, SEC.19.

IC 16-36-1-5

Persons authorized to consent for incapable parties; minors

Sec. 5. (a) If an individual incapable of consenting under section 4 of this chapter has not appointed a health care representative under section 7 of this chapter or the health care representative appointed under section 7 of this chapter is not reasonably available or declines to act, consent to health care may be given:

(1) by a judicially appointed guardian of the person or a representative appointed under section 8 of this chapter; or

(2) by a spouse, a parent, an adult child, or an adult sibling, unless disqualified under section 9 of this chapter, if:

(A) there is no guardian or other representative described in subdivision (1);

(B) the guardian or other representative is not reasonably available or declines to act; or

(C) the existence of the guardian or other representative is unknown to the health care provider; or

(3) by the individual's religious superior, if the individual is a member of a religious order and:

(A) there is no guardian or other representative described in subdivision (1);
(B) the guardian or other representative is not reasonably available or declines to act; or
(C) the existence of the guardian or other representative is unknown to the health care provider.

(b) Consent to health care for a minor not authorized to consent under section 3 of this chapter may be given by any of the following:

(1) A judicially appointed guardian of the person or a representative appointed under section 8 of this chapter.

(2) A parent or an individual in loco parentis if:
(A) there is no guardian or other representative described in subdivision (1);
(B) the guardian or other representative is not reasonably available or declines to act; or
(C) the existence of the guardian or other representative is unknown to the health care provider.

(3) An adult sibling of the minor if:
(A) there is no guardian or other representative described in subdivision (1);
(B) a parent or an individual in loco parentis is not reasonably available or declines to act; or
(C) the existence of the parent or individual in loco parentis is unknown to the health care provider.

(c) A representative delegated authority to consent under section 6 of this chapter has the same authority and responsibility as the individual delegating the authority.

(d) An individual authorized to consent for another under this section shall act in good faith and in the best interest of the individual incapable of consenting.

As added by P.L.2-1993, SEC.19. Amended by P.L.81-2015, SEC.6.

IC 16-36-1-6

Delegated authority to consent on behalf of incapable party

Sec. 6. (a) A representative authorized to consent to health care for another under section 5(a)(2), 5(b)(2), or 5(b)(3) of this chapter who for a time will not be reasonably available to exercise the authority may delegate the authority to consent during that time to another representative not disqualified under section 9 of this chapter. The delegation:

(1) must be in writing;

(2) must be signed by the delegate;

(3) must be witnessed by an adult; and

(4) may specify conditions on the authority delegated.

(b) Unless the writing expressly provides otherwise, the delegate may not delegate the authority to another representative.

(c) The delegate may revoke the delegation at any time by notifying orally or in writing the delegate or the health care provider.

As added by P.L.2-1993, SEC.19. Amended by P.L.81-2015, SEC.7.

IC 16-36-1-7

Appointed representative; qualifications; conditions; effective date; duties; resignation; revocation of appointment

Sec. 7. (a) An individual who may consent to health care under section 3 of this chapter may appoint another representative to act for the appointor in matters affecting the appointor's health care.

(b) An appointment and any amendment must meet the following conditions:

(1) Be in writing.

(2) Be signed by the appointor or by a designee in the appointor's presence.

(3) Be witnessed by an adult other than the representative.

(c) The appointor may specify in the appointment appropriate terms and conditions, including an authorization to the representative to delegate the authority to consent to another.

(d) The authority granted becomes effective according to the terms of the appointment.

(e) The appointment does not commence until the appointor becomes incapable of consenting. The authority granted in the appointment is not effective if the appointor regains the capacity to consent.

(f) Unless the appointment provides otherwise, a representative appointed under this section who is reasonably available and willing to act has priority to act in all matters of health care for the appointor, except when the appointor is capable of consenting.

(g) In making all decisions regarding the appointor's health care, a representative appointed under this section shall act as follows:

(1) In the best interest of the appointor consistent with the purpose expressed in the appointment.

(2) In good faith.

(h) A health care representative who resigns or is unwilling to comply with the written appointment may not exercise further power under the appointment and shall so inform the following:

(1) The appointor.

(2) The appointor's legal representative if one is known.

(3) The health care provider if the representative knows there is one.

(i) An individual who is capable of consenting to health care may revoke:

(1) the appointment at any time by notifying the representative orally or in writing; or

(2) the authority granted to the representative by notifying the health care provider orally or in writing.

As added by P.L.2-1993, SEC.19. Amended by P.L.81-2015, SEC.8.

IC 16-36-1-8

Probate court petition; hearing; notice; findings

Sec. 8. (a) A health care provider or any interested person (as defined in IC 30-5-2-6) may petition the probate court in the county where the individual who is the subject of the petition is present for purposes of receiving health care to:

(1) make a health care decision or order health care for an individual incapable of consenting; or

(2) appoint a representative to act for the individual.

(b) Reasonable notice of the time and place of hearing a petition under this section must be given to the following:

(1) The individual incapable of consenting.

(2) Anyone having the care and custody of the individual.

(3) Those persons in the classes described in section 5 of this chapter who are reasonably available and who are designated by the court.

(c) The probate court may modify or dispense with notice and hearing if the probate court finds that delay will have a serious, adverse effect upon the health of the individual.

(d) The probate court may order health care, appoint a representative to make a health care decision for the individual incapable of consenting to health care with the limitations on the authority of the representative as the probate court considers appropriate, or order any other appropriate relief in the best interest of the individual if the probate court finds the following:

(1) A health care decision is required for the individual.

(2) The individual is incapable of consenting to health care.

(3) There is no person authorized to consent or a person authorized to consent to health care:

(A) is not reasonably available;

(B) declines to act; or

(C) is not acting in the best interest of the individual in need of health care.

As added by P.L.2-1993, SEC.19. Amended by P.L.81-2015, SEC.9.

IC 16-36-1-9

Disqualification of person to consent for patient or health care recipient

Sec. 9. (a) An individual who may consent to the individual's own health care under section 3 of this chapter may disqualify others from consenting to health care for the individual.

(b) A disqualification must meet the following conditions:

(1) Be in writing.

(2) Be signed by the individual.

(3) Designate those disqualified.

(c) A health care provider who knows of a written disqualification may not accept consent to health care from a disqualified individual.

(d) An individual who knows that the individual has been disqualified to consent to health care for another may not act for the

other under this chapter.
As added by P.L.2-1993, SEC.19.

IC 16-36-1-10
Immunity of health care providers or consenting persons; good faith requirement

Sec. 10. (a) A health care provider acting or declining to act in reliance on the consent or refusal of consent of a representative who the provider believes in good faith is authorized to consent to health care is not subject to:

(1) criminal prosecution;
(2) civil liability; or
(3) professional disciplinary action;

on the ground that the representative who consented or refused to consent lacked authority or capacity.

(b) A health care provider who believes in good faith that a representative is incapable of consenting is not subject to:

(1) criminal prosecution;
(2) civil liability; or
(3) professional disciplinary action;

for failing to follow the representative's direction.

(c) A person who in good faith believes the representative is authorized to consent or refuse to consent to health care for another under this chapter or another statute is not subject to:

(1) criminal prosecution; or
(2) civil liability if the person exercises due care;

on the ground that the representative lacked authority to consent.
As added by P.L.2-1993, SEC.19. Amended by P.L.81-2015, SEC.10.

IC 16-36-1-11
Disclosure of medical information to representative authorized to consent

Sec. 11. (a) A representative under this chapter has the same right that the authorizing individual has to receive information relevant to the contemplated health care and to consent to the disclosure of medical records to a health care provider.

(b) Disclosure of information regarding contemplated health care to a representative is not a waiver of an evidentiary privilege or of the right to assert confidentiality.
As added by P.L.2-1993, SEC.19. Amended by P.L.81-2015, SEC.11.

IC 16-36-1-12
Effect of chapter on other law; personal liability of representatives for costs of care

Sec. 12. (a) This chapter does not affect Indiana law concerning an individual's authorization to do the following:

(1) Make a health care decision for the individual or another individual.

(2) Provide, withdraw, or withhold medical care necessary to prolong or sustain life.

(b) This chapter does not affect the requirements in any other Indiana law concerning consent to observation, diagnosis, treatment, or hospitalization for a mental illness.

(c) This chapter does not authorize a representative to consent to any health care that is prohibited under Indiana law.

(d) This chapter does not affect any requirement of notice to others of proposed health care under any other Indiana law.

(e) This chapter does not affect Indiana law concerning the following:

(1) The standard of care of a health care provider required in the provision of health care.

(2) When consent is required for health care.

(3) Elements of informed consent for health care.

(4) Other methods of consent authorized by Indiana law.

(5) Health care being provided in an emergency without consent.

(f) This chapter does not prevent an individual capable of consenting to the individual's own health care or to the health care of another under this chapter, including those authorized under sections 5 through 7 of this chapter, from consenting to health care administered in good faith under religious tenets of the individual requiring health care.

(g) A representative consenting to health care for an individual under this chapter does not become personally liable for the cost of the health care by virtue of that consent.

As added by P.L.2-1993, SEC.19. Amended by P.L.81-2015, SEC.12.

IC 16-36-1-13

Euthanasia

Sec. 13. This chapter does not authorize euthanasia.

As added by P.L.2-1993, SEC.19.

IC 16-36-1-14

Incorporation of IC 30-5 by reference; appointment of health care representative

Sec. 14. (a) The health care consent provisions under IC 30-5 are incorporated by reference into this chapter to the extent the provisions under IC 30-5 do not conflict with explicit requirements under this chapter.

(b) With respect to the written appointment of a health care representative under section 7 of this chapter, whenever the appointment authorizes health care to be withdrawn or withheld from an individual with a terminal condition (as defined in IC 16-36-4-5), the language in IC 30-5-5-17 must be included in the appointment in substantially the same form.

As added by P.L.2-1993, SEC.19.

IC 16-36-1-15

Separate consent for telemedicine services not required

Sec. 15. A health care provider (as defined in IC 16-18-2-163(a)) may not be required to obtain a separate additional written health care consent for the provision of telemedicine services.

As added by P.L.185-2015, SEC.17.

IC 16-36-1-16

Study concerning costs and benefits of data base for health care consent; report to legislative council

Sec. 16. (a) The state department shall study the costs and benefits of the implementation of a data base for maintaining health care consents made under this chapter.

(b) The study must include the following:

(1) The costs of establishing and maintaining a data base to store the health care consents.

(2) The persons that should have access to the data base and the type of security necessary to protect the data stored in the data base.

(3) The process for individuals to use to file a health care consent on a voluntary basis.

(c) Before October 1, 2016, the state department shall report the state department's findings in the study under this section in writing to the legislative council in an electronic format under IC 5-14-6.

(d) This section expires December 31, 2017.

As added by P.L.29-2016, SEC.1.

IC 16-36-1.5

Chapter 1.5. Consent for Mental Health Services

IC 16-36-1.5-1

Applicability of chapter

Sec. 1. This chapter does not apply when an individual is detained or committed under IC 12-26-4, IC 12-26-5, IC 12-26-6, or IC 12-26-7.

As added by P.L.145-1996, SEC.3.

IC 16-36-1.5-2

"Mental health provider" defined

Sec. 2. As used in this chapter, "mental health provider" means any of the following:

(1) A registered nurse or licensed practical nurse licensed under IC 25-23.

(2) A clinical social worker licensed under IC 25-23.6-5.

(3) A marriage and family therapist licensed under IC 25-23.6-8.

(4) A psychologist licensed under IC 25-33.

(5) A school psychologist licensed by the Indiana state board of education.

(6) An individual who claims to be a mental health provider.

As added by P.L.145-1996, SEC.3. Amended by P.L.149-1997, SEC.1; P.L.147-1997, SEC.3.

IC 16-36-1.5-3

"Patient" defined

Sec. 3. As used in this chapter, "patient" means a person who is the recipient of mental health services.

As added by P.L.145-1996, SEC.3.

IC 16-36-1.5-4

Mental health provider; consent from patient required

Sec. 4. Before providing mental health services, a mental health provider must obtain consent from each patient.

As added by P.L.145-1996, SEC.3. Amended by P.L.111-1997, SEC.7; P.L.149-1997, SEC.2; P.L.253-1997(ss), SEC.19.

IC 16-36-1.5-4.5

Physician; written consent from patient required

Sec. 4.5. Before providing mental health services, a physician who is licensed under IC 25-22.5 must obtain consent from each patient as provided in IC 34-18-12.

As added by P.L.149-1997, SEC.3. Amended by P.L.1-1998, SEC.119.

IC 16-36-1.5-5

Consent by mentally incompetent patient

Sec. 5. (a) This section applies to a patient who:

(1) receives mental health services; and

(2) is mentally incompetent.

(b) A patient described in subsection (a) shall provide consent for mental health treatment through the informed consent of one (1) of the following:

(1) The patient's legal guardian or other court appointed representative.

(2) The patient's health care representative under IC 16-36-1.

(3) An attorney in fact for health care appointed under IC 30-5-5-16.

(4) The patient's health care representative acting in accordance with the patient's psychiatric advance directive as expressed in a psychiatric advance directive executed under IC 16-36-1.7.

As added by P.L.145-1996, SEC.3. Amended by P.L.149-1997, SEC.4; P.L.16-2004, SEC.2.

IC 16-36-1.5-6

Compliance with chapter

Sec. 6. In order to comply with this chapter, a mental health provider needs to obtain only one (1) consent for mental health services for a patient while admitted in or treated as an outpatient at the main facility or a clinic of any of the following:

(1) A psychiatric hospital (as defined in IC 12-7-2-151).

(2) A hospital (as defined in IC 16-18-2-179(b)).

(3) A community mental health center (as defined in IC 12-7-2-38).

As added by P.L.145-1996, SEC.3. Amended by P.L.149-1997, SEC.5.

IC 16-36-1.5-7

Rebuttable presumption of informed consent

Sec. 7. If a patient's written consent is:

(1) signed by the patient or the patient's authorized representative;

(2) witnessed by an individual who is at least eighteen (18) years of age; and

(3) explained, orally or in the written consent, to the patient or the patient's authorized representative before a treatment, procedure, examination, or test;

a rebuttable presumption is created that the consent is an informed consent.

As added by P.L.145-1996, SEC.3.

IC 16-36-1.5-8

Repealed

(Repealed by P.L.149-1997, SEC.8.)

IC 16-36-1.5-9
Repealed

(Repealed by P.L.149-1997, SEC.8.)

IC 16-36-1.5-10
Information to be provided by mental health provider

Sec. 10. A mental health provider shall inform each patient of the mental health provider about:

(1) the mental health provider's training and credentials;

(2) the reasonably foreseeable risks and relative benefits of proposed treatments and alternative treatments; and

(3) the patient's right to withdraw consent for treatment at any time.

As added by P.L.149-1997, SEC.6.

IC 16-36-1.7

Chapter 1.7. Psychiatric Advance Directives

IC 16-36-1.7-0.5

Inapplicability to certain mentally ill individuals

Sec. 0.5. This chapter does not apply when an individual is detained or committed under IC 12-26-4, IC 12-26-5, IC 12-26-6, or IC 12-26-7.

As added by P.L.16-2004, SEC.3.

IC 16-36-1.7-1

"Psychiatric advance directive" defined

Sec. 1. As used in this chapter, "psychiatric advance directive" means a written instrument that expresses the individual's preference and consent to the administration of treatment measures for a specific diagnosis for the care and treatment of the individual's mental illness during subsequent periods of incapacity.

As added by P.L.16-2004, SEC.3.

IC 16-36-1.7-2

Requirement to execute a directive; information required; compliance

Sec. 2. (a) An individual who has capacity may execute a psychiatric advance directive.

(b) The psychiatric advance directive must include the following:

(1) The name of the individual entering into the psychiatric advance directive.

(2) The name of the treatment program and the sponsoring facility or institution in which the individual is enrolled, if applicable.

(3) The name, address, and telephone number of:

(A) the individual's treating physician; or

(B) other treating mental health personnel.

(4) The signature of the individual entering into the psychiatric advance directive.

(5) The date on which the individual signed the psychiatric advance directive.

(6) The name, address, and telephone number of the designated health care representative.

(7) The signature of the psychiatrist treating the individual entering into the psychiatric advance directive, attesting to:

(A) the appropriateness of the individual's preferences stated in the psychiatric advance directive; and

(B) the capacity of the individual entering into the psychiatric advance directive.

(c) The psychiatric advance directive must comply with and is subject to the requirements and provisions of IC 16-36-1.

As added by P.L.16-2004, SEC.3.

IC 16-36-1.7-3
Specifications by individuals

Sec. 3. An individual may specify in the psychiatric advance directive treatment measures, including:

(1) admission to an inpatient setting;
(2) the administration of prescribed medication:
  (A) orally; or
  (B) by injection;
(3) physical restraint;
(4) seclusion;
(5) electroconvulsive therapy; or
(6) mental health counseling;

for the care and treatment of the individual's mental illness during a period when the individual is incapacitated.
As added by P.L.16-2004, SEC.3.

IC 16-36-1.7-4
Liability

Sec. 4. A person who:

(1) treats an individual who has executed a psychiatric advance directive; and
(2) is not aware that the individual being treated has executed a valid psychiatric advance directive;

is not subject to civil or criminal liability based on an allegation that the person did not comply with the psychiatric advance directive.
As added by P.L.16-2004, SEC.3.

IC 16-36-1.7-5
Treatment by attending physician

Sec. 5. This chapter does not preclude an attending physician from treating the patient in a manner that is of the best interest of the patient or another individual.
As added by P.L.16-2004, SEC.3.

IC 16-36-2

Chapter 2. Consent to Autopsy

IC 16-36-2-1

Autopsy defined

Sec. 1. For purposes of this chapter, "autopsy" means the dissection of a dead body for the purpose of ascertaining the cause, seat, and nature of a disease or for the purpose of inquiring into the cause of death.

As added by P.L.2-1993, SEC.19.

IC 16-36-2-2

Form of consent

Sec. 2. For the purpose of this chapter, the consent to an autopsy must contain the purpose of and extent of the dissection so authorized and may be obtained only by the use of at least one (1) of the following:

(1) A written instrument.

(2) A telegram.

(3) A witnessed telephone conversation.

As added by P.L.2-1993, SEC.19.

IC 16-36-2-3

Persons authorized to give consent

Sec. 3. (a) For the purpose of this chapter, consent for a licensed physician to conduct an autopsy of the body of a deceased person is sufficient when given by the following persons if the persons survive the deceased:

(1) By the surviving spouse. However, if the deceased and the surviving spouse were legally separated at the date of death, the survivor is not considered a surviving spouse.

(2) If there is no surviving spouse, then by any one (1) adult child of the deceased.

(3) If there is no surviving spouse or adult child of the deceased, then by one (1) parent of the deceased.

(4) If there is no surviving spouse, adult child, or parent and there is an adult who is next of kin of the deceased residing in the county in which the deceased died a resident, then by any one (1) next of kin.

(5) If there is no surviving spouse, adult child, parent, or next of kin, then by any person assuming custody of and financial responsibility for the burial of the body.

(b) If there is more than one (1) person authorized to consent, consent of one (1) of the persons is sufficient.

As added by P.L.2-1993, SEC.19.

IC 16-36-2-4

Conclusiveness of consent

Sec. 4. Consent to an autopsy in accordance with this chapter is conclusive as to any rights in the body of a deceased person as against any claim by any other person, but only for the purpose of performing the autopsy.
As added by P.L.2-1993, SEC.19.

IC 16-36-2-5
Effect of chapter on other laws

Sec. 5. This chapter supplements the laws concerning autopsies and does not do any of the following:

(1) Repeal, modify, or amend laws concerning autopsies.

(2) Require consent for a coroner to perform an autopsy in the discharge of the coroner's duties.

As added by P.L.2-1993, SEC.19.

IC 16-36-3

Chapter 3. Consent to Medical Treatment of Incompetent

IC 16-36-3-1

Appropriate facility defined

Sec. 1. As used in this chapter, "appropriate facility" has the meaning set forth in IC 12-7-2-82(3).

As added by P.L.2-1993, SEC.19.

IC 16-36-3-2

Superintendent defined

Sec. 2. As used in this chapter, "superintendent" has the meaning set forth in IC 12-7-2-188(3).

As added by P.L.2-1993, SEC.19.

IC 16-36-3-3

Methods of consent

Sec. 3. The methods of consent set forth in this chapter do not exclude other lawful methods of consent or require consent in an emergency.

As added by P.L.2-1993, SEC.19.

IC 16-36-3-4

Consent by superintendent of facility

Sec. 4. Consent to medical or surgical treatment of a patient at an appropriate facility may be given by the superintendent under the procedures in this chapter.

As added by P.L.2-1993, SEC.19.

IC 16-36-3-5

Second medical opinion

Sec. 5. If the superintendent and the patient's treating physician determine that:

(1) the patient is incompetent to give informed consent to medical or surgical treatment, even though the patient has never been so adjudicated by a court; and

(2) the treatment is medically necessary;

the superintendent shall obtain a second opinion on the issues listed in subdivisions (1) and (2) from a licensed physician independent of the appropriate facility.

As added by P.L.2-1993, SEC.19.

IC 16-36-3-6

Second opinion specialist list

Sec. 6. In obtaining a second opinion as required by section 5 of this chapter, the superintendent shall compile a list of licensed physicians, organized by specialty. The superintendent must use an appropriate specialist from the list whenever possible. The physician

chosen to give a second opinion must not be the same physician later chosen to perform the surgery that was the subject of the second opinion, unless an emergency exists.
As added by P.L.2-1993, SEC.19.

IC 16-36-3-7
Notice to relatives or friends of patient

Sec. 7. The superintendent shall attempt to notify by certified mail any known relatives or friends of the patient of the patient's condition, the treatment determined to be necessary by the superintendent and the treating physician, and the result of the independent second opinion. To the extent possible given the urgency of the circumstances, the superintendent shall allow a reasonable time within which to receive responses of persons notified and shall consider the responses received before taking final action.
As added by P.L.2-1993, SEC.19.

IC 16-36-3-8
Concurring second opinion; procedure

Sec. 8. If the superintendent has followed the procedures in sections 4, 5, 6, and 7 of this chapter and the second opinion obtained under section 5 of this chapter concurs with the original determination of the superintendent and the patient's treating physician, the superintendent may give consent to the medical or surgical treatment of the patient.
As added by P.L.2-1993, SEC.19.

IC 16-36-3-9
Superintendent immune from liability

Sec. 9. A superintendent who, without malice, bad faith, or negligence, discloses confidential information in connection with the superintendent's compliance with section 7 of this chapter or consents to medical or surgical treatment of a patient after following the procedures required by this chapter is immune from any civil or criminal liability that might otherwise be imposed as a result of disclosing confidential information or giving or withholding the consent.
As added by P.L.2-1993, SEC.19.

IC 16-36-3-10
Report of medical treatments approved

Sec. 10. The superintendent shall compile a report of all medically necessary treatments approved under this chapter during each calendar quarter and send the report to the director of the division of mental health and addiction or the director of the division of disability and rehabilitative services not more than one (1) month after the end of that quarter. The report must contain the following

information:

(1) The name of the patient.

(2) The type of action taken.

(3) The date of the action.

(4) The reason for the action.

(5) The names of the treating physician, the physician independent of the appropriate facility, and any other physician who entered an opinion that was contrary to the treating physician's opinion.

As added by P.L.2-1993, SEC.19. Amended by P.L.40-1994, SEC.65; P.L.215-2001, SEC.83; P.L.141-2006, SEC.89.

IC 16-36-4

Chapter 4. Living Wills and Life Prolonging Procedures

IC 16-36-4-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to sections 1, 10, and 13 of this chapter by P.L.99-1994 do not apply to a living will declaration executed before July 1, 1994.

As added by P.L.220-2011, SEC.315.

IC 16-36-4-1

Life prolonging procedure defined

Sec. 1. (a) As used in this chapter, "life prolonging procedure" means any medical procedure, treatment, or intervention that does the following:

(1) Uses mechanical or other artificial means to sustain, restore, or supplant a vital function.

(2) Serves to prolong the dying process.

(b) The term does not include the performance or provision of any medical procedure or medication necessary to provide comfort care or to alleviate pain.

As added by P.L.2-1993, SEC.19. Amended by P.L.99-1994, SEC.1.

IC 16-36-4-2

Life prolonging procedures will declarant defined

Sec. 2. As used in this chapter, "life prolonging procedures will declarant" means a person who has executed a life prolonging procedures will declaration under section 11 of this chapter.

As added by P.L.2-1993, SEC.19.

IC 16-36-4-3

Living will declarant defined

Sec. 3. As used in this chapter, "living will declarant" means a person who has executed a living will declaration under section 10 of this chapter.

As added by P.L.2-1993, SEC.19.

IC 16-36-4-4

Qualified patient defined

Sec. 4. As used in this chapter, "qualified patient" means a patient who has been certified as a qualified patient under section 13 of this chapter.

As added by P.L.2-1993, SEC.19.

IC 16-36-4-5

Terminal condition defined

Sec. 5. As used in this chapter, "terminal condition" means a condition caused by injury, disease, or illness from which, to a

reasonable degree of medical certainty:

(1) there can be no recovery; and

(2) death will occur from the terminal condition within a short period of time without the provision of life prolonging procedures.

As added by P.L.2-1993, SEC.19.

IC 16-36-4-6

Policy

Sec. 6. A competent adult has the right to control the decisions relating to the competent adult's medical care, including the decision to have medical or surgical means or procedures calculated to prolong the competent adult's life provided, withheld, or withdrawn.

As added by P.L.2-1993, SEC.19.

IC 16-36-4-7

Consent to medical treatment; immunity from liability for failure to treat patient after refusal of treatment

Sec. 7. (a) A competent person may consent to or refuse consent for medical treatment, including life prolonging procedures.

(b) No health care provider is required to provide medical treatment to a patient who has refused medical treatment under this section.

(c) No civil or criminal liability is imposed on a health care provider for the failure to provide medical treatment to a patient who has refused the treatment in accordance with this section.

As added by P.L.2-1993, SEC.19.

IC 16-36-4-8

Life prolonging procedures will declarations; living will declarations

Sec. 8. (a) A person who is of sound mind and is at least eighteen (18) years of age may execute a life prolonging procedures will declaration under section 11 of this chapter or a living will declaration under section 10 of this chapter.

(b) A declaration under section 10 or 11 of this chapter must meet the following conditions:

(1) Be voluntary.

(2) Be in writing.

(3) Be signed by the person making the declaration or by another person in the declarant's presence and at the declarant's express direction.

(4) Be dated.

(5) Be signed in the presence of at least two (2) competent witnesses who are at least eighteen (18) years of age.

(c) A witness to a living will declaration under subsection (b)(5) may not meet any of the following conditions:

(1) Be the person who signed the declaration on behalf of and

at the direction of the declarant.

(2) Be a parent, spouse, or child of the declarant.

(3) Be entitled to any part of the declarant's estate whether the declarant dies testate or intestate, including whether the witness could take from the declarant's estate if the declarant's will is declared invalid.

(4) Be directly financially responsible for the declarant's medical care.

For the purposes of subdivision (3), a person is not considered to be entitled to any part of the declarant's estate solely by virtue of being nominated as a personal representative or as the attorney for the estate in the declarant's will.

(d) The living will declaration of a person diagnosed as pregnant by the attending physician has no effect during the person's pregnancy.

(e) The life prolonging procedures will declarant or the living will declarant shall notify the declarant's attending physician of the existence of the declaration. An attending physician who is notified shall make the declaration or a copy of the declaration a part of the declarant's medical records.

(f) A living will declaration under section 10 of this chapter:

(1) does not require the physician to use, withhold, or withdraw life prolonging procedures but is presumptive evidence of the patient's desires concerning the use, withholding, or withdrawal of life prolonging procedures under this chapter; and

(2) shall be given great weight by the physician in determining the intent of the patient who is mentally incompetent.

(g) A life prolonging procedures will declaration under section 11 of this chapter does require the physician to use life prolonging procedures as requested.

As added by P.L.2-1993, SEC.19.

IC 16-36-4-9

Forms of declaration; requisites

Sec. 9. A declaration must be substantially in the form set forth in either section 10 or 11 of this chapter, but the declaration may include additional, specific directions. The invalidity of any additional, specific directions does not affect the validity of the declaration.

As added by P.L.2-1993, SEC.19.

IC 16-36-4-10

Form of living will declaration

Sec. 10. The following is the living will declaration form:

LIVING WILL DECLARATION

Declaration made this _____ day of _____ (month, year). I, _____, being at least eighteen (18) years of age and of sound mind, willfully and voluntarily make known my desires that my

dying shall not be artificially prolonged under the circumstances set forth below, and I declare:

If at any time my attending physician certifies in writing that: (1) I have an incurable injury, disease, or illness; (2) my death will occur within a short time; and (3) the use of life prolonging procedures would serve only to artificially prolong the dying process, I direct that such procedures be withheld or withdrawn, and that I be permitted to die naturally with only the performance or provision of any medical procedure or medication necessary to provide me with comfort care or to alleviate pain, and, if I have so indicated below, the provision of artificially supplied nutrition and hydration. (Indicate your choice by initialling or making your mark before signing this declaration):

_____ I wish to receive artificially supplied nutrition and hydration, even if the effort to sustain life is futile or excessively burdensome to me.

_____ I do not wish to receive artificially supplied nutrition and hydration, if the effort to sustain life is futile or excessively burdensome to me.

_____ I intentionally make no decision concerning artificially supplied nutrition and hydration, leaving the decision to my health care representative appointed under IC 16-36-1-7 or my attorney in fact with health care powers under IC 30-5-5.

In the absence of my ability to give directions regarding the use of life prolonging procedures, it is my intention that this declaration be honored by my family and physician as the final expression of my legal right to refuse medical or surgical treatment and accept the consequences of the refusal.

I understand the full import of this declaration.

Signed _____

_____

City, County, and State of Residence

The declarant has been personally known to me, and I believe (him/her) to be of sound mind. I did not sign the declarant's signature above for or at the direction of the declarant. I am not a parent, spouse, or child of the declarant. I am not entitled to any part of the declarant's estate or directly financially responsible for the declarant's medical care. I am competent and at least eighteen (18) years of age.

Witness _____ Date _____

Witness _____ Date _____

As added by P.L.2-1993, SEC.19. Amended by P.L.99-1994, SEC.2.

IC 16-36-4-11

Form of life prolonging procedures will declaration

Sec. 11. The following is the life prolonging procedures will declaration form:

LIFE PROLONGING PROCEDURES DECLARATION

Declaration made this _____ day of _____ (month, year). I, _____, being at least eighteen (18) years of age and of sound mind, willfully and voluntarily make known my desire that if at any time I have an incurable injury, disease, or illness determined to be a terminal condition I request the use of life prolonging procedures that would extend my life. This includes appropriate nutrition and hydration, the administration of medication, and the performance of all other medical procedures necessary to extend my life, to provide comfort care, or to alleviate pain.

In the absence of my ability to give directions regarding the use of life prolonging procedures, it is my intention that this declaration be honored by my family and physician as the final expression of my legal right to request medical or surgical treatment and accept the consequences of the request.

I understand the full import of this declaration.

Signed _____

_____

City, County, and State of Residence

The declarant has been personally known to me, and I believe (him/her) to be of sound mind. I am competent and at least eighteen (18) years of age.

Witness _____ Date _____

Witness _____ Date _____

As added by P.L.2-1993, SEC.19.

IC 16-36-4-12

Revocation of living will declaration or life prolonging procedures will declaration

Sec. 12. (a) A living will declaration or a life prolonging procedures will declaration may be revoked at any time by the declarant by any of the following:

(1) A signed, dated writing.

(2) Physical cancellation or destruction of the declaration by the declarant or another in the declarant's presence and at the declarant's direction.

(3) An oral expression of intent to revoke.

(b) A revocation is effective when communicated to the attending physician.

(c) No civil or criminal liability is imposed upon a person for failure to act upon a revocation unless the person had actual knowledge of the revocation.

(d) The revocation of a life prolonging procedures will declaration is not evidence that the declarant desires to have life prolonging procedures withheld or withdrawn.

As added by P.L.2-1993, SEC.19.

IC 16-36-4-13

Certification of qualified patient; procedure where physician refuses to honor declaration

Sec. 13. (a) The attending physician shall immediately certify in writing that a person is a qualified patient if the following conditions are met:

(1) The attending physician has diagnosed the patient as having a terminal condition.

(2) The patient has executed a living will declaration or a life prolonging procedures will declaration in accordance with this chapter and was of sound mind at the time of the execution.

(b) The attending physician shall include a copy of the certificate in the patient's medical records.

(c) It is lawful for the attending physician to withhold or withdraw life prolonging procedures from a qualified patient if that patient properly executed a living will declaration under this chapter.

(d) A health care provider or an employee under the direction of a health care provider who:

(1) in good faith; and

(2) in accordance with reasonable medical standards;

participates in the withholding or withdrawal of life prolonging procedures from a qualified patient who has executed a living will declaration in accordance with this chapter is not subject to criminal or civil liability and may not be found to have committed an act of unprofessional conduct.

(e) An attending physician who refuses to use, withhold, or withdraw life prolonging procedures from a qualified patient shall transfer the qualified patient to another physician who will honor the patient's living will declaration or life prolonging procedures will declaration unless:

(1) the physician has reason to believe the declaration was not validly executed or there is evidence that the patient no longer intends the declaration to be enforced; and

(2) the patient is presently unable to validate the declaration.

(f) If the attending physician, after reasonable investigation, finds no other physician willing to honor the patient's declaration, the attending physician may refuse to withhold or withdraw life prolonging procedures.

(g) If the attending physician does not transfer a patient for the reason set forth in subsection (e), the physician shall attempt to ascertain the patient's intention and attempt to determine the validity of the declaration by consulting with any of the following individuals who are reasonably available, willing, and competent to act:

(1) The judicially appointed guardian of the person of the patient if one has been appointed. This subdivision does not require the appointment of a guardian so that a treatment decision can be made under this section.

(2) The person or persons designated by the patient in writing to make the treatment decision.

(3) The patient's spouse.
(4) An adult child of the patient or, if the patient has more than one (1) adult child, by a majority of the children who are reasonably available for consultation.
(5) The parents of the patient.
(6) An adult sibling of the patient or, if the patient has more than one (1) adult sibling, by a majority of the siblings who are reasonably available for consultation.
(7) The patient's clergy or others with firsthand knowledge of the patient's intention.

The individuals described in subdivisions (1) through (7) shall act in the best interest of the patient and shall be guided by the patient's express or implied intentions, if known.

(h) The physician shall list the names of the individuals described in subsection (g) who were consulted and the information received in the patient's medical records.

(i) If the attending physician determines from the information received under subsection (g) that the qualified patient intended to execute a valid living will declaration, the physician may either:

(1) withhold or withdraw life prolonging procedures, with the concurrence of one (1) other physician, as documented in the patient's medical records; or
(2) request a court of competent jurisdiction to appoint a guardian for the patient to make the consent decision on behalf of the patient.

As added by P.L.2-1993, SEC.19. Amended by P.L.99-1994, SEC.3.

IC 16-36-4-14
Presumptions

Sec. 14. If the qualified patient who executed a living will declaration is incompetent at the time of the decision to withhold or withdraw life prolonging procedures, a living will declaration executed in accordance with this chapter is presumed to be valid. For purposes of this chapter, a health care provider may presume in the absence of actual notice to the contrary that the declarant was of sound mind when the living will declaration was executed. The fact that the declarant executed a declaration may not be considered as an indication of a declarant's mental incompetency.

As added by P.L.2-1993, SEC.19.

IC 16-36-4-15
Cancellation or destruction of declaration; falsification or forgery of revocation of another's declaration; offense

Sec. 15. A person who knowingly or intentionally:

(1) physically cancels or destroys a living will declaration or a life prolonging procedures will declaration without the declarant's consent; or
(2) falsifies or forges a revocation of another person's living

will declaration or life prolonging procedures will declaration; commits a Level 6 felony.

As added by P.L.2-1993, SEC.19. Amended by P.L.158-2013, SEC.236.

IC 16-36-4-16

Falsification or forgery of declaration; concealment or withholding of revocation of declaration; offense

Sec. 16. A person who knowingly or intentionally:

(1) falsifies or forges the living will declaration of another person with intent to cause withholding or withdrawal of life prolonging procedures; or

(2) conceals or withholds personal knowledge of the revocation of a living will declaration with intent to cause a withholding or withdrawal of life prolonging procedures;

commits a Level 5 felony.

As added by P.L.2-1993, SEC.19. Amended by P.L.158-2013, SEC.237.

IC 16-36-4-17

Effect of living will or life prolonging procedures will declaration; suicide; life insurance

Sec. 17. (a) A death caused by the withholding or withdrawal of life prolonging procedures in accordance with this chapter does not constitute a suicide.

(b) The execution of a living will declaration or a life prolonging procedures will declaration under this chapter does not:

(1) affect the sale or issuance of any life insurance policy; or

(2) modify the terms of a policy in force when the declaration is executed.

(c) A policy of life insurance is not legally impaired or invalidated by the withholding or withdrawal of life prolonging procedures from an insured qualified patient, notwithstanding any term of the policy to the contrary.

(d) A person may not require another person to execute a living will declaration or a life prolonging procedures will declaration as a condition for being insured for or receiving health care services.

(e) This chapter does not impair or supersede any legal right or legal responsibility that any person may have to effect the withholding or withdrawal of life prolonging procedures in any lawful manner.

(f) A person who has been found:

(1) guilty; or

(2) guilty but mentally ill;

of an offense described in section 16 of this chapter is subject to IC 29-1-2-12.1.

As added by P.L.2-1993, SEC.19.

IC 16-36-4-18
Presumption of intent to consent to withholding or withdrawal of life prolonging procedures

Sec. 18. This chapter creates no presumption concerning the intention of a person who has not executed a living will declaration to consent to the withholding or withdrawal of life prolonging procedures if a terminal condition exists.
As added by P.L.2-1993, SEC.19.

IC 16-36-4-19
Euthanasia distinguished

Sec. 19. This chapter does not authorize euthanasia or 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.
As added by P.L.2-1993, SEC.19.

IC 16-36-4-20
Intervening forces; proximate causation

Sec. 20. The act of withholding or withdrawing life prolonging procedures, when done under:

(1) a living will declaration made under this chapter;
(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.
As added by P.L.2-1993, SEC.19.

IC 16-36-4-21
Chapter violations by physician; discipline

Sec. 21. A physician who knowingly violates this chapter is subject to disciplinary sanctions under IC 25-1-9 as if the physician had knowingly violated a rule adopted by the medical licensing board under IC 25-22.5-2-7.
As added by P.L.2-1993, SEC.19.

IC 16-36-5

Chapter 5. Out of Hospital Do Not Resuscitate Declarations

IC 16-36-5-1

"Cardiopulmonary resuscitation" or "CPR"

Sec. 1. As used in this chapter, "cardiopulmonary resuscitation" or "CPR" means cardiopulmonary resuscitation or a component of cardiopulmonary resuscitation, including:

(1) cardiac compression;
(2) endotracheal intubation and other advanced airway management;
(3) artificial ventilation;
(4) defibrillation;
(5) administration of cardiac resuscitation medications; and
(6) related procedures.

The term does not include the Heimlich maneuver or a similar procedure used to expel an obstruction from the throat.

As added by P.L.148-1999, SEC.12.

IC 16-36-5-2

"Competent witness"

Sec. 2. As used in this chapter, "competent witness" means a person at least eighteen (18) years of age who is not:

(1) the person who signed an out of hospital DNR declaration on behalf of and at the direction of the declarant;
(2) a parent, spouse, or child of the declarant;
(3) entitled to any part of the declarant's estate; or
(4) directly financially responsible for the declarant's medical care.

For purposes of subdivision (3), a person is not considered to be entitled to any part of the declarant's estate solely by virtue of being nominated as a personal representative or as the attorney for the estate in the declarant's will.

As added by P.L.148-1999, SEC.12.

IC 16-36-5-3

"Declarant"

Sec. 3. As used in this chapter, "declarant" means a person:

(1) who has executed an out of hospital DNR declaration under section 11(a) of this chapter; or
(2) for whom a representative has executed an out of hospital DNR declaration under section 11(b) of this chapter;

and for whom an out of hospital DNR order has been written under section 12 of this chapter.

As added by P.L.148-1999, SEC.12.

IC 16-36-5-4

"DNR"

Sec. 4. As used in this chapter, "DNR" means do not resuscitate.
As added by P.L.148-1999, SEC.12.

IC 16-36-5-5
"Out of hospital"
Sec. 5. As used in this chapter, "out of hospital" refers to a location other than an acute care hospital licensed under IC 16-21-2.
As added by P.L.148-1999, SEC.12. Amended by P.L.24-2011, SEC.1.

IC 16-36-5-6
"Out of hospital DNR declaration and order"
Sec. 6. As used in this chapter, "out of hospital DNR declaration and order" means a document executed under sections 11 and 12 of this chapter.
As added by P.L.148-1999, SEC.12.

IC 16-36-5-7
"Out of hospital DNR identification device"
Sec. 7. As used in this chapter, "out of hospital DNR identification device" means a device developed by the emergency medical services commission under section 17 of this chapter.
As added by P.L.148-1999, SEC.12.

IC 16-36-5-8
"Qualified person"
Sec. 8. As used in this chapter, "qualified person" means an individual certified as a qualified person under section 10 of this chapter.
As added by P.L.148-1999, SEC.12.

IC 16-36-5-9
"Representative"
Sec. 9. As used in this chapter, "representative" means a person's:
(1) legal guardian or other court appointed representative responsible for making health care decisions for the person;
(2) health care representative under IC 16-36-1; or
(3) attorney in fact for health care appointed under IC 30-5-5-16.
As added by P.L.148-1999, SEC.12.

IC 16-36-5-10
Certification as qualified person
Sec. 10. An attending physician may certify that a patient is a qualified person if the attending physician determines, in accordance with reasonable medical standards, that one (1) of the following conditions is met:
(1) The person has a terminal condition (as defined in

IC 16-36-4-5).

(2) The person has a medical condition such that, if the person were to suffer cardiac or pulmonary failure, resuscitation would be unsuccessful or within a short period the person would experience repeated cardiac or pulmonary failure resulting in death.

As added by P.L.148-1999, SEC.12.

IC 16-36-5-11
Execution of declaration

Sec. 11. (a) A person who is of sound mind and at least eighteen (18) years of age may execute an out of hospital DNR declaration.

(b) A person's representative may execute an out of hospital DNR declaration for the person under this chapter only if the person is:

(1) at least eighteen (18) years of age; and

(2) incompetent.

(c) An out of hospital DNR declaration must meet the following conditions:

(1) Be voluntary.

(2) Be in writing.

(3) Be signed by the person making the declaration or by another person in the declarant's presence and at the declarant's express direction.

(4) Be dated.

(5) Be signed in the presence of at least two (2) competent witnesses.

(d) An out of hospital DNR declaration must be issued on the form specified in section 15 of this chapter.

As added by P.L.148-1999, SEC.12.

IC 16-36-5-12
Issuance of DNR order

Sec. 12. An out of hospital DNR order:

(1) may be issued only by the declarant's attending physician; and

(2) may be issued only if both of the following apply:

(A) The attending physician has determined the patient is a qualified person.

(B) The patient has executed an out of hospital DNR declaration under section 11 of this chapter.

As added by P.L.148-1999, SEC.12.

IC 16-36-5-13
Transfer of patient to another physician

Sec. 13. (a) An attending physician who does not issue an out of hospital DNR order for a patient who is a qualified person may transfer the patient to another physician, who may issue an out of hospital DNR order, unless:

(1) the attending physician has reason to believe the patient's declaration was not validly executed, or there is evidence the patient no longer intends the declaration to be enforced; and

(2) the patient is unable to validate the declaration.

(b) Notwithstanding section 10 of this chapter, if an attending physician, after reasonable investigation, does not find any other physician willing to honor the patient's out of hospital DNR declaration and issue an out of hospital DNR order, the attending physician may refuse to issue an out of hospital DNR order.

(c) If the attending physician does not transfer a patient under subsection (a), the attending physician may attempt to ascertain the patient's intent and attempt to determine the validity of the declaration by consulting with any of the following individuals who are reasonably available, willing, and competent to act:

(1) A court appointed guardian of the patient, if one has been appointed. This subdivision does not require the appointment of a guardian so that a treatment decision may be made under this section.

(2) A person designated by the patient in writing to make a treatment decision.

(3) The patient's spouse.

(4) An adult child of the patient or a majority of any adult children of the patient who are reasonably available for consultation.

(5) An adult sibling of the patient or a majority of any adult siblings of the patient who are reasonably available for consultation.

(6) The patient's clergy.

(7) Another person who has firsthand knowledge of the patient's intent.

(d) The individuals described in subsection (c)(1) through (c)(7) shall act in the best interest of the patient and shall follow the patient's express or implied intent, if known.

(e) The attending physician acting under subsection (c) shall list the names of the individuals described in subsection (c) who were consulted and include the information received in the patient's medical file.

(f) If the attending physician determines from the information received under subsection (c) that the patient intended to execute a valid out of hospital DNR declaration, the attending physician may:

(1) issue an out of hospital DNR order, with the concurrence of at least one (1) physician documented in the patient's medical file; or

(2) request a court to appoint a guardian for the patient to make the consent decision on behalf of the patient.

(g) An out of hospital DNR order must be issued on the form specified in section 15 of this chapter.

As added by P.L.148-1999, SEC.12.

IC 16-36-5-14
Effect of declaration during pregnancy

Sec. 14. An out of hospital DNR declaration and order of a declarant known to be pregnant has no effect during the declarant's pregnancy.

As added by P.L.148-1999, SEC.12.

IC 16-36-5-15
Form

Sec. 15. An out of hospital DNR declaration and order must be in substantially the following form:

OUT OF HOSPITAL DO NOT RESUSCITATE DECLARATION AND ORDER

This declaration and order is effective on the date of execution and remains in effect until the death of the declarant or revocation.

OUT OF HOSPITAL DO NOT RESUSCITATE DECLARATION

Declaration made this ____ day of _____. I, _____, being of sound mind and at least eighteen (18) years of age, willfully and voluntarily make known my desires that my dying shall not be artificially prolonged under the circumstances set forth below. I declare:

My attending physician has certified that I am a qualified person, meaning that I have a terminal condition or a medical condition such that, if I suffer cardiac or pulmonary failure, resuscitation would be unsuccessful or within a short period I would experience repeated cardiac or pulmonary failure resulting in death.

I direct that, if I experience cardiac or pulmonary failure in a location other than an acute care hospital or a health facility, cardiopulmonary resuscitation procedures be withheld or withdrawn and that I be permitted to die naturally. My medical care may include any medical procedure necessary to provide me with comfort care or to alleviate pain.

I understand that I may revoke this out of hospital DNR declaration at any time by a signed and dated writing, by destroying or canceling this document, or by communicating to health care providers at the scene the desire to revoke this declaration.

I understand the full import of this declaration.

Signed_____
Printed name_____
_____
City and State of Residence_____

The declarant is personally known to me, and I believe the declarant to be of sound mind. I did not sign the declarant's signature above, for, or at the direction of, the declarant. I am not a parent, spouse, or child of the declarant. I am not entitled to any part of the declarant's estate or directly financially responsible for the declarant's medical care. I am competent and at least eighteen (18) years of age.

Witness_____Printed name_____Date_____
Witness_____Printed name_____Date_____

OUT OF HOSPITAL DO NOT RESUSCITATE ORDER

I,_____, the attending physician of _____, have certified the declarant as a qualified person to make an out of hospital DNR declaration, and I order health care providers having actual notice of this out of hospital DNR declaration and order not to initiate or continue cardiopulmonary resuscitation procedures on behalf of the declarant, unless the out of hospital DNR declaration is revoked.

Signed_____Date_____
Printed name_____
Medical license number_____

As added by P.L.148-1999, SEC.12.

IC 16-36-5-16
Copies of declaration and order

Sec. 16. Copies of the out of hospital DNR declaration and order must be kept:

(1) by the declarant's attending physician in the declarant's medical file; and
(2) by the declarant or the declarant's representative.

As added by P.L.148-1999, SEC.12.

IC 16-36-5-17
Identification devices

Sec. 17. (a) The emergency medical services commission shall develop an out of hospital DNR identification device that must be:

(1) a necklace or bracelet; and
(2) inscribed with:
(A) the declarant's name;
(B) the declarant's date of birth; and
(C) the words "Do Not Resuscitate".

(b) An out of hospital DNR identification device may be created for a declarant only after an out of hospital DNR declaration and order has been executed by a declarant and an attending physician.

(c) The device developed under subsection (a) is not a substitute for the out of hospital DNR declaration and order.

As added by P.L.148-1999, SEC.12.

IC 16-36-5-18
Revocation

Sec. 18. (a) A declarant may at any time revoke an out of hospital DNR declaration and order by any of the following:

(1) A signed, dated writing.
(2) Physical cancellation or destruction of the declaration and order by the declarant or another in the declarant's presence and at the declarant's direction.

(3) An oral expression by the declarant of intent to revoke.

(b) A declarant's representative may revoke an out of hospital DNR declaration and order under this chapter only if the declarant is incompetent.

(c) A revocation is effective upon communication to a health care provider.

(d) A health care provider to whom the revocation of an out of hospital DNR declaration and order is communicated shall immediately notify the declarant's attending physician, if known, of the revocation.

(e) An attending physician notified of the revocation of an out of hospital DNR declaration and order shall immediately:

(1) add the revocation to the declarant's medical file, noting the time, date, and place of revocation, if known, and the time, date, and place that the physician was notified;

(2) cancel the out of hospital DNR declaration and order by entering the word "VOID" on each page of the out of hospital DNR declaration and order in the declarant's medical file; and

(3) notify any health care facility staff responsible for the declarant's care of the revocation.

As added by P.L.148-1999, SEC.12.

IC 16-36-5-19

Health care provider duties

Sec. 19. (a) A health care provider shall withhold or discontinue CPR to a patient in an out of hospital location if the health care provider has actual knowledge of:

(1) an original or a copy of a signed out of hospital DNR declaration and order executed by the patient; or

(2) an out of hospital DNR identification device worn by the patient or in the patient's possession.

(b) A health care provider shall disregard an out of hospital DNR declaration and order and perform CPR if:

(1) the declarant is conscious and states a desire for resuscitative measures;

(2) the health care provider believes in good faith that the out of hospital DNR declaration and order has been revoked;

(3) the health care provider is ordered by the attending physician to disregard the out of hospital DNR declaration and order; or

(4) the health care provider believes in good faith that the out of hospital DNR declaration and order must be disregarded to avoid verbal or physical confrontation at the scene.

(c) A health care provider transporting a declarant shall document on the transport form:

(1) the presence of an out of hospital DNR declaration and order;

(2) the attending physician's name; and

(3) the date the out of hospital DNR declaration and order was signed.

(d) An out of hospital DNR identification device must accompany a declarant whenever the declarant is transported.

As added by P.L.148-1999, SEC.12.

IC 16-36-5-20

Health care provider liability

Sec. 20. A health care provider who in good faith and in accordance with reasonable medical standards:

(1) participates in the withholding or withdrawal of CPR from a declarant:

(A) by whom an out of hospital DNR declaration and order has been executed under this chapter; or

(B) who has revoked an out of hospital DNR declaration and order when the health care provider has no notice of the revocation; or

(2) provides CPR to a declarant:

(A) when the health care provider has no notice of the out of hospital DNR declaration and order; or

(B) after a revocation of an out of hospital DNR declaration and order;

is not subject to criminal or civil liability and may not be found to have committed an act of unprofessional conduct.

As added by P.L.148-1999, SEC.12.

IC 16-36-5-21

Presumption of validity

Sec. 21. (a) If a declarant is incompetent at the time of the decision to withhold or withdraw CPR, an out of hospital DNR declaration and order executed under this chapter is presumed to be valid.

(b) For purposes of this chapter, a health care provider may presume in the absence of actual notice to the contrary that the declarant was of sound mind when the out of hospital DNR declaration and order was executed.

(c) The fact that a declarant executed an out of hospital declaration may not be considered as an indication of the declarant's mental incompetency.

As added by P.L.148-1999, SEC.12.

IC 16-36-5-22

Petition for review

Sec. 22. (a) A person may challenge the validity of an out of hospital DNR declaration and order by filing a petition for review in a court in the county in which the declarant resides.

(b) A petition filed under subsection (a) must include the name and address of the declarant's attending physician.

(c) A court in which a petition is filed under subsection (a) may declare an out of hospital DNR declaration and order void if the court finds that the out of hospital DNR declaration and order was executed:

(1) when the declarant was incapacitated due to insanity, mental illness, mental deficiency, duress, undue influence, fraud, excessive use of drugs, confinement, or other disability;

(2) contrary to the declarant's wishes; or

(3) when the declarant was not a qualified person.

(d) If a court finds that the out of hospital DNR declaration and order is void, the court shall cause notice of the finding to be sent to the declarant's attending physician.

(e) Upon notice under subsection (d), the declarant's attending physician shall follow the procedures under section 18(e) of this chapter.

As added by P.L.148-1999, SEC.12.

IC 16-36-5-23

Effect upon life insurance policies

Sec. 23. (a) A death caused by the withholding or withdrawal of CPR under this chapter does not constitute a suicide.

(b) The execution of an out of hospital DNR declaration and order under this chapter does not affect the sale, issuance, or terms of a life insurance policy.

(c) A policy of life insurance is not legally impaired or invalidated by the execution of an out of hospital DNR declaration and order or by the withholding or withdrawal of CPR from an insured declarant, notwithstanding any term of the policy to the contrary.

(d) An out of hospital DNR declaration and order may not be considered in the establishment of insurance premiums for a declarant.

(e) A person may not require another person to execute an out of hospital DNR declaration and order as a condition for being insured for or receiving health care services.

(f) This chapter does not impair or supersede any legal right or legal responsibility that a person may have to effect the withholding or withdrawal of CPR in a lawful manner.

As added by P.L.148-1999, SEC.12.

IC 16-36-5-24

Intent of person without declaration not presumed

Sec. 24. This chapter does not create any presumption concerning the intent of a person who has not executed an out of hospital DNR declaration and order to consent to the withholding or withdrawal of CPR if a terminal condition exists, or if a medical condition exists such that the outcome of performing CPR would have the results specified in section 10(2) of this chapter.

As added by P.L.148-1999, SEC.12.

IC 16-36-5-25
Euthanasia not authorized

Sec. 25. This chapter does not authorize euthanasia or any affirmative or deliberate act or omission to end life other than to permit the natural process of dying.

As added by P.L.148-1999, SEC.12.

IC 16-36-5-26
Effect upon chain of proximate cause

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;

(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.

As added by P.L.148-1999, SEC.12.

IC 16-36-5-27
Destruction of declaration; forgery of revocation

Sec. 27. A person who knowingly or intentionally:

(1) physically cancels or destroys an out of hospital DNR declaration and order without the declarant's consent;

(2) physically cancels or destroys an out of hospital DNR declaration and order without the declarant's representative's consent if the declarant is incompetent; or

(3) falsifies or forges a revocation of another person's out of hospital DNR declaration and order;

commits a Class B misdemeanor.

As added by P.L.148-1999, SEC.12.

IC 16-36-5-28
Deception with intent to cause withholding of CPR

Sec. 28. (a) A person who knowingly or intentionally:

(1) falsifies or forges the out of hospital DNR declaration and order of another person with intent to cause the withholding or withdrawal of CPR; or

(2) conceals or withholds personal knowledge of the revocation of an out of hospital DNR declaration and order with intent to cause the withholding or withdrawal of CPR;

commits a Level 5 felony.

(b) A person who commits an offense described in this section is subject to IC 29-1-2-12.1.

As added by P.L.148-1999, SEC.12. Amended by P.L.158-2013, SEC.238.

IC 16-36-6

Chapter 6. Physician Order for Scope of Treatment (POST)

IC 16-36-6-1

"Consent"

Sec. 1. As used in this chapter, "consent" means authorization to provide, withhold, or withdraw treatment.

As added by P.L.164-2013, SEC.8.

IC 16-36-6-2

"Declarant"

Sec. 2. As used in this chapter, "declarant" means a qualified person:

(1) who has completed a POST form under section 7(a)(1) of this chapter; or

(2) for whom a representative has completed a POST form under section 7(a)(2) of this chapter;

and whose treating physician has executed a POST form under section 8 of this chapter.

As added by P.L.164-2013, SEC.8.

IC 16-36-6-3

"Life prolonging procedure"

Sec. 3. (a) As used in this chapter, "life prolonging procedure" means any medical procedure, treatment, or intervention that does the following:

(1) Uses mechanical or other artificial means to sustain, restore, or supplant a vital function.

(2) Serves to prolong the dying process.

(b) The term does not include the performance or provision of any medical procedure or medication necessary to provide comfort care or to alleviate pain.

As added by P.L.164-2013, SEC.8.

IC 16-36-6-4

"POST form"

Sec. 4. As used in this chapter, "POST form" refers to a physician order for scope of treatment (POST) form developed by the state department under section 9 of this chapter.

As added by P.L.164-2013, SEC.8.

IC 16-36-6-5

"Qualified person"

Sec. 5. As used in this chapter, "qualified person" refers to an individual who has at least one (1) of the following:

(1) An advanced chronic progressive illness.

(2) An advanced chronic progressive frailty.

(3) A condition caused by injury, disease, or illness from which,

to a reasonable degree of medical certainty:
(A) there can be no recovery; and
(B) death will occur from the condition within a short period without the provision of life prolonging procedures.
(4) A medical condition that, if the person were to suffer cardiac or pulmonary failure, resuscitation would be unsuccessful or within a short period the person would experience repeated cardiac or pulmonary failure resulting in death.

As added by P.L.164-2013, SEC.8.

IC 16-36-6-6
"Representative"

Sec. 6. As used in this chapter, "representative" means an individual described in section 7(a)(2) of this chapter.

As added by P.L.164-2013, SEC.8.

IC 16-36-6-7
Individuals who may complete a POST form; requirements; representative acting in good faith

Sec. 7. (a) The following individuals may complete a POST form:
(1) A qualified person who is:
(A) either:
(i) at least eighteen (18) years of age; or
(ii) less than eighteen (18) years of age but authorized to consent under IC 16-36-1-3(a)(2); and
(B) of sound mind.
(2) A qualified person's representative, if the qualified person:
(A) is less than eighteen (18) years of age and is not authorized to consent under IC 16-36-1-3(a)(2); or
(B) has been determined to be incapable of making decisions about the qualified person's health care by a treating physician acting in good faith and the representative has been:
(i) appointed by the individual under IC 16-36-1-7 to serve as the individual's health care representative;
(ii) authorized to act under IC 30-5-5-16 and IC 30-5-5-17 as the individual's attorney in fact with authority to consent to or refuse health care for the individual;
(iii) appointed by a court as the individual's health care representative under IC 16-36-1-8; or
(iv) appointed by a court as the guardian of the person with the authority to make health care decisions under IC 29-3.

(b) In order to complete a POST form, a person described in subsection (a) and the qualified person's treating physician or the physician's designee must do the following:
(1) Discuss the qualified person's goals and treatment options

available to the qualified person based on the qualified person's health.

(2) Complete the POST form, to the extent possible, based on the qualified person's preferences determined during the discussion in subdivision (1).

(c) When completing a POST form on behalf of a qualified person, a representative shall act:

(1) in good faith; and

(2) in:

(A) accordance with the qualified person's express or implied intentions, if known; or

(B) the best interest of the qualified person, if the qualified person's express or implied intentions are not known.

(d) A copy of the executed POST form shall be maintained in the qualified person's medical file.

As added by P.L.164-2013, SEC.8. Amended by P.L.141-2014, SEC.16.

IC 16-36-6-8

Execution by treating physician; signature

Sec. 8. (a) A POST form may be executed only by an individual's treating physician and only if:

(1) the treating physician has determined that:

(A) the individual is a qualified person; and

(B) the medical orders contained in the individual's POST form are reasonable and medically appropriate for the individual; and

(2) the qualified person or representative has completed the POST form in accordance with section 7 of this chapter.

(b) The:

(1) treating physician; and

(2) qualified person or representative;

must sign and date the POST form for the POST form to be effective.

As added by P.L.164-2013, SEC.8.

IC 16-36-6-9

State department development of POST form; requirements; Internet; not liable

Sec. 9. (a) The state department shall develop a standardized POST form and distribute the POST form.

(b) The POST form developed under this section must include the following:

(1) A medical order specifying whether cardiopulmonary resuscitation (CPR) should be performed if the qualified person is in cardiopulmonary arrest.

(2) A medical order concerning the level of medical intervention that should be provided to the qualified person, including the following:

(A) Comfort measures.
(B) Limited additional interventions.
(C) Full intervention.

(3) A medical order specifying whether antibiotics should be provided to the qualified person.

(4) A medical order specifying whether artificially administered nutrition should be provided to the qualified person.

(5) A signature line for the treating physician, including the following information:

(A) The physician's printed name.
(B) The physician's telephone number.
(C) The physician's medical license number.
(D) The date of the physician's signature.

As used in this subdivision, "signature" includes an electronic or physician controlled stamp signature.

(6) A signature line for the qualified person or representative, including the following information:

(A) The qualified person's or representative's printed name.
(B) The relationship of the representative signing the POST form to the qualified person covered by the POST form.
(C) The date of the signature.

(7) A section presenting the option to allow a declarant to appoint a representative (as defined in IC 16-36-1-2) under IC 16-36-1-7 to serve as the declarant's health care representative.

(c) The state department shall place the POST form on its Internet web site.

(d) The state department is not liable for any use or misuse of the POST form.

As added by P.L.164-2013, SEC.8. Amended by P.L.81-2015, SEC.13.

IC 16-36-6-10

Original kept by declarant; copy in medical file

Sec. 10. (a) The declarant or representative shall keep the original executed POST form. The POST form is considered the personal property of the declarant. The treating physician who executes the POST form shall maintain a copy of the POST form in the declarant's medical records. If the POST form is executed at a health care facility (as defined in IC 16-18-2-161), a copy of the POST form shall be maintained in the health care facility's medical records.

(b) A health care provider or health care facility shall treat a facsimile, paper, or electronic copy of a valid POST form as an original document.

(c) A health care provider, a health care facility, or an entity acting in good faith may not be considered to have knowledge of a POST form solely on the basis of the POST form's entry into a medical record that can be accessed by a person described in this

subsection.
As added by P.L.164-2013, SEC.8.

IC 16-36-6-11
Revocation of POST form; effectiveness; notification

Sec. 11. (a) A declarant or representative subject to subsection (b) may at any time revoke a POST form by any of the following:

(1) A signed and dated writing.

(2) Physical cancellation or destruction of the POST form by:

(A) the declarant;

(B) the representative; or

(C) another individual at the direction of the declarant or representative.

(3) An oral expression by the declarant or representative of an intent to revoke the POST form.

(b) A representative may revoke the POST form only if the declarant is incapable of making decisions regarding the declarant's health care.

(c) A revocation of a POST form under this section is effective upon communication of the revocation to a health care provider.

(d) Upon communication of the revocation of a POST form under this section, the health care provider shall immediately notify the declarant's treating physician, if known, of the revocation.

(e) Upon notification of the revocation of a POST form to the treating physician under subsection (d), the declarant's treating physician shall as soon as possible do the following:

(1) Add the revocation to the declarant's medical record with the following information:

(A) The time, date, and place of revocation of the POST form by the declarant, representative, or other individual at the direction of the declarant or representative.

(B) The time, date, and place the treating physician was notified of the revocation of the POST form.

(2) Cancel the POST form that is being revoked by conspicuously noting in the declarant's medical records that the declarant's POST form has been voided.

(3) Notify any health care personnel responsible for the care of the declarant of the revocation of the POST form.

(4) Notify the physician who signed the POST form of the revocation through the contact information for the physician indicated on the form.

As added by P.L.164-2013, SEC.8.

IC 16-36-6-12
Alternative treatment request allowed

Sec. 12. (a) A declarant, or, subject to subsection (b), a representative, may, at any time, request alternative treatment to the treatment specified on the POST form.

(b) A representative may request alternative treatment only if the declarant is incapable of making decisions concerning the declarant's health care.

(c) A health care provider to whom a request for alternative treatment is communicated shall, as soon as possible, notify the declarant's treating physician, if known, of the request.

(d) The treating physician who is notified under subsection (c) of a request for alternative treatment shall do the following as soon as possible:

(1) Include a written, signed note of the request in the declarant's medical records with the following information:

(A) The time, date, and place of the request by the declarant or representative.

(B) The time, date, and place that the treating physician was notified of the request.

(2) Review the POST form with the declarant or representative and execute a new POST form, if needed.

As added by P.L.164-2013, SEC.8.

IC 16-36-6-13

Petition for relief; court authority

Sec. 13. (a) A health care provider, a health care facility, or an interested person that believes that following the medical orders set forth in the POST form will result in care or treatment, or the withholding of care or treatment, that:

(1) is inconsistent with the declarant's known preferences; or

(2) in the absence of the declarant's known preferences, is not in the declarant's best interest;

may seek relief under IC 16-36-1-8 by petitioning the probate court in the county where the declarant is located.

(b) If, in a proceeding sought under subsection (a), a probate court determines that following the medical orders in the declarant's POST form will result in care or treatment, or the withholding or withdrawal of care or treatment, that:

(1) is inconsistent with the declarant's known preferences; or

(2) in the absence of the declarant's known preferences, is not in the declarant's best interest;

the probate court may order any of the relief available under IC 16-36-1-8.

As added by P.L.164-2013, SEC.8. Amended by P.L.81-2015, SEC.14.

IC 16-36-6-14

POST form not effective during pregnancy

Sec. 14. A declarant's executed POST form has no effect during the declarant's pregnancy if the declarant is known to be pregnant.

As added by P.L.164-2013, SEC.8.

IC 16-36-6-15

Medical orders in POST form effective in all settings; noncompliance; contrary care not required; discussion of order requirement; transfer of care

Sec. 15. (a) Except as otherwise provided in this chapter, the medical orders included in a POST form executed under this chapter are effective in all settings. A health care provider shall comply with a declarant's POST form that is apparent and immediately available to the provider unless the provider:

(1) believes the POST form was not validly executed under this chapter;

(2) believes in good faith that the declarant, the representative, or another individual at the request of the declarant or representative has revoked the POST form as provided in section 11 of this chapter;

(3) believes in good faith that the declarant or representative has made a request for alternative treatment as provided in section 12 of this chapter;

(4) believes it would be medically inappropriate to provide the intervention included in the declarant's POST form; or

(5) has religious or moral beliefs that conflict with the POST form.

(b) A health care provider is not required to provide medical treatment that is contrary to a declarant's POST form that has been executed in accordance with this chapter.

(c) If a declarant is capable of making health care decisions, the declarant's treating physician, before carrying out or implementing a medical order indicated in the declarant's POST form, shall discuss the order with the declarant to reaffirm or amend the order on the POST form. For purposes of this subsection, a minor who is not authorized to consent to health care under IC 16-36-1-3(a)(2) is not capable of consenting to health care. This subsection applies regardless of whether the POST form was signed by the declarant or representative.

(d) A health care provider who is unable to implement or carry out the orders of a POST form shall transfer care of the declarant to another health care provider who is able to implement or carry out the orders. However, a health care provider who refuses to implement the medical orders included in an executed POST form is not required to transfer care of the declarant if any of the circumstances in subsection (a)(1) through (a)(4) have occurred.

(e) The treating physician is responsible for coordinating the transfer of care of a declarant in the circumstances in subsection (d). If the treating physician, after a reasonable attempt, is unable to find a physician willing to implement or carry out the medical orders included in the declarant's POST form, the treating physician may decline to implement or carry out the medical orders.

(f) If, under this section, the treating physician does not transfer

a declarant or implement the medical orders included in the declarant's POST form and the declarant is competent, the treating physician shall attempt to ascertain the declarant's preferences for medical care by discussing the preferences with the declarant. If the declarant is incompetent to act, the treating physician shall attempt to ascertain the declarant's preferences for medical care by consulting with the following individuals:

(1) The treating physician shall consult with any representative who is available, willing, and competent to act.

(2) If the declarant does not have a representative or if a representative is not available, willing, and competent to act, the treating physician shall consult with any of the following individuals who are available, willing, and competent to act:

(A) The declarant's spouse.

(B) An adult child of the declarant, or, if the declarant has more than one (1) adult child, a majority of the children who are reasonably available for consultation.

(C) A parent of the declarant.

(D) An adult sibling of the declarant, or, if the declarant has more than one (1) adult sibling, a majority of the siblings who are reasonably available for consultation.

(E) An individual with firsthand knowledge of the declarant's intentions.

(g) An individual described in subsection (f) shall act according to the declarant's intentions, if known, or in the best interest of the declarant.

(h) The physician shall list the names of the individuals described in subsection (f) who were consulted and the information received by the individuals in the declarant's medical record.

As added by P.L.164-2013, SEC.8.

IC 16-36-6-16

Good faith and medical standards; immunity from civil and criminal liability; presumption of compliance

Sec. 16. (a) A:

(1) health care provider;

(2) health care facility; or

(3) health entity;

or an employee under the direction of a person described in subdivisions (1) through (3) that acts in good faith and in accordance with reasonable medical standards to carry out the orders on a POST form, including a medical order for the withholding or withdrawal of life prolonging procedures, is not subject to criminal or civil liability and may not be found to have committed an act of unprofessional conduct.

(b) A health care provider may presume in the absence of actual notice or evidence to the contrary that a POST form executed in compliance with this chapter is valid and enforceable.

As added by P.L.164-2013, SEC.8.

IC 16-36-6-17
No modification or alteration of practice of medicine or nursing; prohibition on medically inappropriate treatment

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.

As added by P.L.164-2013, SEC.8.

IC 16-36-6-18
Death not considered suicide; prohibition on compelling completion of POST form; legal rights not superseded; POST form voluntary

Sec. 18. (a) A death as a result of the withholding or withdrawal of life prolonging procedures in accordance with a declarant's POST form does not constitute a suicide.

(b) A person may not require an individual to complete a POST form as a condition of receiving health care services.

(c) This chapter does not impair or supersede any legal right or legal responsibility that an individual may have to effect the provision, withholding, or withdrawing of care or treatment, including the withholding or withdrawal of life prolonging procedures, in a lawful manner.

(d) Use of a POST form is voluntary. If an individual refuses to complete a POST form, a person described in section 16(a) of this chapter shall document the refusal in the individual's medical records and may not ask the individual again to complete a POST form unless:

(1) required to do so by:
  (A) state or federal law or regulation; or
  (B) national accrediting entity standards; or
(2) a significant change in condition that is documented in the individual's medical record has occurred.

As added by P.L.164-2013, SEC.8.

IC 16-36-6-19
No authorization of euthanasia

Sec. 19. This chapter does not authorize euthanasia or any affirmative or deliberate act or omission to end life other than to permit the natural process of dying.

As added by P.L.164-2013, SEC.8.

IC 16-36-6-20

Execution or revocation of POST form does not affect other legal documents or authority

Sec. 20. The execution or revocation of a POST form by or for a qualified person does not revoke or impair the validity of any of the following:

(1) A power of attorney that is executed by a qualified person when the qualified person is competent.

(2) Health care powers that are granted to an attorney in fact under IC 30-5-5-16 or IC 30-5-5-17.

(3) An appointment of a health care representative that is executed by a qualified person, except to the extent that the POST form contains a superseding appointment of a new health care representative under section 9(b)(7) of this chapter.

(4) The authority of a health care representative under IC 16-36-1 to consent to health care on behalf of the qualified person.

(5) The authority of an attorney in fact holding health care powers under IC 30-5-5-16 or IC 30-5-5-17 to issue and enforce instructions under IC 30-5-7 concerning the qualified person's health care.

As added by P.L.164-2013, SEC.8. Amended by P.L.2-2014, SEC.78.

IC 16-37

ARTICLE 37. VITAL STATISTICS

IC 16-37-1

Chapter 1. General Provisions

IC 16-37-1-0.1

Repealed

(As added by P.L.220-2011, SEC.316. Repealed by P.L.63-2012, SEC.21.)

IC 16-37-1-1

Administration

Sec. 1. The state department shall provide a system of vital statistics for Indiana to be administered by a division of the state department.

As added by P.L.2-1993, SEC.20.

IC 16-37-1-2

State registrar; duties

Sec. 2. The employee in charge of the division of the state department administering the system of vital statistics shall be known as the state registrar and shall do the following:

(1) Keep the files and records pertaining to vital statistics.

(2) Perform the duties prescribed by the state department.

(3) Perform the duties required under IC 10-13-5-11.

(4) Administer the putative father registry established by IC 31-19-5-2.

(5) Maintain records of paternity determinations as provided by IC 31-14-9.

As added by P.L.2-1993, SEC.20. Amended by P.L.100-1994, SEC.1; P.L.1-1997, SEC.90; P.L.2-2003, SEC.54.

IC 16-37-1-3

State department duties; rules

Sec. 3. The state department shall do the following:

(1) Prescribe the information to be contained in each kind of application, certificate, report, or permit required by this article.

(2) Adopt rules under IC 4-22-2 for the following:

(A) Collecting, transcribing, compiling, and preserving vital statistics.

(B) The form, execution, filing, and recording of paternity affidavits executed under IC 16-37-2-2.1.

As added by P.L.2-1993, SEC.20. Amended by P.L.46-1995, SEC.60; P.L.133-1995, SEC.11.

IC 16-37-1-3.1

Establishes Indiana birth registration and Indiana death

registration systems

Sec. 3.1. (a) Beginning January 1, 2011, the state department shall establish the Indiana birth registration system (IBRS) for recording in an electronic format live births in Indiana.

(b) Beginning January 1, 2011, the state department shall establish the Indiana death registration system (IDRS) for recording in an electronic format deaths in Indiana.

(c) Submission of records on births and deaths shall be entered by:

(1) funeral directors;
(2) physicians;
(3) coroners;
(4) medical examiners;
(5) persons in attendance at birth; and
(6) local health departments;

using the electronic system created by the state department under this section.

(d) A person in attendance at a live birth shall report a birth to the local health officer in accordance with IC 16-37-2-2.

(e) Death records shall be submitted as follows, using the Indiana death registration system:

(1) The:
(A) physician last in attendance upon the deceased; or
(B) person in charge of interment;

shall initiate the document process. If the person in charge of interment initiates the process, the person in charge of interment shall electronically submit the certificate required under IC 16-37-3-5 to the physician last in attendance upon the deceased not later than five (5) days after the death.

(2) The physician last in attendance upon the deceased shall electronically certify to the local health department the cause of death on the certificate of death not later than five (5) days after:
(A) initiating the document process; or
(B) receiving under IC 16-37-3-5 the electronic notification from the person in charge of interment.

(3) The local health officer shall submit the reports required under IC 16-37-1-5 to the state department not later than five (5) days after electronically receiving under IC 16-37-3-5 the completed certificate of death from the physician last in attendance.

As added by P.L.61-2009, SEC.5. Amended by P.L.156-2011, SEC.33.

IC 16-37-1-4

Registration districts

Sec. 4. Each local health jurisdiction is a registration district for vital statistics and the local health officer shall be the local registrar.

As added by P.L.2-1993, SEC.20.

IC 16-37-1-5
Monthly report of local health officer

Sec. 5. (a) The local health officer, on the fourth day of each month, shall report to the state department concerning the births, deaths, and stillbirths that occurred within the local health officer's jurisdiction within the preceding month. However, after December 31, 2010, the local health officer, beginning five (5) days after electronically receiving the form required for the Indiana birth registration system or the Indiana death registration system, shall use the Indiana birth registration system and the Indiana death registration system established under section 3.1 of this chapter to report the births and deaths that occur in the local health officer's jurisdiction, and shall report each birth or death to the state department not later than five (5) days after being informed of the birth or death.

(b) If there are no births, deaths, or stillbirths to report, the local health officer shall indicate that information each month in a format prescribed by the state department.

As added by P.L.2-1993, SEC.20. Amended by P.L.148-1996, SEC.1; P.L.61-2009, SEC.6.

IC 16-37-1-6
Contents of monthly report

Sec. 6. The report of the local health officer must contain the following:

(1) The original copy of each certificate of birth, death, or stillbirth.

(2) A certification that no other births, deaths, or stillbirths occurred within the jurisdiction to the best of the health officer's knowledge and belief.

(3) A copy of each paternity affidavit filed with the health officer under IC 16-37-2-2.1.

(4) Any other information required by the state department.

As added by P.L.2-1993, SEC.20. Amended by P.L.101-1994, SEC.1; P.L.46-1995, SEC.61; P.L.133-1995, SEC.12.

IC 16-37-1-7
Birth certificate requests; permanent records

Sec. 7. Both the state registrar and the local health officer shall maintain a permanent record, accompanying the birth records, that contains for each request for a certified copy of a birth certificate the following:

(1) The date of the request.

(2) The name and address of the person making the request.

As added by P.L.2-1993, SEC.20. Amended by P.L.87-1994, SEC.9.

IC 16-37-1-8
Prerequisites to issuance of birth certificate; judicial review;

missing child certificates; excluded information

Sec. 8. (a) Except as provided in subsection (c), a local health officer shall provide a certification of birth, death, or stillbirth registration upon request by any person only if:

(1) the health officer is satisfied that the applicant has a direct interest in the matter;

(2) the health officer determines that the certificate is necessary for the determination of personal or property rights or for compliance with state or federal law; and

(3) the applicant for a birth certificate presents at least one (1) form of identification.

However, the local health officer must issue a certificate of an applicant's own birth registration.

(b) A local health officer's decision whether or not to issue a certified copy of a birth certificate is subject to review by a court.

(c) A local health officer may not issue a copy of a birth certificate of a missing child to which a notice has been attached under IC 10-13-5-11 without the authorization of the Indiana clearinghouse for information on missing children and missing endangered adults.

(d) Upon determination that a person may be provided a certification of death under subsection (a), the local health officer shall provide to the person a certification of death that excludes information concerning the cause of death if the person requests the exclusion of this information.

As added by P.L.2-1993, SEC.20. Amended by P.L.2-2003, SEC.55; P.L.123-2007, SEC.1; P.L.43-2009, SEC.16.

IC 16-37-1-8.5

Certificate of birth resulting in stillbirth; required contents of certificate

Sec. 8.5. (a) Upon request by a parent of a stillborn child, a local health officer shall provide to the parent a certificate of birth resulting in stillbirth.

(b) A certificate of birth resulting in stillbirth provided under subsection (a) must contain the following:

(1) The caption "Certificate of Birth Resulting in Stillbirth".

(2) A space for the name of the stillborn child.

(c) A certificate provided under this section is in addition to a certificate of stillbirth registration provided under section 8 of this chapter.

(d) For purposes of federal, state, and local taxes, the certificate provided under this section is not proof of a live birth.

(e) A local health department may charge the same fee for a certificate provided under this section as the fee charged for a certificate of birth registration provided under section 8 of this chapter.

(f) A certificate of birth resulting in stillbirth must be issued on

tamper resistant paper.
As added by P.L.13-2002, SEC.1.

IC 16-37-1-9
Registration certificate charges

Sec. 9. (a) A local health department may make a charge under IC 16-20-1-27 for each certificate of birth, death, or stillbirth registration. IC 5-14-3-8(d) does not apply to the health department making a charge for a certificate of birth, death, or stillbirth registration under IC 16-20-1-27.

(b) If the local department of health makes a charge for a certificate of death under subsection (a), the coroners continuing education fee described in subsection (d) must be added to the rate established under IC 16-20-1-27. The local department of health shall deposit any coroners continuing education fees with the county auditor within thirty (30) days after collection. The county auditor shall transfer semiannually any coroners continuing education fees to the treasurer of state.

(c) Notwithstanding IC 16-20-1-27, a charge may not be made for furnishing a certificate of birth, death, or stillbirth registration to a person or to a member of the family of a person who needs the certificate for one (1) of the following purposes:

(1) To establish the person's age or the dependency of a member of the person's family in connection with:

(A) the person's service in the armed forces of the United States; or

(B) a death pension or disability pension of a person who is serving or has served in the armed forces of the United States.

(2) To establish or to verify the age of a child in school who desires to secure a work permit.

(d) The coroners continuing education fee is:

(1) one dollar and seventy-five cents ($1.75) after June 30, 2007, and before July 1, 2013;

(2) two dollars ($2) after June 30, 2013, and before July 1, 2018;

(3) two dollars and twenty-five cents ($2.25) after June 30, 2018, and before July 1, 2023;

(4) two dollars and fifty cents ($2.50) after June 30, 2023, and before July 1, 2028;

(5) two dollars and seventy-five cents ($2.75) after June 30, 2028, and before July 1, 2033;

(6) three dollars ($3) after June 30, 2033, and before July 1, 2038;

(7) three dollars and twenty-five cents ($3.25) after June 30, 2038, and before July 1, 2043; and

(8) three dollars and fifty cents ($3.50) after June 30, 2043.

As added by P.L.2-1993, SEC.20. Amended by P.L.36-1993, SEC.2;

P.L.215-2007, SEC.3; P.L.225-2007, SEC.2; P.L.3-2008, SEC.110.

IC 16-37-1-10
Disclosure of data in records; conditions for availability of death certificate; grounds for state registrar's denial

Sec. 10. (a) Except as provided in subsection (c), the records and files of the division of the state department concerning vital statistics are subject to this article and rules of the state department. Data contained in the records and files may be disclosed only as follows:

(1) The state registrar shall permit inspection of the records or issue a certified copy of a certificate or part of a certificate only if the state registrar is satisfied of the following:

(A) That the applicant has a direct interest in the matter recorded.

(B) That the information is necessary for the determination of personal or property rights or for compliance with state or federal law.

The state registrar's decision is subject to review by the state department or a court under this section.

(2) The state department may permit the use of data contained in vital statistical records for research purposes only, but no identifying use may be made of the data.

(3) In any extraordinary case that the state registrar determines is a direct tangible and legitimate public interest.

(b) Notwithstanding subsection (a)(1) through (a)(3), a certificate of death received by a local health department (as defined in IC 16-18-2-211) or the state department is a public record that, upon request, must be made available for inspection and copying if:

(1) the copy made of the certificate of death is not a certified copy;

(2) any Social Security number that appears on the certificate of death is redacted; and

(3) any charge or fee that is due under section 9, 11, or 11.5 of this chapter is collected.

(c) The birth record of an adopted child remains subject to the confidentiality provisions of IC 31-19 regarding the release of adoption information.

(d) The state registrar may deny a request to inspect or copy a record concerning vital statistics that is in the state registrar's possession if the state registrar has a reasonable suspicion that releasing the record may result in fraud or identity theft.

As added by P.L.2-1993, SEC.20. Amended by P.L.1-1997, SEC.91; P.L.257-1997(ss), SEC.29; P.L.1-1999, SEC.45; P.L.171-2015, SEC.43.

IC 16-37-1-11
Record search or amendment; fees

Sec. 11. (a) The state department shall charge and collect a fee of

eight dollars ($8) for each search of the records in the division of vital records. If the requested record is found, one (1) certification of the record will be issued without charge. Additional certifications of the same record will be issued at that time for an additional fee of four dollars ($4) for each record.

(b) The state department shall charge and collect an additional fee of eight dollars ($8) for any amendment to a record previously filed with the division of vital records.

(c) Verification without charge will be issued to an agency of local, state, or federal government upon written request by the agency.

As added by P.L.2-1993, SEC.20. Amended by P.L.168-2003, SEC.1.

IC 16-37-1-11.5
Birth problems registry fee

Sec. 11.5. In addition to the fee charged by the state department under section 11 of this chapter for a search of the records in the division of vital records, the state department shall charge a birth problems registry fee of two dollars ($2) for each search of the records for a birth certificate. The fees collected under this section shall be deposited in the birth problems registry fund established by IC 16-38-4-17.

As added by P.L.180-1993, SEC.1.

IC 16-37-1-11.7
Repealed

(As added by P.L.120-1997, SEC.6. Amended by P.L.145-2006, SEC.139. Repealed by P.L.156-2011, SEC.41.)

IC 16-37-1-12
Fraud; felony

Sec. 12. A person who, with intent to defraud:

(1) makes a false or fraudulent statement in applying to a local health officer or to the state registrar for a certified copy of a birth certificate;

(2) makes a false or fraudulent statement in applying to the state registrar for permission to inspect public birth records held by the state registrar;

(3) alters, counterfeits, or mutilates a certified copy of a birth certificate issued by a local health officer or by the state registrar; or

(4) uses an altered, a counterfeit, or a mutilated certified copy of a birth certificate;

commits a Level 6 felony.

As added by P.L.2-1993, SEC.20. Amended by P.L.41-2008, SEC.1; P.L.158-2013, SEC.239.

IC 16-37-1-13

Violations; sanctions

Sec. 13. (a) Except as provided in subsection (c) or (d) or as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.

(c) A person who:

(1) is licensed under IC 25 in a profession listed in section 3.1(c) of this chapter; and

(2) recklessly violates or fails to comply with this chapter;

is subject only to sanctions under IC 25-1-9-4(a)(3).

(d) The state department may not begin sanctioning a person for failing to submit a document in electronic format as required in section 3.1 of this chapter until January 1, 2012.

As added by P.L.2-1993, SEC.20. Amended by P.L.156-2011, SEC.34.

IC 16-37-2

Chapter 2. Certification of Births

IC 16-37-2-1

"Person in attendance at birth"

Sec. 1. As used in this chapter, "person in attendance at birth" means one (1) of the following:

(1) A licensed attending physician.

(2) A certified direct entry midwife or a certified nurse midwife.

(3) Another individual who:

(A) holds a license of the type designated by the governing board of a hospital, after consultation with the hospital's medical staff, to attend births at the hospital; and

(B) is in attendance at the birth.

As added by P.L.2-1993, SEC.20. Amended by P.L.148-1996, SEC.2; P.L.232-2013, SEC.3.

IC 16-37-2-2

Birth certificate and paternity affidavit; persons responsible for filing or preparation; release of paternity affidavit

Sec. 2. (a) A person in attendance at a live birth shall do the following:

(1) File with the local health officer the following:

(A) A certificate of birth.

(B) Any paternity affidavit executed under section 2.1(c)(1) of this chapter.

However, beginning January 1, 2011, the person in attendance at a live birth shall use the Indiana birth registration system established under IC 16-37-1-3.1 to electronically file a birth certificate or paternity affidavit under this subdivision.

(2) Advise the mother of a child born out of wedlock of:

(A) the availability of paternity affidavits under section 2.1 of this chapter; and

(B) the existence of the putative father registry established by IC 31-19-5-2.

(b) If there was no person in attendance at the birth, one (1) of the parents shall file with the local health officer the following:

(1) A certificate of birth.

(2) Any paternity affidavit executed under section 2.1 of this chapter.

(c) If:

(1) no person was in attendance at the birth and neither parent is able to prepare the certificate; or

(2) the local health officer does not receive a certificate of birth;

the local health officer shall prepare a certificate of birth from information secured from any person who has knowledge of the birth.

(d) A local health department shall inform the Title IV-D agency

(as defined in IC 31-9-2-130) regarding each paternity affidavit executed under section 2.1 of this chapter that the local health department receives under this section.

(e) A paternity affidavit executed under section 2.1(c)(1) of this chapter shall be filed with the local health officer not more than five (5) days after the child's birth.

(f) An attorney or agency that arranges an adoption may at any time request that the state department search its records to determine whether a man executed a paternity affidavit under section 2.1 of this chapter in relation to a child who is or may be the subject of an adoption that the attorney or agency is arranging.

(g) Not more than ten (10) days after receiving a request from an attorney or agency under subsection (f), the state department shall submit an affidavit to the attorney or agency verifying whether a paternity affidavit has been filed under this section. If a paternity affidavit has been filed regarding a child who is the subject of a request under subsection (f), the state department shall release a copy of the paternity affidavit to the requesting attorney or agency.

As added by P.L.2-1993, SEC.20. Amended by P.L.100-1994, SEC.2; P.L.46-1995, SEC.62; P.L.133-1995, SEC.13; P.L.1-1997, SEC.92; P.L.257-1997(ss), SEC.30; P.L.61-2009, SEC.7.

IC 16-37-2-2.1

Paternity affidavits; requirements; forms; joint legal custody agreement; penalty; effect of paternity affidavit; genetic test; opportunity to consult

Sec. 2.1. (a) A paternity affidavit may be executed as provided in this section through:

(1) a hospital; or

(2) a local health department.

(b) Immediately before or after the birth of a child who is born out of wedlock, a person who attends or plans to attend the birth, including personnel of all public or private birthing hospitals, shall:

(1) provide an opportunity for:

(A) the child's mother; and

(B) a man who reasonably appears to be the child's biological father;

to execute an affidavit acknowledging paternity of the child; and

(2) verbally explain to the individuals listed in subdivision (1) the legal effects of an executed paternity affidavit as described in subsection (j).

(c) A paternity affidavit must be executed on a form provided by the state department. The paternity affidavit is valid only if the affidavit is executed as follows:

(1) If executed through a hospital, the paternity affidavit must be completed not more than seventy-two (72) hours after the child's birth.

(2) If executed through a local health department, the paternity affidavit must be completed before the child has reached the age of emancipation.

(d) A paternity affidavit is not valid if it is executed after the mother of the child has executed a consent to adoption of the child and a petition to adopt the child has been filed.

(e) A paternity affidavit form executed under this section must contain the following:

(1) The mother's:

(A) full name;

(B) Social Security number;

(C) date of birth; and

(D) address.

(2) The father's:

(A) full name;

(B) Social Security number;

(C) date of birth; and

(D) address.

(3) The child's:

(A) full name;

(B) date of birth; and

(C) birthplace.

(4) A brief explanation of the legal significance of signing a voluntary paternity affidavit.

(5) A statement signed by both parents indicating that:

(A) they understand that signing a paternity acknowledgment affidavit is voluntary;

(B) they understand:

(i) their rights and responsibilities under the affidavit;

(ii) the alternatives to signing the affidavit; and

(iii) the consequences of signing the affidavit; and

(C) they have been informed of the alternatives to signing the affidavit.

(6) Separate signature lines for the mother and father.

(7) Separate signature lines for the witness or notary indicating that the witness or notary observed the father or mother signing the affidavit.

(f) Before a paternity affidavit is signed, both the mother and father must be informed of the alternatives to signing the affidavit.

(g) A paternity affidavit executed under this section must contain or be attached to all of the following:

(1) The mother's sworn statement asserting that a person described in subsection (b)(1)(B) is the child's biological father.

(2) A statement by a person identified as the father under subdivision (1) attesting to a belief that he is the child's biological father.

(3) Written information furnished by the child support bureau of the department of child services:

(A) explaining the effect of an executed paternity affidavit as described in subsection (j); and

(B) describing the availability of child support enforcement services.

(4) The Social Security number of each parent.

(h) A paternity affidavit executed under this section must contain all of the following:

(1) A statement:

(A) that, if the mother and the person described in subsection (g)(2) check the box located next to this statement and sign on the signature lines described in subdivision (2), the mother and the person described in subsection (g)(2) agree to share joint legal custody of the child; and

(B) that joint legal custody means that the persons sharing joint legal custody:

(i) share authority and responsibility for the major decisions concerning the child's upbringing, including the child's education, health care, and religious training; and

(ii) have equal access to the child's school and medical records.

(2) Two (2) signature lines located below the statements described in subdivision (1).

(3) A statement that, if the mother and the person described in subsection (g)(2) do not agree to share joint legal custody, the mother has sole legal custody unless another determination is made by a court in a proceeding under IC 31-14.

(4) A statement that even if the mother and the person described in subsection (g)(2) share joint legal custody, the mother has primary physical custody of the child unless another determination is made by a court in a proceeding under IC 31-14.

(5) A statement that, if the mother and the person described in subsection (g)(2) agree to share joint legal custody as described under subdivision (1)(A), the agreement to share joint legal custody is void unless the result of a genetic test performed by an accredited laboratory:

(A) indicates that the person described in subsection (g)(2) is the child's biological father; and

(B) is submitted to a local health officer not later than sixty (60) days after the child's birth.

(6) A statement with signature lines that affirms that an individual described in subsection (t) has had an opportunity to consult with an adult chosen by the individual.

(i) A woman who knowingly or intentionally falsely names a man as the child's biological father under this section commits a Class A misdemeanor.

(j) A paternity affidavit executed under this section:

(1) establishes paternity;

(2) gives rise to parental rights and responsibilities of the person described in subsection (g)(2), including:

(A) the right of the child's mother or the Title IV-D agency to obtain a child support order against the person, which may include an order requiring the provision of health insurance coverage; and

(B) parenting time in accordance with the parenting time guidelines adopted by the Indiana supreme court, unless another determination is made by a court in a proceeding under IC 31-14-14; and

(3) may be filed with a court by the department of child services.

However, if a paternity affidavit is executed under this section, unless another determination is made by a court in a proceeding under IC 31-14 or the child's mother and the person described in subsection (g)(2) agree to share joint legal custody of the child as described in subsection (h), the child's mother has sole legal and primary physical custody of the child.

(k) Notwithstanding any other law, a man who is a party to a paternity affidavit executed under this section may, within sixty (60) days of the date that a paternity affidavit is executed under this section, file an action in a court with jurisdiction over paternity to request an order for a genetic test.

(l) A paternity affidavit that is properly executed under this section may not be rescinded more than sixty (60) days after the paternity affidavit is executed unless a court:

(1) has determined that fraud, duress, or material mistake of fact existed in the execution of the paternity affidavit; and

(2) at the request of a man described in subsection (k), has ordered a genetic test, and the test indicates that the man is excluded as the father of the child.

(m) Unless good cause is shown, a court shall not suspend the legal responsibilities under subsection (j)(2)(A) of a party to the executed paternity affidavit during a challenge to the affidavit.

(n) The court may not set aside the paternity affidavit unless a genetic test ordered under subsection (k) or (l) excludes the person who executed the paternity affidavit as the child's biological father.

(o) If a paternity affidavit is not executed under subsection (b), the hospital where the birth occurs or a person in attendance at the birth shall inform the child's mother of services available for establishing paternity.

(p) Except as provided in this section, if a man has executed a paternity affidavit in accordance with this section, the executed paternity affidavit conclusively establishes the man as the legal father of a child without any further proceedings by a court.

(q) If both the mother and the person described in subsection (g)(2) check the box and sign as described in subsection (h)(1)(A), the mother and the person described in subsection (g)(2):

(1) share joint legal custody of the child; and

(2) have equal access to the child's school and medical records.

An action to establish custody or parenting time of a party who has agreed under subsection (h) to share joint legal custody shall be tried de novo.

(r) Before a paternity affidavit executed under this section is signed, it must be presented separately to:

(1) the child's mother; and

(2) the man who reasonably appears to be the child's biological father;

so that the child's mother may review the affidavit alone and without the presence of the man who reasonably appears to be the child's biological father, and so that the man who reasonably appears to be the child's biological father may review the affidavit alone and without the presence of the child's mother. A signed paternity affidavit is voidable if the requirements of this subsection are not satisfied.

(s) An agreement to share joint legal custody described under subsection (h) is void if either of the following applies:

(1) A genetic test performed by an accredited laboratory indicates a person described in subsection (g)(2) is not the biological father of the child.

(2) A person described in subsection (g)(2) fails to submit:

(A) to a local health officer; and

(B) not later than sixty (60) days after the date of the child's birth;

the results of a genetic test performed by an accredited laboratory that indicates the person is the biological father of the child.

(t) An individual who is:

(1) a:

(A) child's mother; or

(B) person identified as the father under subsection (g)(1); and

(2) less than eighteen (18) years of age;

must have an opportunity to consult with any adult chosen by the individual regarding the contents of a paternity affidavit before signing the paternity affidavit under this section. A signed paternity affidavit is voidable if the individual does not have the opportunity to consult with an adult chosen by the individual.

As added by P.L.46-1995, SEC.63. Amended by P.L.133-1995, SEC.14; P.L.1-1997, SEC.93; P.L.257-1997(ss), SEC.31; P.L.138-2001, SEC.4; P.L.145-2006, SEC.140; P.L.146-2006, SEC.10; P.L.25-2010, SEC.1; P.L.128-2012, SEC.19.

IC 16-37-2-3

Time for filing birth certificate

Sec. 3. A certificate of birth shall be filed not more than five (5)

days after the birth occurs.
As added by P.L.2-1993, SEC.20.

IC 16-37-2-4
Acceptance of delayed filed birth certificates

Sec. 4. A local health officer may accept a certificate of birth presented for filing not more than twelve (12) months after the birth occurred if the attending physician, certified nurse midwife, certified direct entry midwife, or other person desiring to file the certificate states the reason for the delay in writing. This statement shall be made a part of the certificate of birth.
As added by P.L.2-1993, SEC.20. Amended by P.L.232-2013, SEC.4; P.L.141-2014, SEC.17.

IC 16-37-2-5
Birth certificates presented more than 12 months after birth

Sec. 5. A certificate of birth presented for filing more than twelve (12) months after the birth occurred is a delayed certificate of birth and the record shall be filed only with the state department.
As added by P.L.2-1993, SEC.20. Amended by P.L.141-2014, SEC.18.

IC 16-37-2-6
Rules for accepting delayed birth certificates

Sec. 6. The state department shall adopt rules concerning the application for, the supporting documents for, and the acceptance of delayed certificates of birth. The state department shall keep delayed certificates of birth in a file separate from other certificates of birth.
As added by P.L.2-1993, SEC.20.

IC 16-37-2-7
Certificate of birth registration; issuance to delayed birth certificate applicant

Sec. 7. The state department shall issue a certificate of birth registration without charge to the applicant for a delayed certificate of birth if the state department finds the application is properly executed.
As added by P.L.2-1993, SEC.20.

IC 16-37-2-8
Probative value of delayed birth certificate

Sec. 8. The probative value of a delayed certificate of birth shall be determined by the judicial or administrative body or official before whom the certificate is offered as evidence.
As added by P.L.2-1993, SEC.20.

IC 16-37-2-9
Permanent record; public inspection; adoptee birth records

Sec. 9. (a) The local health officer shall make a permanent record of the following from a birth certificate:

(1) Name.
(2) Sex.
(3) Date of birth.
(4) Place of birth.
(5) Name of the parents.
(6) Birthplace of the parents.
(7) The date of filing of the certificate of birth.
(8) The person in attendance at the birth.
(9) Location of the birth, including whether the birth occurred at a hospital, licensed health care facility, home, or other non-health care facility.

(b) Except as provided in subsection (c), the permanent record shall be open to public inspection.

(c) The birth record of an adopted child remains subject to the confidentiality provisions of IC 31-19 regarding the release of adoption information.

As added by P.L.2-1993, SEC.20. Amended by P.L.46-1995, SEC.64; P.L.133-1995, SEC.15; P.L.1-1997, SEC.94; P.L.257-1997(ss), SEC.32; P.L.2-1998, SEC.60; P.L.232-2013, SEC.5.

IC 16-37-2-10
"DNA test"; additions or corrections to birth certificate; evidence

Sec. 10. (a) As used in this section, "DNA test" means an identification process in which the unique genetic code of an individual that is carried by the individual's deoxyribonucleic acid (DNA) is compared with the genetic codes of another individual.

(b) The state department may make additions to or corrections in a certificate of birth on receipt of adequate documentary evidence, including the results of a DNA test under subsection (c) or a paternity affidavit executed under section 2.1 of this chapter.

(c) The state department may make an addition to a birth certificate based on the results of a DNA test only if:

(1) a father is not named on the birth certificate; and
(2) a citation to this subsection as the authority for the addition is noted on the birth certificate.

As added by P.L.2-1993, SEC.20. Amended by P.L.46-1995, SEC.65; P.L.133-1995, SEC.16.

IC 16-37-2-11
Custody of children of unknown parentage; reports

Sec. 11. A person who assumes custody of a child of unknown parentage shall report immediately to the local health officer.

As added by P.L.2-1993, SEC.20.

IC 16-37-2-12
Children of unknown parentage; certificates of birth

Sec. 12. The local health officer shall prepare a certificate of birth for a child of unknown parentage. The place where the child was found or where custody was assumed shall be known as the place of birth and the date of birth shall be determined by approximation. If the child is identified or if a regular certificate of birth is found or obtained, the local health officer shall correct the health officer's records and file a corrected certificate of birth with the state department.
As added by P.L.2-1993, SEC.20.

IC 16-37-2-13
Recorded name of child born out of wedlock

Sec. 13. A child born out of wedlock shall be recorded:

(1) under the name of the mother; or

(2) as directed in a paternity affidavit executed under section 2.1 of this chapter.

As added by P.L.2-1993, SEC.20. Amended by P.L.46-1995, SEC.66; P.L.133-1995, SEC.17.

IC 16-37-2-14
Duties of health officer regarding paternity affidavit

Sec. 14. If a paternity affidavit executed under section 2.1 of this chapter is filed with a local health officer, the local health officer shall do the following:

(1) Correct the local record of birth by adding the name of the father to the certificate of birth.

(2) File a copy of the affidavit with the report required by IC 16-37-1-6.

As added by P.L.2-1993, SEC.20. Amended by P.L.46-1995, SEC.67; P.L.133-1995, SEC.18.

IC 16-37-2-15
Proper name of illegitimate child whose parents subsequently marry

Sec. 15. If the parents of a child born out of wedlock in Indiana later marry, the child shall legally take the last name of the father.
As added by P.L.2-1993, SEC.20.

IC 16-37-2-16
New birth certificate upon marriage of illegitimate child's parents; correction of records

Sec. 16. If a man claiming to be the child's biological father marries the mother of a child born out of wedlock, the man and the mother may produce proof of the marriage and execute a paternity affidavit under section 2.1 of this chapter. The local health officer shall then remove all evidence of the fact that the child was born out of wedlock from the child's record of birth. The proof of marriage and executed paternity affidavit shall be forwarded to the state

department by the local health officer. Upon receiving the proof of marriage and executed paternity affidavit, the state department shall make the corrections to the child's certificate of birth.
As added by P.L.2-1993, SEC.20. Amended by P.L.257-1997(ss), SEC.33.

IC 16-37-2-17
Repealed
(Repealed by P.L.257-1997(ss), SEC.41.)

IC 16-37-2-18
Form of new birth certificate
Sec. 18. If a certificate of birth is issued from the record described in section 16 of this chapter, the certificate:
(1) must include:
(A) the full name of the child;
(B) the date and place of birth;
(C) the name of the father;
(D) the maiden name of the mother; and
(E) other data required;
(2) must be uniform in color, size, and content with all other certificates; and
(3) may not refer to the fact that the child was born out of wedlock.
As added by P.L.2-1993, SEC.20. Amended by P.L.257-1997(ss), SEC.34.

IC 16-37-2-19
Violations
Sec. 19. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with section 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, or 16 of this chapter commits a Class B misdemeanor.
(b) Each day a violation continues constitutes a separate offense.
As added by P.L.2-1993, SEC.20.

IC 16-37-3

Chapter 3. Certificates of Death and Stillbirth; Burial Permits

IC 16-37-3-1

"Dead body" defined

Sec. 1. As used in this chapter, "dead body" means a lifeless human body or parts or bones of the human body from the condition of which it reasonably may be concluded that death recently occurred.

As added by P.L.2-1993, SEC.20.

IC 16-37-3-2

"Person in charge of interment" defined

Sec. 2. As used in this chapter, "person in charge of interment" means a person who places or causes to be placed a stillborn child or dead body or the ashes, after cremation, in a grave, vault, urn, or other receptacle, or otherwise disposes of the body or ashes.

As added by P.L.2-1993, SEC.20.

IC 16-37-3-3

Certificate of death or stillbirth; filing

Sec. 3. (a) The physician last in attendance upon the deceased or the person in charge of interment shall file a certificate of death or of stillbirth with the local health officer of the jurisdiction in which the death or stillbirth occurred. The local health officer shall retain a copy of the certificate of death.

(b) Notwithstanding subsection (a), beginning January 1, 2011, for a death occurring after December 31, 2010, the physician last in attendance upon the deceased or the person in charge of interment shall use the Indiana death registration system established under IC 16-37-1-3.1 to file a certificate of death with the local health officer of the jurisdiction in which the death occurred.

As added by P.L.2-1993, SEC.20. Amended by P.L.61-2009, SEC.8; P.L.156-2011, SEC.35; P.L.122-2012, SEC.3.

IC 16-37-3-4

Securing personal data for certificates

Sec. 4. The physician last in attendance upon the deceased or the person in charge of interment shall secure the personal data required by the state department by rules adopted under IC 4-22-2 for preparation of the certificate of death or of stillbirth from the persons best qualified to give the information.

As added by P.L.2-1993, SEC.20. Amended by P.L.156-2011, SEC.36.

IC 16-37-3-5

Presentation of certificate of death; electronically providing certificate; certification

Sec. 5. (a) If the person in charge of interment initiates the process, the person in charge of interment shall present a certificate of death to the physician last in attendance upon the deceased, who shall certify the cause of death upon the certificate of death or of stillbirth.

(b) Notwithstanding subsection (a), beginning January 1, 2011, for a death occurring after December 31, 2010, using the Indiana death registration system established under IC 16-37-1-3.1, if the person in charge of interment initiates the process, the person in charge of interment shall electronically provide a certificate of death to the physician last in attendance upon the deceased. The physician last in attendance upon the deceased shall electronically certify to the local health department the cause of death on the certificate of death, using the Indiana death registration system.

As added by P.L.2-1993, SEC.20. Amended by P.L.61-2009, SEC.9; P.L.156-2011, SEC.37; P.L.122-2012, SEC.4.

IC 16-37-3-6

Cause of death; certification by local health officer

Sec. 6. (a) If:

(1) a death or stillbirth occurred without medical attendance; or

(2) the physician last in attendance is physically or mentally unable to sign the certificate of death or stillbirth;

the local health officer shall inquire into the cause of death from anyone having knowledge of the facts regarding the cause of death.

(b) The local health officer may issue a subpoena to obtain information and to employ a qualified pathologist to perform an autopsy when, in the judgment of the local health officer, those procedures are required to complete the inquiry. The local health officer shall then certify the cause of death on the basis of the information.

As added by P.L.2-1993, SEC.20.

IC 16-37-3-7

Deaths referred to the coroner for investigation

Sec. 7. (a) If the circumstances suggest that the death was caused by other than natural causes or a person dies or is declared dead in an emergency department and the emergency physician, who is the physician last in attendance, is uncertain as to the cause and manner of death, the following individual shall refer the case to the coroner for investigation:

(1) The emergency department physician, upon consultation with an attending physician, if available.

(2) If there is no emergency department physician, the attending physician.

(3) If the attending physician has failed to refer the case to the coroner, the local health officer.

(b) The coroner shall report a death coming under the coroner's

supervision upon official death certificate blanks to the health officer having jurisdiction not more than three (3) days after the inquest is held. Another person may not report the death.
As added by P.L.2-1993, SEC.20. Amended by P.L.67-2016, SEC.1.

IC 16-37-3-8
Autopsies; payment

Sec. 8. (a) Except as provided in subsection (c), payment for the cost of an autopsy requested by a party other than the local health official of the county in which the individual died must be made by the party requesting the autopsy.

(b) Except as provided in subsection (c), payment for the cost of an autopsy required by the local health officer shall be made from funds appropriated to the local health department.

(c) Except as provided in IC 4-24-4-1, if:

(1) an individual who is a resident of Indiana dies in an Indiana county:

(A) in which at least one (1) air ambulance provider is located; and

(B) of which the individual is not a resident; and

(2) an autopsy is performed on the individual:

(A) in the county in which the individual died; and

(B) under the authority of the county coroner in the discharge of the coroner's duties;

the county coroner shall bill the county in which the incident occurred that caused the death of the individual on whom the autopsy was performed for the cost of the autopsy.
As added by P.L.2-1993, SEC.20. Amended by P.L.271-2001, SEC.2.

IC 16-37-3-9
Permanent records; public inspection

Sec. 9. (a) The local health officer shall, from the stillbirth and death certificates, make a permanent record of the:

(1) name;

(2) sex;

(3) age;

(4) place of death;

(5) residence; and

(6) for a death certificate only:

(A) residence addresses of the deceased during the two (2) years before the death; and

(B) Social Security number;

of the deceased.

(b) The records shall be open to public inspection. Except as provided in this subsection, the Social Security number is confidential and may not be disclosed to the public. After December 31, 2005, the Social Security number shall be disclosed to the secretary of state and election division for voter list maintenance

purposes under IC 3-7-26.3 and IC 3-7-45.

(c) The local health officer shall, not later than January 31, April 30, July 31, and October 31 of each year, furnish to the county auditor the records of all deaths within the officer's jurisdiction that occurred during the previous three (3) months.

(d) The local health officer may make records of other data in connection with deaths for statistical purposes or for the purpose of planning health programs. Records under this subsection are not public records.

As added by P.L.2-1993, SEC.20. Amended by P.L.138-2001, SEC.5; P.L.81-2005, SEC.34.

IC 16-37-3-10

Permit for disposal of body

Sec. 10. Upon receipt of a properly executed certificate of death or stillbirth or, when authorized by rule of the state department, a provisional certificate of death, a local health officer in the county in which the death occurred shall issue a permit for the disposal of the body.

As added by P.L.2-1993, SEC.20.

IC 16-37-3-11

Time for securing permit for disposal of body

Sec. 11. The person in charge of interment shall secure a permit for the disposition of the body before any of the following occur:

(1) Disposition of the body.

(2) Removing the body from the county in which the death occurred.

As added by P.L.2-1993, SEC.20.

IC 16-37-3-12

Burial transit permit

Sec. 12. If the body is to be transported by common carrier, the person in charge of interment shall secure a burial transit permit in duplicate.

As added by P.L.2-1993, SEC.20.

IC 16-37-3-13

Burial transit permit; attachment to shipping box

Sec. 13. The person in charge of interment shall attach one (1) copy of the burial transit permit to the shipping box in which the body is transported.

As added by P.L.2-1993, SEC.20.

IC 16-37-3-14

Foreign burial transit permit; endorsement by local health officer

Sec. 14. When death occurs outside Indiana and the body is accompanied by a burial transit permit issued where death occurred,

the permit authorizes transportation into Indiana. Before burial, cremation, or other disposal of the body the local health officer shall endorse and keep a record of the permit.
As added by P.L.2-1993, SEC.20.

IC 16-37-3-15
Construction of chapter regarding autopsies and inquests

Sec. 15. This chapter:

(1) supplements other laws concerning autopsies;

(2) does not require consent for a local health officer to order or perform an autopsy in the discharge of the health officer's duties; and

(3) does not grant authority to a local health officer to hold an inquest under Indiana statutes governing inquests.

As added by P.L.2-1993, SEC.20.

IC 16-37-3-16
Violations

Sec. 16. (a) Except as provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.
As added by P.L.2-1993, SEC.20.

IC 16-37-4
Chapter 4. Medical Data Regarding Cause of Death

IC 16-37-4-1
Legislative declaration

Sec. 1. Medical studies of conditions causing death and disability, especially stillbirth, infant mortality, and maternal mortality:

(1) are an important means of protecting the health of the public;

(2) provide information useful in the prevention and control of disease; and

(3) are an excellent source of teaching material.

As added by P.L.2-1993, SEC.20.

IC 16-37-4-2
Reports; exemption from liability

Sec. 2. (a) A licensed physician, hospital, sanitarium, health facility, or similar organization or institution may provide information relating to the condition, treatment, and causes of death and other information concerning any person to the state health commissioner or to the commissioner's authorized representatives, including reports on forms prepared by the commissioner for the purpose of permitting the studies and research.

(b) A person, an organization, an institution, or an agency furnishing information under subsection (a) to the state health commissioner or the commissioner's representative is not subject to an action for damages or other relief.

As added by P.L.2-1993, SEC.20.

IC 16-37-4-3
Confidentiality; medical research or education use

Sec. 3. (a) The state health commissioner or the commissioner's authorized representative shall do the following:

(1) Keep the information and reports confidential.

(2) Use the information and reports solely as follows:

(A) For the purpose of medical or scientific research and medical education.

(B) For the improvement of the quality of medical care through the conducting of medical audits.

(C) To furnish the information to the following:

(i) A medical school located in Indiana.

(ii) An in-hospital medical staff committee.

(iii) A study or research committee of a state association, an incorporation, or an organization whose membership is composed of licensed physicians.

(b) Information or reports furnished by the state health commissioner may not disclose the name or identity of a patient whose records have been included in the information.

As added by P.L.2-1993, SEC.20.

IC 16-37-4-4
Summary of studies

Sec. 4. A summary of the studies may be released by the state health commissioner, the medical school, or the committee for general publication for the purpose of advancing medical research or medical education in the interest of reducing morbidity or mortality. The identity of a person whose condition or treatment has been studied is confidential and privileged and may not be revealed.
As added by P.L.2-1993, SEC.20.

IC 16-38

ARTICLE 38. HEALTH REGISTRIES

IC 16-38-1

Chapter 1. Newborn Screening Registry

IC 16-38-1-1

Newborn screening registry; development

Sec. 1. The state department shall develop the newborn screening registry under IC 16-41-17-10.

As added by P.L.2-1993, SEC.21.

IC 16-38-2

Chapter 2. Cancer Registry

IC 16-38-2-1

Cancer registry; establishment; use of registry

Sec. 1. (a) The state department shall establish a cancer registry for the purpose of:

(1) recording:

(A) all cases of malignant disease; and

(B) other tumors and precancerous diseases required to be reported by:

(i) federal law or federal regulation; or

(ii) the National Program of Cancer Registries;

that are diagnosed or treated in Indiana; and

(2) compiling necessary and appropriate information concerning those cases, as determined by the state department;

in order to conduct epidemiologic surveys of cancer and to apply appropriate preventive and control measures.

(b) The state department may use any information from the cancer registry to conduct an investigation into the incidence of cancer diagnosis within a certain geographical region.

(c) The department may contract for the collection and analysis of, and the research related to, the epidemiologic data compiled under this chapter.

As added by P.L.2-1993, SEC.21. Amended by P.L.93-2001, SEC.1; P.L.17-2004, SEC.2; P.L.29-2016, SEC.2.

IC 16-38-2-2

Development of registry from existing data

Sec. 2. The state department shall, to the greatest extent possible, utilize information compiled by public or private cancer registries in the development of a statewide cancer registry under this chapter.

As added by P.L.2-1993, SEC.21.

IC 16-38-2-3

Reports

Sec. 3. (a) The following persons shall report to the cancer registry each confirmed case of cancer and other tumors and precancerous diseases required to be recorded under section 1 of this chapter:

(1) Physicians.

(2) Dentists.

(3) Hospitals.

(4) Medical laboratories.

(5) Ambulatory outpatient surgical centers.

(6) Health facilities.

(b) A person required to report information to the state cancer registry under this section may utilize, when available:

(1) information submitted to any other public or private cancer registry; or
(2) information required to be filed with federal, state, or local agencies;

when completing reports required by this chapter. However, the state department may require additional, definitive information.
As added by P.L.2-1993, SEC.21. Amended by P.L.17-2004, SEC.3.

IC 16-38-2-4
Confidentiality

Sec. 4. Except as provided in sections 5, 6, and 7 of this chapter, information obtained under this chapter by the state department concerning individual cancer patients is for the confidential use of the state department only.
As added by P.L.2-1993, SEC.21.

IC 16-38-2-5
Access to confidential information for research purposes

Sec. 5. The state department shall grant any person involved in a legitimate research activity access to confidential information concerning individual cancer patients obtained by the state department under this chapter if all of the following conditions are met:

(1) The person conducting the research provides written information about the following:
(A) The purpose of the research project.
(B) The nature of the data to be collected and how the researcher intends to analyze the data.
(C) The records the researcher desires to review.
(D) The safeguards the researcher will take to protect the identity of the patients whose records the researcher will be reviewing.
(2) The proposed safeguards are adequate to protect the identity of each patient whose records will be reviewed.
(3) An agreement is executed between the state department and the researcher that meets all of the following conditions:
(A) Specifies the terms of the researcher's use of the records.
(B) Prohibits the publication or release of the names of individual cancer patients or any facts tending to lead to the identification of individual cancer patients.

As added by P.L.2-1993, SEC.21.

IC 16-38-2-6
Additional information requests; individual patients; consent

Sec. 6. Researchers may, with the approval of the state department, use the names of individual cancer patients when requesting additional information for research purposes or soliciting an individual patient's participation in a research project. However,

if a researcher requests additional information for an individual cancer patient's participation in a research project, the researcher must first obtain the oral or written consent of the patient's attending physician. If the consent of the patient's attending physician is obtained, the researcher must then obtain the individual cancer patient's written consent by having the patient complete a release of confidential medical information form.
As added by P.L.2-1993, SEC.21.

IC 16-38-2-7
Release of confidential information

Sec. 7. The state department may release confidential information concerning individual cancer patients to the following:

(1) The cancer registry of another state if the following conditions are met:

(A) The other state has entered into a reciprocal agreement with the state department.

(B) The agreement provides that information that identifies a patient will not be released to any other person without the written consent of the patient.

(2) Physicians and local health officers for diagnostic and treatment purposes if the following conditions are met:

(A) The patient's attending physician gives oral or written consent to the release of the information.

(B) The patient gives written consent by completing a release of confidential medical information form.

(3) A local health department if the following conditions are met:

(A) The information is needed to assist the state department in conducting an investigation into the incidence of cancer diagnosis within the local health department's jurisdiction.

(B) The information released is directly connected to the investigation.

(C) The information is not used by the local health department for any other purpose.

(D) The patient gives written consent by completing a release of confidential medical information form.

As added by P.L.2-1993, SEC.21. Amended by P.L.29-2016, SEC.3.

IC 16-38-2-8
Immunity from liability

Sec. 8. A person who reports information to the cancer registry system under this chapter is immune from any civil or criminal liability that might otherwise be imposed because of the release of what is otherwise confidential information.
As added by P.L.2-1993, SEC.21.

IC 16-38-2-9

Epidemiological information; release

Sec. 9. This chapter does not prevent the release to any interested person of epidemiological information that does not identify individual cancer patients.

As added by P.L.2-1993, SEC.21.

IC 16-38-2-10

Administrative rules

Sec. 10. The state department shall adopt rules under IC 4-22-2 necessary to carry out this chapter.

As added by P.L.2-1993, SEC.21.

IC 16-38-2-11

Annual report

Sec. 11. Not later than December 31 of each year, the department shall publish and make available to the public an annual report summarizing the information collected under this chapter during the previous calendar year.

As added by P.L.93-2001, SEC.2. Amended by P.L.17-2004, SEC.4.

IC 16-38-3

Chapter 3. Blind Registry

IC 16-38-3-1

Registry of blind persons

Sec. 1. The state department shall maintain a registry of blind persons in Indiana.

As added by P.L.2-1993, SEC.21.

IC 16-38-3-2

Functions of registry

Sec. 2. The registry must do the following:

(1) Describe the extent and cause of blindness.

(2) List other demographic information.

As added by P.L.2-1993, SEC.21.

IC 16-38-4

Chapter 4. Birth Problems Registry

IC 16-38-4-1

"Birth problems"

Sec. 1. As used in this chapter, "birth problems" means one (1) or more of the following conditions:

(1) A structural deformation.

(2) A developmental malformation.

(3) A genetic, inherited, or biochemical disease.

(4) A condition of a chronic nature, including central nervous system hemorrhage or infection of the central nervous system, that may result in a need for long term health care.

(5) An autism spectrum disorder that is recognized in an individual at any age.

(6) A fetal alcohol spectrum disorder that is recognized before a child becomes five (5) years of age.

(7) Any other severe disability that is:

(A) designated in a rule adopted by the state department; and

(B) recognized in a child after birth and before the child becomes three (3) years of age.

(8) Complications resulting from a home delivery. As used in this subdivision, "home" includes the delivery of a viable fetus at a home or other non-health care facility.

As added by P.L.180-1993, SEC.2. Amended by P.L.93-2001, SEC.3; P.L.17-2004, SEC.5; P.L.188-2013, SEC.19; P.L.232-2013, SEC.6; P.L.141-2014, SEC.19.

IC 16-38-4-2

"Other severe disability"

Sec. 2. As used in this chapter, "other severe disability" means a severe physical disability or developmental delay that results from injury, infection, or disease, is chronic in nature, and requires long term health care.

As added by P.L.180-1993, SEC.2. Amended by P.L.23-1993, SEC.76.

IC 16-38-4-3

"Patient"

Sec. 3. As used in this chapter, "patient" means:

(1) a child born with a birth problem; or

(2) a parent or a guardian of a child born with a birth problem.

As added by P.L.180-1993, SEC.2.

IC 16-38-4-4

"Person"

Sec. 4. As used in this chapter, "person" means an individual, association, partnership, corporation, or governmental entity.

As added by P.L.180-1993, SEC.2.

IC 16-38-4-5
"Registry"

Sec. 5. As used in this chapter, "registry" refers to the birth problems registry established under this chapter.
As added by P.L.180-1993, SEC.2.

IC 16-38-4-6
"State department"

Sec. 6. As used in this chapter, "state department" refers to the state department of health.
As added by P.L.180-1993, SEC.2.

IC 16-38-4-7
Rules to define birth problems; reporting requirements

Sec. 7. (a) The state department shall adopt rules under IC 4-22-2 to:

(1) define a birth problem; and

(2) establish reporting requirements regarding birth problems for:

(A) hospitals;

(B) physicians;

(C) local health departments;

(D) home deliveries, as described in section 1(8) of this chapter; and

(E) other health care providers designated by the state department.

(b) In adopting rules regarding the reporting of birth problems, the state department shall give consideration to the following factors:

(1) The extent to which a condition can be measured or identified.

(2) The extent to which there is a known intervention for a condition.

(3) The significance of the burden imposed on the life of the individual by a condition.

(4) Other factors that the state department determines appropriate.

As added by P.L.180-1993, SEC.2. Amended by P.L.93-2001, SEC.4; P.L.232-2013, SEC.7.

IC 16-38-4-8
Department to establish birth problems registry; rationale; sources of data; report

Sec. 8. (a) The state department shall establish a birth problems registry for the purpose of recording all cases of birth problems that occur in Indiana residents and compiling necessary and appropriate information concerning those cases, as determined by the state

department, in order to:

(1) conduct epidemiologic and environmental studies and to apply appropriate preventive and control measures;

(2) except for an autism spectrum disorder, inform the parents of children with birth problems:

(A) at the time of discharge from the hospital; or

(B) if a birth problem is diagnosed during a physician or hospital visit that occurs before the child is:

(i) except as provided in item (ii), three (3) years of age at the time of diagnosis; or

(ii) five (5) years of age at the time of diagnosis if the disorder is a fetal alcohol spectrum disorder;

about physicians care facilities, and appropriate community resources, including local step ahead agencies and the infants and toddlers with disabilities program (IC 12-12.7-2);

(3) except as provided in subsection (d), inform:

(A) the individual with problems at any age; or

(B) the individual's parent;

at the time of diagnosis, if the individual's disorder is an autism spectrum disorder, about physicians and appropriate state and community resources, including local step ahead agencies and the infants and toddlers with disabilities program (IC 12-12.7-2); or

(4) inform citizens regarding programs designed to prevent or reduce birth problems.

(b) The state department shall record in the birth problems registry:

(1) all data concerning birth problems of children that are provided from the certificate of live birth;

(2) any additional information that may be provided by an individual or entity described in section 7(a)(2) of this chapter concerning a birth problem that is:

(A) designated in a rule adopted by the state department; and

(B) recognized:

(i) after the child is discharged from the hospital as a newborn;

(ii) before the child is five (5) years of age if the child is diagnosed with a fetal alcohol spectrum disorder;

(iii) before the child is three (3) years of age for any diagnosis not specified in items (ii) and (iv); and

(iv) at any age if the individual is diagnosed with an autism spectrum disorder; and

(3) information reported to the state department by the office of the secretary under IC 12-12-9-3 concerning a child who is less than five (5) years of age and diagnosed with a visual impairment or blindness.

(c) The state department shall:

(1) provide a physician and a local health department with

necessary forms for reporting under this chapter; and

(2) report in an electronic format under IC 5-14-6 to the legislative council any birth problem trends that are identified through the data collected under this chapter.

(d) Concerning an individual who is at least eight (8) years of age and diagnosed with an autism spectrum disorder, the state department is not required to do any of the following:

(1) Report information to the federal Centers for Disease Control and Prevention.

(2) Confirm the individual's diagnosis.

(3) Verbally inform an individual of the information set forth in subsection (a)(3).

As added by P.L.180-1993, SEC.2. Amended by P.L.93-2001, SEC.5; P.L.11-2002, SEC.1; P.L.28-2004, SEC.138; P.L.17-2004, SEC.6; P.L.2-2005, SEC.57; P.L.93-2006, SEC.14; P.L.188-2013, SEC.20; P.L.141-2014, SEC.20.

IC 16-38-4-9

Reports of birth problems to registry

Sec. 9. (a) Certified nurse midwives, certified direct entry midwives, and individuals and entities described in section 7(a)(2) of this chapter shall report each confirmed case of a birth problem that is recognized at the time of birth to the registry not later than sixty (60) days after the birth. An individual or entity described in section 7(a)(2) of this chapter who recognizes a birth problem in:

(1) a child after birth but before the child is five (5) years of age, if the child is diagnosed with a fetal alcohol spectrum disorder;

(2) an individual at any age, if the individual is diagnosed with an autism spectrum disorder; and

(3) a child before the child is three (3) years of age for any birth problem diagnosis not specified in subdivisions (1) and (2);

shall report the birth problem to the registry not later than sixty (60) days after recognizing the birth problem. Information may be provided to amend or clarify an earlier reported case.

(b) A person required to report information to the registry under this section may use, when completing reports required by this chapter, information submitted to any other public or private registry or required to be filed with federal, state, or local agencies. However, the state department may require additional, definitive information.

(c) Exchange of information between state department registries is authorized. The state department may use information from another registry administered by the state department. Information used from other registries remains subject to the confidentiality restrictions on the other registries.

As added by P.L.180-1993, SEC.2. Amended by P.L.93-2001, SEC.6; P.L.17-2004, SEC.7; P.L.232-2013, SEC.8; P.L.141-2014, SEC.21.

IC 16-38-4-10
Confidentiality of information

Sec. 10. Except as provided in sections 11, 12, and 13 of this chapter, information that:

(1) is obtained under this chapter by the state department concerning individual patients; and

(2) is not otherwise a matter of public record;

is for the confidential use of the state department only.

As added by P.L.180-1993, SEC.2.

IC 16-38-4-11
Access to confidential information for research

Sec. 11. The state department shall grant any person involved in a legitimate research activity access to confidential information concerning individual patients obtained by the state department under this chapter if:

(1) the person conducting the research provides written information about the purpose of the research project, the nature of the data to be collected and how the researcher intends to analyze it, the records the researcher wishes to review, and the safeguards the researcher will take to protect the identity of the patients whose records the researcher will be reviewing;

(2) the proposed safeguards are adequate to protect the identity of each patient whose records will be reviewed; and

(3) an agreement is executed between the state department and the researcher that specifies the terms of the researcher's use of the records and that prohibits the publication or release of the names of individual patients or any facts tending to lead to the identification of individual patients.

As added by P.L.180-1993, SEC.2.

IC 16-38-4-12
Requests for additional information

Sec. 12. Researchers may, with the approval of the state department, use the names of individual patients when requesting additional information for research purposes. However, if a researcher requests additional information, the researcher must then obtain the individual patient's written consent by having the patient complete a release of confidential medical information form.

As added by P.L.180-1993, SEC.2.

IC 16-38-4-13
Release of confidential information

Sec. 13. The state department may release confidential information concerning individual patients to:

(1) the birth problems registry of another state; and

(2) physicians and local health officers for diagnostic and treatment purposes;

if the patient gives written consent by completing a release of confidential medical information form.
As added by P.L.180-1993, SEC.2.

IC 16-38-4-14
Persons reporting to registry; immunity from liability for released information

Sec. 14. A person who reports information to the registry under this chapter is immune from any civil or criminal liability that might otherwise be imposed because of the release of what is otherwise confidential information.
As added by P.L.180-1993, SEC.2.

IC 16-38-4-15
Epidemiological and environmental information; release permitted

Sec. 15. This chapter does not prevent the release to any interested person of epidemiological and environmental information that does not identify individual patients.
As added by P.L.180-1993, SEC.2.

IC 16-38-4-16
Educational programs

Sec. 16. (a) The state department shall conduct intensive educational programs for health professionals and members of the public concerning the nature and purpose of the birth problems registry, the reporting and informational requirements, and the causes and detection of birth problems.

(b) The state department shall develop educational program materials appropriate for use in education concerning the transmission of HIV prenatally and neonatally. The state department shall promote the use of the educational program materials by health care providers that furnish prenatal health care services.
As added by P.L.180-1993, SEC.2. Amended by P.L.126-1995, SEC.3.

IC 16-38-4-16.5
Review of medical records

Sec. 16.5. To assure accurate, complete, and timely reporting of birth problems to the registry, the state department may review the medical records of an individual or entity required to report birth problems under this chapter.
As added by P.L.93-2001, SEC.7.

IC 16-38-4-17
Birth problems registry fund

Sec. 17. (a) The birth problems registry fund is established for the purpose of carrying out this chapter. The fund shall be administered by the state department.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) Money in the fund at the end of a particular fiscal year does not revert to the state general fund.

(d) The state department is not required to implement the provisions of this chapter regarding birth problems described in section 1(7) of this chapter until the state department receives the funding necessary for implementation.

As added by P.L.180-1993, SEC.2. Amended by P.L.93-2001, SEC.8.

IC 16-38-4-18

Reports by department

Sec. 18. The state department shall report to the legislative council and the governor each year before November 1, the following:

(1) The numbers and types of birth problems occurring in Indiana by county.

(2) The amount of use of the birth problems registry by researchers.

(3) Proposals for the prevention of birth problems occurring in Indiana.

A report under this section to the legislative council must be in an electronic format under IC 5-14-6.

As added by P.L.180-1993, SEC.2. Amended by P.L.28-2004, SEC.139.

IC 16-38-4-19

Abolition of registry

Sec. 19. The registry is abolished July 1, 2017.

As added by P.L.180-1993, SEC.2. Amended by P.L.28-2004, SEC.140; P.L.193-2007, SEC.2.

IC 16-38-5

Chapter 5. Immunization Data Registry

IC 16-38-5-1

Development and maintenance of registry; use of information; rules

Sec. 1. (a) The state department shall maintain an immunization data registry to collect, store, analyze, release, and report immunization data.

(b) Data in the immunization data registry may be used only for the following purposes:

(1) To assure that necessary immunizations are provided and overimmunization is avoided.

(2) To assess immunization coverage rates.

(3) To determine areas of underimmunization and other epidemiological research for disease control purposes.

(4) To document that required immunizations have been provided as required for school or child care admission.

(5) To accomplish other public health purposes as determined by the state department.

(c) The state department may adopt rules under IC 4-22-2 concerning who may input and retrieve information from the immunization data registry.

As added by P.L.231-1999, SEC.14. Amended by P.L.135-2003, SEC.1; P.L.122-2012, SEC.5; P.L.191-2013, SEC.5.

IC 16-38-5-2

Provision of data; exemptions; forms; information on registry

Sec. 2. (a) Except as provided in subsection (c), a provider, a physician's designee, a pharmacist's designee, or a person approved by the state department may provide immunization data to the immunization data registry in a manner prescribed by the state department and for the purposes allowed under this chapter.

(b) This subsection takes effect July 1, 2015. Except as provided in subsections (c) and (e), a provider who is licensed under IC 25 and who is authorized within the provider's scope of practice to administer immunizations or the provider's designee shall electronically provide immunization data to the immunization data registry for all immunizations administered to individuals who are less than nineteen (19) years of age:

(1) not later than seven (7) business days after providing the immunization;

(2) in a manner prescribed by the state department, after reasonable notice; and

(3) for the purposes allowed under this chapter.

(c) A person is exempt from providing immunization data to the immunization data registry if:

(1) the patient or the patient's parent or guardian, if the patient

is less than eighteen (18) years of age, has completed and filed a written immunization data exemption form with either the person who provides the immunization or the state department; or

(2) the patient is a resident of or is receiving services from a facility licensed under IC 16-28.

(d) The minimum immunization data that must be provided under subsection (b) are the following:

(1) Patient identification number.

(2) Patient first and last name.

(3) Patient date of birth.

(4) Patient address.

(5) Patient race.

(6) Patient gender.

(7) Vaccine for Children program eligibility, if the patient is eligible for the Vaccine for Children program.

(8) Dose at the administration level under the Vaccine for Children program, if the patient is eligible for the Vaccine for Children program.

(9) Vaccination presentation or vaccination code using approved Immunization Information System (IIS) code type.

(10) Vaccination date administered.

(11) Lot number of the administered vaccine.

The state department may expand or modify the list of minimum immunization data that must be provided under this section based on Centers for Disease Control Immunization Information System (IIS) minimum field requirements.

(e) A provider who is unable to electronically provide immunization data to the immunization data registry by July 1, 2015, shall submit a detailed plan for compliance with the requirements of subsection (b) to the state department no later than March 31, 2015. The state department will assist the provider so the provider is able to electronically provide immunization data in a reasonable amount of time.

(f) The state department shall create and provide copies of immunization data exemption forms to:

(1) providers who are:

(A) licensed under IC 25; and

(B) authorized within the provider's scope of practice to administer immunizations; and

(2) individuals;

who request the form.

(g) The state department shall distribute, upon request, written information to be disseminated to patients that describes the immunization data registry. The written information must include the following:

(1) That, beginning July 1, 2015, the provider is required to report immunization data to the immunization data registry.

(2) That the patient or the patient's parent or guardian, if the patient is less than eighteen (18) years of age, has a right to exempt disclosure of immunization data to the registry and may prevent disclosure by signing an immunization data exemption form.

(3) That the patient or the patient's parent or guardian, if the patient is less than eighteen (18) years of age, may have the individual's information removed from the immunization data registry.

(4) Instructions on how to have the information removed.

As added by P.L.231-1999, SEC.14. Amended by P.L.135-2003, SEC.2; P.L.161-2009, SEC.1; P.L.122-2012, SEC.6; P.L.191-2013, SEC.6; P.L.2-2014, SEC.79.

IC 16-38-5-3

Confidentiality of information; release of information to certain persons; data use agreement; release of statistics

Sec. 3. (a) Records maintained as part of the immunization data registry are confidential.

(b) The state department may release information from the immunization data registry to the individual or to the individual's parent or guardian if the individual is less than eighteen (18) years of age.

(c) Subject to subsection (d), the state department may release information in the immunization data registry concerning an individual to the following persons or entities:

(1) The immunization data registry of another state.

(2) A provider or a provider's designee.

(3) A local health department.

(4) An elementary or secondary school that is attended by the individual.

(5) A child care center that is licensed under IC 12-17.2-4 in which the individual is enrolled.

(6) A child care home that is licensed under IC 12-17.2-5 in which the individual is enrolled.

(7) A child care ministry that is registered under IC 12-17.2-6 in which the individual is enrolled.

(8) The office of Medicaid policy and planning or a contractor of the office of Medicaid policy and planning.

(9) A child placing agency licensed under IC 31-27.

(10) A college or university (as defined in IC 21-7-13-10) that is attended by the individual.

(d) Before immunization data may be released to a person or an entity, the person or entity must enter into a data use agreement with the state department that provides that information that identifies a patient will not be released to any other person or entity without the written consent of the patient unless the release is to a person or entity described in subsection (c).

(e) The state department may release summary statistics regarding information in the immunization data registry to a person or entity that has entered into a data use agreement with the state department.
As added by P.L.231-1999, SEC.14. Amended by P.L.135-2003, SEC.3; P.L.161-2009, SEC.2; P.L.122-2012, SEC.7; P.L.171-2014, SEC.10.

IC 16-38-5-4
Immunity for providing data; penalty

Sec. 4. (a) An entity described in section 3(c) of this chapter, the state department, or an agent of the state department who in good faith provides or receives immunization information is immune from civil and criminal liability for the following:

(1) Providing information to the immunization data registry.
(2) Using the immunization data registry information to verify that a patient or child has received proper immunizations.
(3) Using the immunization data registry information to inform a patient or the child's parent or guardian:
(A) of the patient's or child's immunization status; or
(B) that an immunization is due according to recommended immunization schedules.

(b) A person who knowingly, intentionally, or recklessly discloses confidential information contained in the immunization data registry in violation of this chapter commits a Class A misdemeanor.
As added by P.L.135-2003, SEC.4. Amended by P.L.97-2004, SEC.66.

IC 16-38-6

Chapter 6. Chronic Disease Registry

IC 16-38-6-1

"Chronic disease"

Sec. 1. As used in this chapter, "chronic disease" means one (1) of the following conditions:

(1) Asthma.
(2) Diabetes.
(3) Congestive heart failure or coronary heart disease.
(4) Hypertension.
(5) Kidney disease.
(6) A condition that the state department:
(A) determines should be included on the registry; and
(B) chooses to add to the registry by rule under IC 4-22-2.

As added by P.L.212-2003, SEC.3. Amended by P.L.13-2004, SEC.2; P.L.48-2005, SEC.2.

IC 16-38-6-2

Establishing chronic disease registry

Sec. 2. The state department, with the cooperation of the office of Medicaid policy and planning, shall establish a chronic disease registry for the purpose of:

(1) recording chronic disease cases that are diagnosed or treated in Indiana; and
(2) compiling necessary and appropriate information determined by the state department concerning cases described in subdivision (1) in order to do the following:
(A) Conduct epidemiologic and environmental surveys of chronic disease and use appropriate preventive and control measures.
(B) Inform citizens regarding programs designed to manage chronic disease.
(C) Provide guidance to the office of Medicaid policy and planning to identify and develop cost and clinical measures for use in a program required by IC 12-15-12-19.

As added by P.L.212-2003, SEC.3.

IC 16-38-6-3

Using information compiled by public or private entities for registry

Sec. 3. The state department shall use information compiled by a public or private entity to the greatest extent possible in the development of a statewide chronic disease registry under this chapter.

As added by P.L.212-2003, SEC.3.

IC 16-38-6-4

Reporting confirmed cases of chronic disease; information used; Medicaid chronic disease data

Sec. 4. (a) The following persons may report confirmed cases of chronic disease to the chronic disease registry:

(1) Physicians.

(2) Hospitals.

(3) Medical laboratories.

(4) Public and private third party payers.

(b) A person who reports information to the state chronic disease registry under this section may use:

(1) information submitted to any other public or private chronic disease registry; or

(2) information required to be filed with federal, state, or local agencies;

when completing a report under this chapter. However, the state department may require additional, definitive information.

(c) The office of Medicaid policy and planning shall provide data concerning services for chronic diseases reimbursed by the state Medicaid program to the chronic disease registry. The office shall work with the state department to identify the data available and to determine a means to transmit the information to assist the state department in data collection for the chronic disease registry.

As added by P.L.212-2003, SEC.3. Amended by P.L.13-2004, SEC.3.

IC 16-38-6-5

Confidential information

Sec. 5. Except as provided in sections 6, 7, and 8 of this chapter, information obtained by the state department under this chapter concerning chronic disease patients is confidential and may be used by the state department only for the purposes of this chapter.

As added by P.L.212-2003, SEC.3.

IC 16-38-6-6

Access to confidential information

Sec. 6. The state department may grant a researcher access to confidential information obtained under this chapter concerning individual chronic disease patients if the researcher who is requesting additional information for research purposes or soliciting the patient's participation in a research project obtains the following:

(1) First, the oral or written consent of the patient's attending physician.

(2) Second, the patient's written consent by completing a confidential medical release form.

As added by P.L.212-2003, SEC.3.

IC 16-38-6-7

Releasing confidential information

Sec. 7. The state department may release confidential information

obtained under this chapter concerning individual chronic disease patients to the following:

(1) The chronic disease registry of another state if the following conditions are met:

(A) The other state has entered into a reciprocal agreement with the state department.

(B) The reciprocal agreement under clause (A) states that information that identifies a patient will not be released to any other person without the written consent of the patient.

(2) Physicians and local health officers for diagnostic and treatment purposes if the following conditions are met:

(A) The patient's attending physician gives oral or written consent to the release of the information.

(B) The patient gives written consent by completing a confidential medical release form.

(3) The office of Medicaid policy and planning for purposes related to administering the state Medicaid plan.

As added by P.L.212-2003, SEC.3.

IC 16-38-6-8
Immunity

Sec. 8. A person who reports information for the chronic disease registry under this chapter is immune from any civil or criminal liability that might otherwise be imposed because of the release of confidential information.

As added by P.L.212-2003, SEC.3.

IC 16-38-6-9
Releasing epidemiological information

Sec. 9. This chapter does not prevent the release to any interested person of epidemiological information that does not identify a chronic disease patient.

As added by P.L.212-2003, SEC.3.

IC 16-38-6-10
Rules

Sec. 10. The state department may adopt rules under IC 4-22-2 necessary to carry out this chapter.

As added by P.L.212-2003, SEC.3.

IC 16-39

ARTICLE 39. HEALTH RECORDS

IC 16-39-0.1

Chapter 0.1. Application

IC 16-39-0.1-1

Application of prior law to confidentiality of certain records

Sec. 1. To the extent that IC 5-14-3 and IC 16-4-8 (before its repeal, now codified in this article) apply to the confidentiality of a record in the possession of a state agency under P.L.9-1991 before the transfer of the record required by P.L.9-1991, those statutes apply to the record after the transfer of the record.

As added by P.L.220-2011, SEC.317.

IC 16-39-1

Chapter 1. Release of Health Records to Patient and Authorized Persons

IC 16-39-1-1

Right of access; written requests; effective duration

Sec. 1. (a) This section applies to all health records except mental health records, which are governed by IC 16-39-2, IC 16-39-3, and IC 16-39-4.

(b) This article applies to all health records, except:

(1) records regarding communicable diseases, which are governed by IC 16-41-8-1; or

(2) records regarding alcohol and other drug abuse patient records, which are governed by 42 CFR, Part 2.

(c) On written request and reasonable notice, a provider shall supply to a patient the health records possessed by the provider concerning the patient. Subject to 15 U.S.C. 7601 et seq. and 16 CFR Part 315, information regarding contact lenses must be given using the following guidelines:

(1) After the release of a patient from an initial fitting and follow-up period of not more than six (6) months, the contact lens prescription must be released to the patient at the patient's request.

(2) A prescription released under subdivision (1) must contain all information required to properly duplicate the contact lenses.

(3) A contact lens prescription must include the following:

(A) An expiration date of one (1) year.

(B) The number of refills permitted.

(4) Instructions for use must be consistent with:

(A) recommendations of the contact lens manufacturer;

(B) clinical practice guidelines; and

(C) the professional judgment of the prescribing optometrist or physician licensed under IC 25-22.5.

After the release of a contact lens prescription under this subsection, liability for future fittings or dispensing of contact lenses under the original prescription lies with the dispensing company or practitioner.

(d) On a patient's written request and reasonable notice, a provider shall furnish to the patient or the patient's designee the following:

(1) A copy of the patient's health record used in assessing the patient's health condition.

(2) At the option of the patient, the pertinent part of the patient's health record relating to a specific condition, as requested by the patient.

(e) A request made under this section is valid for sixty (60) days after the date the request is made.

As added by P.L.2-1993, SEC.22. Amended by P.L.40-1994, SEC.66; P.L.102-1994, SEC.1; P.L.2-1995, SEC.72; P.L.108-1996, SEC.4;

P.L.157-2006, SEC.4.

IC 16-39-1-2
X-rays

Sec. 2. Upon a patient's written request and reasonable notice, a provider shall, at the provider's actual costs, provide to the patient or the patient's designee:

(1) access to; or
(2) a copy of;

the patient's x-ray film possessed by the provider.
As added by P.L.2-1993, SEC.22.

IC 16-39-1-3
Persons entitled to request records

Sec. 3. (a) Health records may be requested by a competent patient if the patient is:

(1) emancipated and less than eighteen (18) years of age; or
(2) at least eighteen (18) years of age.

(b) If a patient is incompetent, the request for health records may be made by the parent, guardian, or custodian of the patient.

(c) Health records of a deceased patient may be requested by a coroner under IC 36-2-14-21 or by the personal representative of the patient's estate. If the deceased does not have a personal representative, the spouse of the deceased patient may make a request. If there is no spouse:

(1) a child of the deceased patient; or
(2) the parent, guardian, or custodian of the child if the child is incompetent;

may make a request.
As added by P.L.2-1993, SEC.22. Amended by P.L.28-2002, SEC.1.

IC 16-39-1-4
Patient's written consent for release of records; contents

Sec. 4. Except as provided in IC 16-39-5, a patient's written consent for release of the patient's health record must include the following:

(1) The name and address of the patient.
(2) The name of the person requested to release the patient's record.
(3) The name of the person or provider to whom the patient's health record is to be released.
(4) The purpose of the release.
(5) A description of the information to be released from the health record.
(6) The signature of the patient, or the signature of the patient's legal representative if the patient is incompetent.
(7) The date on which the consent is signed.
(8) A statement that the consent is subject to revocation at any

time, except to the extent that action has been taken in reliance on the consent.

(9) The date, event, or condition on which the consent will expire if not previously revoked.

As added by P.L.2-1993, SEC.22.

IC 16-39-1-5

Withholding requested information

Sec. 5. If a provider who is a health care professional reasonably determines that the information requested under section 1 of this chapter is:

(1) detrimental to the physical or mental health of the patient; or

(2) likely to cause the patient to harm the patient or another;

the provider may withhold the information from the patient.

As added by P.L.2-1993, SEC.22.

IC 16-39-1-6

Inpatient requests

Sec. 6. This chapter does not authorize a patient to obtain a copy of the patient's health records while the patient is an inpatient of a hospital, health facility, or facility licensed under IC 12-24 or IC 12-29. However, if the inpatient is:

(1) unemancipated and less than eighteen (18) years of age, a parent, guardian, or next of kin (if the patient does not have a parent or guardian) is entitled to obtain a copy of the health records of the inpatient;

(2) incompetent to request the patient's own health records, a spouse, parent, guardian, or next of kin (if the patient does not have a parent, spouse, or guardian) is entitled to obtain a copy of the health records of the inpatient; or

(3) competent, a spouse, parent or next of kin (if the patient does not have a parent or spouse) is entitled to obtain a copy of the health records of the inpatient if the inpatient requests that the records be released.

As added by P.L.2-1993, SEC.22.

IC 16-39-1-7

Child's health records; access to custodial and noncustodial parents

Sec. 7. (a) Except as provided in subsection (b), a custodial parent and a noncustodial parent of a child have equal access to the parents' child's health records.

(b) A provider may not allow a noncustodial parent access to the child's health records if:

(1) a court has issued an order that limits the noncustodial parent's access to the child's health records; and

(2) the provider has received a copy of the court order or has

actual knowledge of the court order.

(c) If a provider incurs additional expense by allowing a parent equal access to health records under this section, the provider may require the parent requesting the equal access to pay a fee to cover the cost of the additional expense.

As added by P.L.2-1993, SEC.22.

IC 16-39-1-8

Copying fees

Sec. 8. Except as provided in section 2 of this chapter, IC 16-39-9 governs the fees that may be charged for making and providing copies of records under this chapter.

As added by P.L.102-1994, SEC.2.

IC 16-39-1-9

Alcohol and drug abuse records

Sec. 9. Alcohol and drug abuse records described in 42 U.S.C. 290dd-2 may not be disclosed unless authorized in accordance with 42 U.S.C. 290dd-2.

As added by P.L.4-1997, SEC.3. Amended by P.L.7-2015, SEC.43.

IC 16-39-2

Chapter 2. Release of Mental Health Records to Patient and Authorized Persons

IC 16-39-2-1

Application of chapter

Sec. 1. This chapter applies only to mental health records.

As added by P.L.2-1993, SEC.22.

IC 16-39-2-2

Maintenance of records by provider; contents; dominion; time limits

Sec. 2. A record for each patient receiving mental health services shall be maintained by the provider. The mental health record must contain the information that the division of mental health and addiction, the division of disability and rehabilitative services, or the state department requires by rule. The provider is:

(1) the owner of the mental health record;

(2) responsible for the record's safekeeping; and

(3) entitled to retain possession of the record.

The information contained in the mental health record belongs to the patient involved as well as to the provider. The provider shall maintain the original mental health record or a microfilm of the mental health record for at least seven (7) years.

As added by P.L.2-1993, SEC.22. Amended by P.L.40-1994, SEC.67; P.L.4-1997, SEC.4; P.L.215-2001, SEC.84; P.L.141-2006, SEC.90.

IC 16-39-2-3

Confidentiality

Sec. 3. A patient's mental health record is confidential and shall be disclosed only with the consent of the patient unless otherwise provided in the following:

(1) This chapter.

(2) IC 16-39-3.

(3) IC 16-39-4.

(4) IC 16-39-5-3.

As added by P.L.2-1993, SEC.22.

IC 16-39-2-4

Patient access; restrictions; appeal

Sec. 4. A patient is entitled to inspect and copy the patient's own mental health record. However, if the provider that is responsible for the patient's mental health records determines for good medical cause, upon the advice of a physician, that the information requested under this section is detrimental to the physical or mental health of the patient, or is likely to cause the patient to harm the patient or another person, the provider may withhold the information from the patient. If the provider is a state institution or agency, the patient may

appeal the provider's refusal to permit the patient to inspect and copy the patient's own record under IC 4-21.5.
As added by P.L.2-1993, SEC.22.

IC 16-39-2-5
Access to patient's designee or legal representative; written request

Sec. 5. (a) This section applies to private and public treating providers.

(b) Upon a patient's written request and reasonable notice, a patient's mental health record shall be made available for inspection and copying by the provider at any time to an individual or organization designated by the patient or to the patient's legal representative.

(c) A patient's written request for the release of the patient's mental health record under this section must include the following:

(1) The name of the patient.

(2) The name of the person requested to release the patient's mental health record.

(3) The name of the person, provider, or organization to whom the patient's mental health record is to be released.

(4) The purpose of the release.

(5) A description of the information to be released from the mental health record.

(6) The signature of the patient.

(7) The date the request is signed.

(8) A statement that the patient's consent to release of mental health records is subject to revocation at any time, except to the extent that action has been taken in reliance on the patient's consent.

(9) The date, event, or condition on which the patient's consent to release of mental health records will expire if not previously revoked.

(d) Unless otherwise specified in a written request under this section, a request for release of records is valid for one hundred eighty (180) days after the date the request is made.

(e) A request for release of records under this section may be revoked by the patient at any time, except to the extent that action has been taken in reliance on the consent.

(f) Mental health records requested by the patient to be released under this section may be released by the provider receiving the request, regardless of whether the patient is still receiving services from the provider.
As added by P.L.2-1993, SEC.22. Amended by P.L.4-1997, SEC.5.

IC 16-39-2-6
Disclosure without patient's consent; interpretation of records; immunities

Sec. 6. (a) Without the consent of the patient, the patient's mental

health record may only be disclosed as follows:

(1) To individuals who meet the following conditions:

(A) Are employed by:

(i) the provider at the same facility or agency;

(ii) a managed care provider (as defined in IC 12-7-2-127); or

(iii) a health care provider or mental health care provider, if the mental health records are needed to provide health care or mental health services to the patient.

(B) Are involved in the planning, provision, and monitoring of services.

(2) To the extent necessary to obtain payment for services rendered or other benefits to which the patient may be entitled, as provided in IC 16-39-5-3.

(3) To the patient's court appointed counsel and to the Indiana protection and advocacy services commission.

(4) For research conducted in accordance with IC 16-39-5-3 and the rules of the division of mental health and addiction, the rules of the division of disability and rehabilitative services, or the rules of the provider.

(5) To the division of mental health and addiction for the purpose of data collection, research, and monitoring managed care providers (as defined in IC 12-7-2-127) who are operating under a contract with the division of mental health and addiction.

(6) To the extent necessary to make reports or give testimony required by the statutes pertaining to admissions, transfers, discharges, and guardianship proceedings.

(7) To a law enforcement agency if any of the following conditions are met:

(A) A patient escapes from a facility to which the patient is committed under IC 12-26.

(B) The superintendent of the facility determines that failure to provide the information may result in bodily harm to the patient or another individual.

(C) A patient commits or threatens to commit a crime on facility premises or against facility personnel.

(D) A patient is in the custody of a law enforcement officer or agency for any reason and:

(i) the information to be released is limited to medications currently prescribed for the patient or to the patient's history of adverse medication reactions; and

(ii) the provider determines that the release of the medication information will assist in protecting the health, safety, or welfare of the patient.

Mental health records released under this clause must be maintained in confidence by the law enforcement agency receiving them.

(8) To a coroner or medical examiner, in the performance of the individual's duties.
(9) To a school in which the patient is enrolled if the superintendent of the facility determines that the information will assist the school in meeting educational needs of the patient.
(10) To the extent necessary to satisfy reporting requirements under the following statutes:
(A) IC 12-10-3-10.
(B) IC 12-24-17-5.
(C) IC 16-41-2-3.
(D) IC 31-25-3-2.
(E) IC 31-33-5-4.
(F) IC 34-30-16-2.
(G) IC 35-46-1-13.
(11) To the extent necessary to satisfy release of information requirements under the following statutes:
(A) IC 12-24-11-2.
(B) IC 12-24-12-3, IC 12-24-12-4, and IC 12-24-12-6.
(C) IC 12-26-11.
(12) To another health care provider in a health care emergency.
(13) For legitimate business purposes as described in IC 16-39-5-3.
(14) Under a court order under IC 16-39-3.
(15) With respect to records from a mental health or developmental disability facility, to the United States Secret Service if the following conditions are met:
(A) The request does not apply to alcohol or drug abuse records described in 42 U.S.C. 290dd-2 unless authorized by a court order under 42 U.S.C. 290dd-2(b)(2)(c).
(B) The request relates to the United States Secret Service's protective responsibility and investigative authority under 18 U.S.C. 3056, 18 U.S.C. 871, or 18 U.S.C. 879.
(C) The request specifies an individual patient.
(D) The director or superintendent of the facility determines that disclosure of the mental health record may be necessary to protect a person under the protection of the United States Secret Service from serious bodily injury or death.
(E) The United States Secret Service agrees to only use the mental health record information for investigative purposes and not disclose the information publicly.
(F) The mental health record information disclosed to the United States Secret Service includes only:
(i) the patient's name, age, and address;
(ii) the date of the patient's admission to or discharge from the facility; and
(iii) any information that indicates whether or not the patient has a history of violence or presents a danger to the

person under protection.

(16) To the statewide waiver ombudsman established under IC 12-11-13, in the performance of the ombudsman's duties.

(b) After information is disclosed under subsection (a)(15) and if the patient is evaluated to be dangerous, the records shall be interpreted in consultation with a licensed mental health professional on the staff of the United States Secret Service.

(c) A person who discloses information under subsection (a)(7) or (a)(15) in good faith is immune from civil and criminal liability.

As added by P.L.2-1993, SEC.22. Amended by P.L.23-1993, SEC.77; P.L.40-1994, SEC.68; P.L.6-1995, SEC.37; P.L.149-1996, SEC.1; P.L.1-1997, SEC.95; P.L.4-1997, SEC.6; P.L.111-1997, SEC.8; P.L.253-1997(ss), SEC.20; P.L.1-1998, SEC.120; P.L.1-1999, SEC.46; P.L.272-1999, SEC.53; P.L.215-2001, SEC.85; P.L.141-2006, SEC.91; P.L.145-2006, SEC.141; P.L.1-2007, SEC.136; P.L.134-2013, SEC.1; P.L.233-2015, SEC.28.

IC 16-39-2-7

Discovery or admissibility without patient's consent

Sec. 7. Except as provided in section 8 of this chapter, the mental health record is not discoverable or admissible in any legal proceeding without the consent of the patient.

As added by P.L.2-1993, SEC.22.

IC 16-39-2-8

Court ordered release of mental health records; provider provision of records

Sec. 8. (a) The court may order the release of the patient's mental health record without the patient's consent upon the showing of good cause following a hearing under IC 16-39-3 or in a proceeding under IC 31-30 through IC 31-40 following a hearing held under the Indiana Rules of Trial Procedure.

(b) A provider shall, upon the request of a court that has committed a patient under IC 12-26-7, IC 12-26-8, IC 35-36-2-4, or IC 35-36-3, release to the court any information from the patient's mental health record that is required by the Federal Bureau of Investigation for transmission to NICS (as defined in IC 35-47-2.5-2.5) in accordance with IC 33-24-6-3.

As added by P.L.2-1993, SEC.22. Amended by P.L.1-1997, SEC.96; P.L.131-2014, SEC.7.

IC 16-39-2-9

Exercise of patient's rights by others; equal access to records; fees

Sec. 9. (a) For the purposes of this chapter, the following persons are entitled to exercise the patient's rights on the patient's behalf:

(1) If the patient is a minor, the parent, guardian, or other court appointed representative of the patient.

(2) If the provider determines that the patient is incapable of

giving or withholding consent, the patient's guardian, a court appointed representative of the patient, a person possessing a health care power of attorney for the patient, or the patient's health care representative.

(b) A custodial parent and a noncustodial parent of a child have equal access to the child's mental health records unless:

(1) a court has issued an order that limits the noncustodial parent's access to the child's mental health records; and

(2) the provider has received a copy of the court order or has actual knowledge of the court order.

If the provider incurs an additional expense by allowing a parent equal access to a child's mental health records, the provider may require the parent requesting the equal access to pay a fee under IC 16-39-9 to cover the cost of the additional expense.

As added by P.L.2-1993, SEC.22. Amended by P.L.4-1997, SEC.7.

IC 16-39-2-10

Decedents' records; consent to release

Sec. 10. For the purposes of this chapter, consent to the release of a deceased patient's record may be given by the personal representative of the patient's estate. If there is no appointment of a personal representative, consent may be given by:

(1) the patient's spouse; or

(2) if there is no spouse, any responsible member of the patient's family, including a parent, guardian, or custodian of the deceased patient's minor child.

As added by P.L.2-1993, SEC.22. Amended by P.L.4-1997, SEC.8.

IC 16-39-2-11

Copying fees

Sec. 11. IC 16-39-9 governs the fees that may be charged for making and providing copies of records under this chapter.

As added by P.L.2-1993, SEC.22. Amended by P.L.102-1994, SEC.3.

IC 16-39-2-12

Application to other mental health records laws

Sec. 12. This chapter does not prohibit the application to mental health records of any law concerning health records that is not addressed by this chapter.

As added by P.L.4-1997, SEC.9.

IC 16-39-3

Chapter 3. Release of Mental Health Records in Investigations and Legal Proceedings

IC 16-39-3-1

Application of chapter

Sec. 1. This chapter applies only to mental health records.

As added by P.L.2-1993, SEC.22.

IC 16-39-3-2

Repealed

(Repealed by P.L.4-1997, SEC.14.)

IC 16-39-3-3

Petition for release of patient's records

Sec. 3. A person:

(1) seeking access to a patient's mental health record without the patient's written consent in an investigation or prosecution resulting from a report filed under IC 16-39-2-6(10); or

(2) who has filed or is a party to a legal proceeding and who seeks access to a patient's mental health record without the patient's written consent;

may file a petition in a circuit or superior court requesting a release of the patient's mental health record.

As added by P.L.2-1993, SEC.22. Amended by P.L.108-1996, SEC.5.

IC 16-39-3-4

Notice of hearing

Sec. 4. Except as provided in section 8 of this chapter, notice of a hearing to be conducted under this chapter shall be served at least fifteen (15) days in advance on the following:

(1) The patient.

(2) The guardian, guardian ad litem or court appointed special advocate appointed for a minor, parent, or custodian of a patient who is incompetent.

(3) The provider that maintains the record or the attorney general if the provider is a state institution.

As added by P.L.2-1993, SEC.22.

IC 16-39-3-5

Right to counsel

Sec. 5. If a patient has an attorney, the patient has the right to have an attorney present at a hearing conducted under this chapter. The notice served under section 4 of this chapter must state the patient's right to have an attorney present if the patient has an attorney. If the patient is under an inpatient commitment to a mental health facility at the time a petition under section 3 of this chapter is filed and the patient is unable to afford an attorney, the court shall appoint an

attorney for the patient.
As added by P.L.2-1993, SEC.22.

IC 16-39-3-6
Confidential hearing record

Sec. 6. A hearing under this chapter shall be conducted in a manner that preserves the confidentiality of the record of the hearing.
As added by P.L.2-1993, SEC.22.

IC 16-39-3-7
Release of records; necessary findings

Sec. 7. At the conclusion of the hearing, the court may order the release of the patient's mental health record if the court finds by a preponderance of the evidence that:

(1) other reasonable methods of obtaining the information are not available or would not be effective; and

(2) the need for disclosure outweighs the potential harm to the patient. In weighing the potential harm to the patient, the court shall consider the impact of disclosure on the provider-patient privilege and the patient's rehabilitative process.

As added by P.L.2-1993, SEC.22.

IC 16-39-3-8
Child in need of services; petition for emergency hearing on request for records of parent, guardian, or custodian

Sec. 8. If an emergency exists in which a child is alleged to be a child in need of services under IC 31-34-1 and the department of child services seeks access to the mental health records of the parent, guardian, or custodian of the child as a part of a preliminary inquiry under IC 31-34-7, the department of child services may file a verified petition, which sets forth the facts the department of child services alleges constitute an emergency, seeking an emergency hearing under this section. A request for access to a patient's mental health record under this section shall be heard by the juvenile court having jurisdiction under IC 31-30 through IC 31-40. Notice of a hearing to be conducted under this section shall be served not later than twenty-four (24) hours before the hearing to all persons entitled to receive notice under section 4 of this chapter. If actual notice cannot be given, the department of child services shall file with the court an affidavit stating that verbal notice or written notice left at the last known address of the respondent was attempted not less than twenty-four (24) hours before the hearing. A hearing under this section shall be held not later than forty-eight (48) hours after the petition for an emergency hearing is filed. The juvenile court shall enter written findings concerning the release or denial of the release of the mental health records of the parent, guardian, or custodian. The juvenile court shall order the release of the mental health records if the court finds the following by a preponderance of the evidence:

(1) Other reasonable methods of obtaining the information sought are not available or would not be effective.

(2) The need for disclosure in the best interests of the child outweighs the potential harm to the patient caused by a necessary disclosure. In weighing the potential harm to the patient, the juvenile court shall consider the impact of disclosure on the provider-patient relationship and the patient's rehabilitative process.

As added by P.L.2-1993, SEC.22. Amended by P.L.4-1993, SEC.245; P.L.5-1993, SEC.258; P.L.1-1997, SEC.97; P.L.146-2008, SEC.448.

IC 16-39-3-9
Court order authorizing release of records; requisites

Sec. 9. A court order authorizing release of a patient's mental health record under this chapter must do the following:

(1) Limit disclosure to those parts of the patient's record that are essential to fulfill the objective of the order.

(2) Limit disclosure to those persons whose need for information is the basis of the order.

(3) Include other measures necessary to limit disclosure for the protection of the patient, the provider-patient privilege, and the rehabilitative process.

As added by P.L.2-1993, SEC.22.

IC 16-39-3-10
Admission of record or related testimony in evidence; confidentiality

Sec. 10. If a patient's mental health record or testimony related to a patient's mental health is offered or admitted into evidence in a legal proceeding, the court shall maintain the record or transcript of the testimony as a confidential court record. The record or transcript may not be used in any other proceeding or for any other purpose.

As added by P.L.2-1993, SEC.22.

IC 16-39-3-11
Proceedings under IC 31-6; exception

Sec. 11. Except as provided in section 8 of this chapter:

(1) this chapter;

(2) the hearing process described in this chapter; and

(3) the standards described in this chapter;

do not apply to proceedings under IC 31-30 through IC 31-40. A proceeding for access to a patient's mental health records under IC 31-30 through IC 31-40 is subject to the Indiana Rules of Trial Procedure.

As added by P.L.2-1993, SEC.22. Amended by P.L.1-1997, SEC.98.

IC 16-39-3-12
Copying fees

Sec. 12. IC 16-39-9 governs the fees that may be charged for making and providing copies of records under this chapter.
As added by P.L.102-1994, SEC.4.

IC 16-39-3-13
Application to other mental health records laws

Sec. 13. This chapter does not prohibit the application to mental health records of any law concerning health records that is not addressed by this chapter.
As added by P.L.4-1997, SEC.10.

IC 16-39-4

Chapter 4. Provision of Mental Health Information

IC 16-39-4-1

Application of chapter

Sec. 1. This chapter applies only to patients receiving mental health services.

As added by P.L.2-1993, SEC.22.

IC 16-39-4-2

"Primary caregiver"; written request from relative or guardian for information; provision of mental health records to a school

Sec. 2. (a) As used in this section, "primary caregiver" means an individual who provides for the physical, emotional, and social needs of another individual who cannot provide for the other individual's own needs.

(b) Upon the written request of a patient's:

(1) spouse;

(2) parent if:

(A) the patient does not have a spouse; or

(B) the parent is the primary caregiver to the patient;

(3) adult child if the patient has neither a spouse nor a parent;

(4) sibling if the patient has neither a spouse, a parent, nor an adult child; or

(5) guardian, guardian ad litem, or court appointed special guardian;

who is involved in the planning, provision, and monitoring of mental health services delivered to the patient and the written consent of the treating physician for the patient, the provider shall provide the individual described in subdivision (1), (2), (3), (4), or (5) with the information described in section 3 of this chapter.

(c) Upon the written request of the parent, guardian, or court appointed special guardian who is involved in the planning, provision, and monitoring of the mental health of a child enrolled in a school, the provider shall provide the child's school principal or school leader with information described in section 3 of this chapter without charge.

(d) A parent, guardian, guardian ad litem, or court appointed special guardian who prepares a written request under this section shall sign an authorization for the release of mental health records, as may be requested by the provider in satisfaction of any requirements under the federal Health Insurance Portability and Accountability Act (42 U.S.C. 201 et seq., as amended and including governing regulations) and state law. A provider that discloses information and records to a school principal or school leader as requested under this chapter is immune from civil, criminal, and administrative liability for the disclosure to the school principal or school leader. The authorization required by the provider may

confirm the provider's immunity.
As added by P.L.2-1993, SEC.22. Amended by P.L.189-1995, SEC.2; P.L.41-2014, SEC.1.

IC 16-39-4-3
Summary response from provider; limitation for mental health information to school; requirement of confidentiality agreement; immunity

Sec. 3. (a) If a provider has received a written request under section 2(b) of this chapter, the provider shall provide the following information to the individual who made the request or, if the request is made under section 2(c) of this chapter, the patient's school principal or school leader:

(1) A summary of the patient's diagnosis.

(2) A summary of the information required to be given to the patient under IC 12-27-6-2 and IC 12-27-6-3.

(3) The types of medication that have been prescribed for the patient.

(4) A summary of the patient's prognosis.

If the information is provided after a request is made under section 2(c) of this chapter, the provider shall limit the information provided to information concerning the patient's mental health. The school principal or school leader shall keep the information the principal or school leader receives under this section confidential.

(b) A school principal or school leader who receives information and mental health records under this chapter shall sign a confidentiality agreement prescribed by the provider confirming that the information and mental health records released by the provider may not be disclosed by the principal except to the minimum necessary extent required to:

(1) inform necessary school staff of the principal's or school leader's decision regarding the student's fitness for school attendance and participation in services; or

(2) satisfy duties imposed upon the principal or school leader by law.

(c) A school principal or school leader who receives information and mental health records under this chapter is immune from civil, criminal, and administrative liability for disclosures made pursuant to this chapter.
As added by P.L.2-1993, SEC.22. Amended by P.L.41-2014, SEC.2.

IC 16-39-4-4
Copying fees

Sec. 4. IC 16-39-9 governs the fees that may be charged for making and providing copies of records under this chapter.
As added by P.L.2-1993, SEC.22. Amended by P.L.102-1994, SEC.5.

IC 16-39-4-5

Information subject to disclosure; exempt institutions; failure of patient to authorize release of information

Sec. 5. (a) This section does not apply to the following:

(1) An institution licensed under IC 12-25.

(2) A hospital licensed under IC 16-21.

(3) A treatment facility certified under IC 12-23-1-6.

(4) A state institution listed under IC 12-24-1.

(b) This section applies only to a patient's mental health records.

(c) A patient, or the patient's legal representative if the patient is incompetent, who consents in writing to the release of information to an insurer that has issued a policy of accident and sickness insurance (as defined in IC 27-8-5-1) covering the patient, authorizes the provider to disclose the following information to the insurer:

(1) The patient's name and the policy or contract number.

(2) The date the patient was admitted to a treatment facility or the date the patient began receiving mental health, intellectual disability, or substance abuse (as defined in IC 27-8-5-15.5) services.

(3) The date of the beginning of the patient's illness.

(4) The date the patient was discharged from the treatment facility or the date the services were terminated, if known.

(5) The diagnosis for the patient with concise information substantiating the diagnosis.

(6) A brief description of the services provided to the patient, including the type of therapy used, medications ordered and administered, the total number of hours spent in individual, group, or family treatment, recreational therapy, or rehabilitation activities.

(7) The patient's status as either an inpatient or outpatient.

(8) The patient's relationship to the policyholder or contract subscriber.

(9) The patient's prognosis and plan of treatment.

An insurer's request for the release of additional mental health information relating to subdivisions (1) through (9) does not require a further release in order for the provider to submit the additional information to the insurer. The provider may release to the insurer mental health information in addition to that reasonably related to subdivisions (1) through (9) if an additional written consent is obtained from the patient or the patient's representative authorizing the release of all information necessary for the insurer to adjudicate a claim made by the patient or the patient's representative. If such a release is obtained, no further releases are required in order for the provider to submit additional information in response to subsequent requests for information by the insurer to complete its review of the claim.

(d) Nothing in this section removes the obligation of a patient to pay for services if the patient's failure to authorize the release of information under this section results in the limitation or denial of

insurance benefits.
As added by P.L.102-1994, SEC.6. Amended by P.L.117-2015, SEC.33.

IC 16-39-4-6
Application to other mental health records laws

Sec. 6. This chapter does not prohibit the application to mental health records of any law concerning health records that is not addressed by this chapter.
As added by P.L.4-1997, SEC.11.

IC 16-39-5

Chapter 5. Release of Health Records to Third Parties and for Legitimate Business Purposes

IC 16-39-5-1

Interprovider exchange of records without patient's consent

Sec. 1. This article does not prohibit a provider from obtaining a patient's health records from another provider without the patient's consent if the health records are needed to provide health care services to the patient.

As added by P.L.2-1993, SEC.22. Amended by P.L.6-1995, SEC.38.

IC 16-39-5-2

Patient's written consent to insurer to obtain records or medical information

Sec. 2. (a) Except as provided in IC 16-39-2, IC 16-39-3, IC 16-39-4, and subsection (d), this article does not prohibit an accident and sickness insurance company (as defined in IC 27-8-5-1) from obtaining health records or medical information with a written consent executed at the time of receiving an application for insurance or at any other time. Such consent may be used at any time for legitimate accident and sickness insurance purposes.

(b) A written consent to obtain health records or medical information obtained at the time of application by an insurance company making any of the types of insurance not defined in IC 27-8-5 may be used for any legitimate insurance purposes for up to two (2) years from the date the contract is issued. A written consent obtained at any other time by an insurance company not defined in IC 27-8-5 may be used for up to one (1) year after the date the consent was signed. A copy of all health records or medical information obtained by an insurance company, other than a life insurance company (as defined in IC 27-1-2-3(s)), by means of the written consent of the patient under this subsection shall be furnished to the patient by the insurance company upon the written request of the patient.

(c) Consents obtained by any insurance company need only contain the following:

(1) Name of the insured.

(2) Date the consent is granted.

(3) Name of the company to which consent is given to receive information.

(4) General nature of the information that may be secured by use of the consent.

(d) Except as provided in subsection (e), an insurance company other than a life insurance company (as defined in IC 27-1-2-3(s)) may not obtain the results of any genetic screening or testing (as defined in IC 27-8-26-2) without a separate written consent by an individual at the time of application for insurance or at any other

time. The form on which an individual indicates written consent must:

(1) indicate in at least 10 point boldface type that the individual need not consent to releasing the results of any genetic testing or screening; and

(2) be approved by the commissioner before use.

(e) An insurance company other than a life insurance company (as defined in IC 27-1-2-3(s)) is not liable if the insurance company:

(1) inadvertently receives the results of any genetic testing or screening (as defined in IC 27-8-26-2); and

(2) has not obtained a separate written consent as required under subsection (d).

An insurance company that inadvertently receives testing or screening results may not use the genetic testing or screening results in violation of IC 27-8-26.

As added by P.L.2-1993, SEC.22. Amended by P.L.1-1994, SEC.89; P.L.150-1997, SEC.1.

IC 16-39-5-3

Provider's use of records; confidentiality; violations

Sec. 3. (a) As used in this section,"association" refers to an Indiana hospital trade association founded in 1921.

(b) As used in this section, "data aggregation" means a combination of information obtained from the health records of a provider with information obtained from the health records of one (1) or more other providers to permit data analysis that relates to the health care operations of the providers.

(c) Except as provided in IC 16-39-4-5, the original health record of the patient is the property of the provider and as such may be used by the provider without specific written authorization for legitimate business purposes, including the following:

(1) Submission of claims for payment from third parties.

(2) Collection of accounts.

(3) Litigation defense.

(4) Quality assurance.

(5) Peer review.

(6) Scientific, statistical, and educational purposes.

(d) In use under subsection (c), the provider shall at all times protect the confidentiality of the health record and may disclose the identity of the patient only when disclosure is essential to the provider's business use or to quality assurance and peer review.

(e) A provider may disclose a health record to another provider or to a nonprofit medical research organization to be used in connection with a joint scientific, statistical, or educational project. Each party that receives information from a health record in connection with the joint project shall protect the confidentiality of the health record and may not disclose the patient's identity except as allowed under this article.

(f) A provider may disclose a health record or information obtained from a health record to the association for use in connection with a data aggregation project undertaken by the association. However, the provider may disclose the identity of a patient to the association only when the disclosure is essential to the project. The association may disclose the information it receives from a provider under this subsection to the state department to be used in connection with a public health activity or data aggregation of inpatient and outpatient discharge information submitted under IC 16-21-6-6. The information disclosed by:

(1) a provider to the association; or

(2) the association to the state department;

under this subsection is confidential.

(g) Information contained in final results obtained by the state department for a public health activity that:

(1) is based on information disclosed under subsection (f); and

(2) identifies or could be used to determine the identity of a patient;

is confidential. All other information contained in the final results is not confidential.

(h) Information that is:

(1) advisory or deliberative material of a speculative nature; or

(2) an expression of opinion;

including preliminary reports produced in connection with a public health activity using information disclosed under subsection (f), is confidential and may only be disclosed by the state department to the association and to the provider who disclosed the information to the association.

(i) The association shall, upon the request of a provider that contracts with the association to perform data aggregation, make available information contained in the final results of data aggregation activities performed by the association in compliance with subsection (f).

(j) A person who recklessly violates or fails to comply with subsections (e) through (h) commits a Class C infraction. Each day a violation continues constitutes a separate offense.

(k) This chapter does not do any of the following:

(1) Repeal, modify, or amend any statute requiring or authorizing the disclosure of information about any person.

(2) Prevent disclosure or confirmation of information about patients involved in incidents that are reported or required to be reported to governmental agencies and not required to be kept confidential by the governmental agencies.

As added by P.L.2-1993, SEC.22. Amended by P.L.102-1994, SEC.7; P.L.103-1994, SEC.1; P.L.2-1995, SEC.73; P.L.231-1999, SEC.15; P.L.44-2002, SEC.5; P.L.78-2004, SEC.23.

IC 16-39-5-4

Copying fees

Sec. 4. IC 16-39-9 governs the fees that may be charged for making and providing copies of records under this chapter.

As added by P.L.102-1994, SEC.8.

IC 16-39-6

Chapter 6. Access to Hospital Records by Hospital Medical Staff Committees

IC 16-39-6-1

Purposes

Sec. 1. It is in the interest of public health and patient medical care that hospital medical staff committees have access to the records and other information concerning the condition and treatment of hospital patients to evaluate the care and treatment of patients as follows:

(1) For research purposes.

(2) For the purpose of gathering statistics and other information concerning the prevention and treatment of diseases, illnesses, and injuries.

(3) For the purpose of reducing morbidity or mortality.

As added by P.L.2-1993, SEC.22.

IC 16-39-6-2

Right of hospital to provide records to medical staff committee

Sec. 2. To carry out the purposes described in section 1 of this chapter, a hospital or agents or employees of the hospital may provide medical records or other information concerning the condition or treatment of a hospital patient to a hospital medical staff committee.

As added by P.L.2-1993, SEC.22.

IC 16-39-6-3

Confidentiality; production on court order

Sec. 3. (a) Except as provided in subsection (b):

(1) records or other information furnished a hospital medical staff committee under this chapter concerning the care and treatment of a hospital patient;

(2) proceedings of a hospital medical staff committee; and

(3) other records or reports of a hospital medical staff committee;

are confidential.

(b) The confidential records and proceedings described in subsection (a) may be produced on court order in a cause in which the records and proceedings are relevant or material.

As added by P.L.2-1993, SEC.22.

IC 16-39-6-4

Use or publication of obtained information; restrictions

Sec. 4. A hospital medical staff committee shall use or publish information the committee obtains from records or other information submitted to the committee concerning the care or treatment of a patient only as follows:

(1) To evaluate matters of medical care, therapy, and treatment.
(2) For research and statistical purposes.
As added by P.L.2-1993, SEC.22.

IC 16-39-6-5
Protection of patient's identity

Sec. 5. (a) The members, agents, or employees of a hospital medical staff committee may not disclose the identity of any patient whose records have been studied in a report or publication of the committee.

(b) The members, agents, and employees of the medical staff committee shall protect the identity of a patient whose condition or treatment has been studied and may not disclose or reveal the identity of any patient.
As added by P.L.2-1993, SEC.22.

IC 16-39-7

Chapter 7. Maintenance of Health Records, X-rays, and Other Tests

IC 16-39-7-1

Maintenance of health records by providers; violations

Sec. 1. (a) As used in this section, "provider" means the following:

(1) A physician.
(2) A dentist.
(3) A registered nurse.
(4) A licensed practical nurse.
(5) An optometrist.
(6) A podiatrist.
(7) A chiropractor.
(8) A physical therapist.
(9) A psychologist.
(10) An audiologist.
(11) A speech-language pathologist.
(12) A home health agency licensed under IC 16-27.
(13) A hospital or facility licensed under IC 16-21-2 or IC 12-25 or described in IC 12-24 or IC 12-29.

(b) A provider shall maintain the original health records or microfilms of the records for at least seven (7) years.

(c) A provider who violates subsection (b) commits an offense for which a board may impose disciplinary sanctions against the provider under the law that governs the provider's licensure, registration, or certification under this title or IC 25.

(d) A provider is immune from civil liability for destroying or failing to maintain a health record in violation of this section if the destruction or failure to maintain the health record occurred in connection with a disaster emergency as declared by the governor under IC 10-14-3-12 or other disaster, unless the destruction or failure to maintain the health record was due to negligence by the provider.

As added by P.L.2-1993, SEC.22. Amended by P.L.177-2009, SEC.7.

IC 16-39-7-2

Maintenance of x-rays by providers; mammograms; violations; civil liability

Sec. 2. (a) This section does not apply to original mammograms, which are governed by section 3 of this chapter.

(b) As used in this section, "x-ray film" includes a microfilm copy of the x-ray film.

(c) A provider shall maintain a patient's x-ray film for at least five (5) years.

(d) At the time an x-ray film is taken, the provider shall do one (1) of the following:

(1) Inform the patient in writing of the following:

(A) The patient's x-ray film will be kept on file by the provider for at least five (5) years.

(B) If the patient would like a copy of the x-ray film during that period, the provider will provide the patient with a copy of the x-ray film at the actual cost to the provider, as provided in IC 16-39-1-2.

(2) Have posted conspicuously in the x-ray examination area a sign informing patients of the following:

(A) All x-ray films will be kept on file by a provider for at least five (5) years.

(B) On request during that time, the provider will provide the patient a copy of the patient's x-ray film at the actual cost to the provider.

(e) A provider is immune from civil liability for destroying or otherwise failing to maintain an x-ray film in violation of this section if the destruction or failure to maintain the x-ray film is inadvertent and not done in bad faith. However, this subsection does not prevent the imposition of disciplinary sanctions against the provider, as described in subsection (f).

(f) A provider who violates this section commits an offense for which a board may impose disciplinary sanctions against the provider under the statute that governs the provider's licensure, registration, or certification under this title or IC 25.

As added by P.L.2-1993, SEC.22. Amended by P.L.86-2001, SEC.1.

IC 16-39-7-3

Original mammogram films; maintenance; transfer

Sec. 3. (a) Except as provided in subsection (b), a provider shall maintain a patient's original mammogram films and reports concerning the mammogram films in a permanent medical record of the patient for not less than:

(1) five (5) years; or

(2) if the provider performs no additional mammograms of the patient, ten (10) years;

after the date the original mammogram films were taken.

(b) Upon request by or on behalf of a patient, a provider shall permanently or temporarily transfer a patient's original mammogram films and copies of any reports concerning the mammogram films to:

(1) a medical institution;

(2) a physician or other health care provider of the patient; or

(3) the patient.

(c) Any fee charged to a patient for providing mammogram films and copies of reports under subsection (b) may not exceed the provider's actual cost in providing the films and reports.

(d) At the time a mammogram is taken, the provider shall inform the patient in writing of:

(1) the length of time that the patient's original mammogram

films will be maintained; and

(2) the procedure for obtaining the original mammogram films and copies of reports concerning the mammogram films as described in subsection (b).

(e) A provider is immune from civil liability for destroying or otherwise failing to maintain a patient's original mammogram films or reports concerning the mammogram films in violation of this section if the destruction or failure to maintain the original mammogram films or reports is inadvertent and not done in bad faith. However, this subsection does not prevent the imposition of disciplinary sanctions against the provider, as described in subsection (f).

(f) A provider who violates this section commits an offense for which a board may impose disciplinary sanctions against the provider under the statute that governs the provider's licensure, registration, or certification under this title or IC 25.

(g) Upon receiving written notice of a change in federal regulations regarding the maintenance and storage of x-ray film taken as a supplemental medical diagnostic tool to mammography, the state department shall make reasonable attempts to promptly notify all x-ray facilities providing mammographic x-ray services regarding the change.

As added by P.L.86-2001, SEC.2.

IC 16-39-7.1
Chapter 7.1. Autopsy Records

IC 16-39-7.1-1
Applicability of chapter
Sec. 1. This chapter applies to a physician.
As added by P.L.271-2001, SEC.3.

IC 16-39-7.1-1.5
"Training or educational purposes"
Sec. 1.5. As used in this chapter, "training or educational purposes" means for the purpose of:
(1) teaching or giving lectures to:
(A) medical students;
(B) physicians;
(C) coroners;
(D) law enforcement personnel;
(E) public safety personnel;
(F) attorneys; or
(G) an individual who relies upon information or records regulated under this chapter in the course of the individual's profession or occupation;
(2) publication in professional medical:
(A) books; or
(B) periodicals; or
(3) use in:
(A) training videos; or
(B) computer programs.
As added by P.L.179-2003, SEC.2.

IC 16-39-7.1-2
Confidentiality of records
Sec. 2. Except as provided in section 3 of this chapter, a photograph, a video recording, or an audio recording of an autopsy in the custody of a physician is confidential.
As added by P.L.271-2001, SEC.3.

IC 16-39-7.1-3
Access to records; confidentiality
Sec. 3. (a) A surviving spouse may:
(1) view and copy a photograph or video recording; and
(2) listen to and copy an audio recording;
of the deceased spouse's autopsy. If there is no surviving spouse, the surviving parents shall have access to the records under this subsection. If there is no surviving spouse or parent, an adult child shall have access to the records.
(b) Upon making a written request, a unit (as defined in IC 36-1-2-23), the state, an agency of the state, the federal

government, or an agency of the federal government, while in performance of their official duty, may:

(1) view and copy a photograph or video recording; and

(2) listen to and copy an audio recording;

of an autopsy. Unless otherwise required in the performance of their duties, the identity of the deceased must remain confidential.

(c) The physician having custody of a photograph, a video recording, or an audio recording of an autopsy may use or allow the use of the photograph, video recording, or audio recording of the autopsy for case consultation with a pathologist or forensic scientist. The physician having custody of a photograph, a video recording, or an audio recording of an autopsy may also use or allow the use of the photograph, video recording, or audio recording of the autopsy for training or educational purposes if all information that identifies the individual on whom the autopsy was performed is masked or removed from the photograph, video recording, or audio recording. For purposes of this subsection, information that identifies an individual consists of:

(1) the name;

(2) the address;

(3) the Social Security number;

(4) a full view of the face; or

(5) identifying marks on the body that are unrelated to the educational purpose of the information or to the medical condition or the medical status;

of the deceased individual. A physician who allows the use of autopsy information under this subsection has a duty to disclose to each person to whom the physician releases it that the information is confidential and may not be used for a purpose other than the purpose for which it was originally released. A physician who fails to disclose the confidentiality restrictions of this information commits a Class A misdemeanor.

(d) Except as provided in subsection (c), the physician having custody of a photograph, a video recording, or an audio recording of an autopsy may not permit a person to:

(1) view and copy a photograph or video recording; and

(2) listen to and copy an audio recording;

of an autopsy without a court order.

(e) Information disclosed under subsection (c) is confidential.

As added by P.L.271-2001, SEC.3. Amended by P.L.179-2003, SEC.3.

IC 16-39-7.1-4

Court orders regarding access to records

Sec. 4. (a) A court, upon a showing of good cause, may issue an order authorizing a person to:

(1) view or copy a photograph or video recording; and

(2) listen to or copy an audio recording;

of an autopsy, and may prescribe any restrictions or stipulations that the court considers appropriate.

(b) In determining good cause, the court shall consider:

(1) whether the disclosure is necessary for the public evaluation of governmental performance;

(2) the seriousness of the intrusion into the family's right to privacy;

(3) whether the disclosure of the photograph, video recording, or audio recording is by the least intrusive means available; and

(4) the availability of similar information in other public records, regardless of form.

(c) In all cases, the viewing, copying, listening to, or other handling of a photograph or video or audio recording of an autopsy must be under the direct supervision of the physician who is the custodian of the record.

As added by P.L.271-2001, SEC.3.

IC 16-39-7.1-5

Notice to survivors of petitions for access to records

Sec. 5. (a) A surviving spouse shall be given:

(1) reasonable notice of the petition filed with the court to view or copy a photograph or video recording of an autopsy or a petition to listen to or copy an audio recording;

(2) a copy of the petition filed with the court to view or copy a photograph or video recording of an autopsy or a petition to listen to or copy an audio recording; and

(3) reasonable notice of the opportunity to be present and heard at any hearing on the matter.

(b) If there is no surviving spouse, the notice under this section must be given to the deceased's parents, and if the deceased has no living parent, the notice must be given to the adult children of the deceased.

As added by P.L.271-2001, SEC.3.

IC 16-39-7.1-6

Violations

Sec. 6. (a) A provider who:

(1) is the custodian of a photograph, a video recording, or an audio recording of an autopsy; and

(2) knowingly or intentionally violates this chapter;

commits a Class A misdemeanor.

(b) A person who knowingly or intentionally violates a court order issued under this chapter commits a Class A misdemeanor.

(c) A person who:

(1) receives autopsy information under section 3(c) of this chapter; and

(2) knowingly or intentionally uses the information in a manner other than the specified purpose for which it was released;

commits a Class A misdemeanor.
As added by P.L.271-2001, SEC.3. Amended by P.L.179-2003, SEC.4.

IC 16-39-8

Chapter 8. Immunity From Liability

IC 16-39-8-1

Libel or slander; immunity

Sec. 1. Providers and the providers' employees, agents, and representatives are immune from civil action for libel or slander arising from information or entries made in a patient health record if the information or entries are made in good faith and without malice.

As added by P.L.2-1993, SEC.22.

IC 16-39-8-2

Applicability

Sec. 2. This chapter applies to mental health records.

As added by P.L.4-1997, SEC.12.

IC 16-39-9

Chapter 9. Charges Permitted for Providing Copies of Medical Records

IC 16-39-9-1

Chapter exemptions

Sec. 1. This chapter does not apply to x-rays covered by either of the following:

(1) IC 16-39-1-2.

(2) IC 16-39-7-2.

As added by P.L.102-1994, SEC.9.

IC 16-39-9-2

Maximum copying fees

Sec. 2. A provider may not charge a person for making and providing copies of medical records an amount greater than the amount set in rules adopted by the department of insurance under section 4 of this chapter.

As added by P.L.102-1994, SEC.9. Amended by P.L.173-2007, SEC.1.

IC 16-39-9-3

Repealed

(As added by P.L.102-1994, SEC.9. Amended by P.L.78-2004, SEC.24. Repealed by P.L.173-2007, SEC.47.)

IC 16-39-9-4

Cost adjustments by department

Sec. 4. (a) As used in this section, "department" refers to the department of insurance created by IC 27-1-1-1.

(b) The department may adopt rules under IC 4-22-2 to set the amounts that may be charged for copying records under this chapter. In adopting rules under this section, the department shall consider the following factors relating to the costs of copying medical records:

(1) The following labor costs:

(A) Verification of requests.

(B) Logging requests.

(C) Retrieval.

(D) Copying.

(E) Refiling.

(2) Software costs for logging requests.

(3) Expense costs for copying.

(4) Capital costs for copying.

(5) Billing and bad debt expenses.

(6) Space costs.

As added by P.L.102-1994, SEC.9. Amended by P.L.173-2007, SEC.2.

IC 16-39-10

Chapter 10. Disclosure of Protected Health Information

IC 16-39-10-1

"Covered entity"

Sec. 1. As used in this chapter, "covered entity" has the meaning set forth in 45 CFR 160.103 as in effect on November 4, 2004.

As added by P.L.47-2005, SEC.1.

IC 16-39-10-2

"Law enforcement official"

Sec. 2. As used in this chapter, "law enforcement official" has the meaning set forth in 45 CFR 164.501 as in effect on November 4, 2004.

As added by P.L.47-2005, SEC.1.

IC 16-39-10-3

"Protected health information"

Sec. 3. As used in this chapter, "protected health information" has the meaning set forth in 45 CFR 160.103 as in effect on November 4, 2004.

As added by P.L.47-2005, SEC.1.

IC 16-39-10-4

Disclosure to law enforcement official

Sec. 4. A covered entity may disclose the following protected health information to a law enforcement official who requests the protected health information for the purpose of identifying or locating a missing person:

(1) Contact information, including family, personal representative, and friends of the individual.

(2) Previous addresses of the individual and the individual's family, personal representative, and friends.

As added by P.L.47-2005, SEC.1.

IC 16-40

ARTICLE 40. OTHER REPORTING REQUIREMENTS

IC 16-40-1

Chapter 1. Reporting of Persons With Disabilities

IC 16-40-1-1

Legislative intent and purpose

Sec. 1. (a) It is the intent of the state to develop, within the limits of the state's capabilities and resources, a program that gives the greatest assurance of enabling a person with a disability to achieve the person's maximum potential and the highest degree of independence possible.

(b) The purpose of this chapter is to create a procedure by which to locate and identify persons with disabilities.

As added by P.L.2-1993, SEC.23. Amended by P.L.23-1993, SEC.78.

IC 16-40-1-2

Persons required to make report

Sec. 2. (a) Except as provided in subsection (b), each:

(1) physician;

(2) superintendent of a hospital;

(3) director of a local health department;

(4) director of a local office of the department of child services;

(5) director of the division of disability and rehabilitative services;

(6) superintendent of a state institution serving individuals with a disability; or

(7) superintendent of a school corporation;

who diagnoses, treats, provides, or cares for a person with a disability shall report the disabling condition to the state department within sixty (60) days.

(b) Each:

(1) physician holding an unlimited license to practice medicine; or

(2) optometrist licensed under IC 25-24-1;

shall file a report regarding a person who is blind or has a visual impairment with the office of the secretary of family and social services in accordance with IC 12-12-9.

As added by P.L.2-1993, SEC.23. Amended by P.L.4-1993, SEC.246; P.L.5-1993, SEC.259; P.L.23-1993, SEC.79; P.L.1-1994, SEC.90; P.L.104-2003, SEC.5; P.L.141-2006, SEC.92; P.L.99-2007, SEC.160; P.L.146-2008, SEC.449.

IC 16-40-1-3

Forms

Sec. 3. A report made under this chapter shall be made in the

manner and upon forms prescribed by and furnished by the state department.
As added by P.L.2-1993, SEC.23.

IC 16-40-1-4
Birth defects reports
Sec. 4. The reports filed under this chapter by hospitals must include birth defects.
As added by P.L.2-1993, SEC.23.

IC 16-40-1-5
School children
Sec. 5. The reports filed under this chapter by school corporations must include children excluded from school because of a disability as well as children with disabilities attending regular or special programs of education.
As added by P.L.2-1993, SEC.23. Amended by P.L.23-1993, SEC.80.

IC 16-40-1-6
Confidentiality
Sec. 6. The contents of a report made under this chapter are solely for the use of departments of state government in the performance of their duties under law and of organizations having a legitimate interest in the information. The reports shall not be open to public inspection and are not public records.
As added by P.L.2-1993, SEC.23.

IC 16-40-1-7
Transmission of reports to state department; tabulation, compilation, and analysis
Sec. 7. All reports filed under this chapter shall be transmitted to the state department. The state department shall tabulate, compile, and analyze the reports and provide information to state departments and organizations having a legitimate interest in the information.
As added by P.L.2-1993, SEC.23.

IC 16-40-2
Repealed
(Repealed by P.L.104-2003, SEC.10.)

IC 16-40-3
Expired

(Expired 6-30-2010 by P.L.196-2005, SEC.3.)

IC 16-40-4

Chapter 4. Health Care Quality Indicator Data Program

IC 16-40-4-1

"Health care quality indicator data"

Sec. 1. As used in this chapter, "health care quality indicator data" means information concerning the provision of health care services that may be collected and used to measure and compare quality of health care services.

As added by P.L.95-2005, SEC.5.

IC 16-40-4-2

"Health coverage provider"

Sec. 2. As used in this chapter, "health coverage provider" means any of the following:

(1) An insurer (as defined in IC 27-1-2-3) that issues or delivers a policy of accident and sickness insurance (as defined in IC 27-8-5-1).

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

(3) The administrator of a program of self-insurance established, implemented, or maintained to provide coverage for health care services to the extent allowed by the federal Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.).

(4) The state Medicaid program (IC 12-15).

(5) The children's health insurance program (IC 12-17.6).

(6) The Indiana comprehensive health insurance association (IC 27-8-10).

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

As added by P.L.95-2005, SEC.5.

IC 16-40-4-3

"Program"

Sec. 3. As used in this chapter, "program" refers to the health care quality indicator data program developed and implemented under sections 4 and 5 of this chapter.

As added by P.L.95-2005, SEC.5.

IC 16-40-4-4

Development of program plan

Sec. 4. The state department shall, in compliance with state and federal law, develop a plan for a health care quality indicator data program. The plan shall be completed by December 31, 2006, and include the following:

(1) A list of health care quality indicators for which data will be collected concerning health care services provided to

individuals who reside or receive health care services in Indiana. The state department shall seek the assistance of health coverage providers and health care providers in developing the list under this subdivision.

(2) A methodology for health care quality indicator data collection, analysis, distribution, and use.

(3) The inclusion of data concerning ethnicity and minority status, as allowed by the individuals about whom health care quality indicator data is collected.

(4) A methodology to provide for a case mix system or other scientific criteria to develop and adjust health quality indicators, including infection rates, that may be affected by risks and variables.

As added by P.L.95-2005, SEC.5.

IC 16-40-4-5

Authorization to develop and implement program

Sec. 5. The state department of health is authorized to develop and implement a health care quality indicator program as provided for in this chapter and to include the following:

(1) Criteria listed under section 4 of this chapter.

(2) Health care quality indicator data collected from a health coverage provider or health care provider under this chapter must be obtainable from electronic records developed and maintained in the health coverage provider's or health care provider's ordinary course of business.

(3) Health coverage providers and health care providers are not required to establish or amend medical record systems or other systems to conform to the program.

As added by P.L.95-2005, SEC.5.

IC 16-40-4-6

Compliance with data collection requirements

Sec. 6. The following shall comply with the data collection requirements of the program:

(1) A health coverage provider.

(2) A health care provider.

(3) An out-of-state health coverage provider that:

(A) provides health coverage;

(B) administers health coverage provided; or

(C) maintains records concerning health coverage provided;

to an individual who resides or receives health care services in Indiana.

(4) An out-of-state health care provider that:

(A) provides health care services; or

(B) maintains records concerning health care services provided;

to an individual who resides or receives health care services in

Indiana.
As added by P.L.95-2005, SEC.5.

IC 16-40-4-7
Confidentiality of information

Sec. 7. (a) Health care quality indicator data and other information collected under this chapter, or resulting from the program, from which the identity of a person, including:

(1) an individual;
(2) a health coverage provider; or
(3) a health care provider;

may be ascertained is confidential and, unless otherwise specified under state or federal law, may not be released to any person without the written consent of the identified person.

(b) Communications, including printed documents, by:

(1) an employee;
(2) an officer;
(3) a governing board member; or
(4) an agent;

of a hospital (licensed under IC 16-21) for the purpose of collecting, identifying, reviewing, or producing data for a health care quality indicator data program under this chapter are confidential.
As added by P.L.95-2005, SEC.5.

IC 16-40-4-8
Confidentiality of financial information

Sec. 8. Financial information that:

(1) is collected under this chapter; or
(2) results from the program;

is confidential.
As added by P.L.95-2005, SEC.5.

IC 16-40-4-9
Rules

Sec. 9. The state department shall adopt rules under IC 4-22-2 to implement this chapter.
As added by P.L.95-2005, SEC.5.

IC 16-40-4-10
Records confidential under chapter remain confidential after chapter expires

Sec. 10. Any information that is confidential under IC 16-40-5 (expired June 30, 2010) remains confidential after IC 16-40-5 expires.
As added by P.L.220-2011, SEC.318. Amended by P.L.63-2012, SEC.22.

IC 16-40-5
Expired

(Expired 6-30-2010 by P.L.101-2007, SEC.3.)

IC 16-41

ARTICLE 41. PUBLIC HEALTH MEASURES FOR THE PREVENTION AND CONTROL OF DISEASE

IC 16-41-1

Chapter 1. Communicable Disease: General Provisions

IC 16-41-1-1

Selection of treatment

Sec. 1. This article is not intended to interfere with the right of an individual to select any mode of treatment, including reliance upon spiritual means through prayer alone for healing.

As added by P.L.2-1993, SEC.24.

IC 16-41-1-2

Rules

Sec. 2. The state department may adopt rules under IC 4-22-2 to implement this article.

As added by P.L.2-1993, SEC.24.

IC 16-41-1-3

Violations

Sec. 3. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.

As added by P.L.2-1993, SEC.24.

IC 16-41-1-4

Rules

Sec. 4. The state department may adopt rules concerning:

(1) sanitation requirements;

(2) requirements for education on sanitation; and

(3) any other health concerns;

associated with threading (as defined in IC 25-8-2-19).

As added by P.L.78-2008, SEC.1.

IC 16-41-2

Chapter 2. Communicable Disease: Reporting of Communicable or Dangerous Diseases

IC 16-41-2-1

Rules

Sec. 1. The state department may adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, that do the following:

(1) Define and classify the following:

(A) Communicable diseases.

(B) Other diseases that are a danger to health based upon the characteristics of the disease.

(2) Establish reporting, monitoring, and preventive procedures for communicable diseases.

As added by P.L.2-1993, SEC.24. Amended by P.L.8-2008, SEC.2.

IC 16-41-2-2

Reporting of required information

Sec. 2. Each:

(1) licensed physician;

(2) administrator of a hospital licensed under IC 16-21-2 or the administrator's representative; or

(3) director of a medical laboratory or the director's representative;

shall report to the local or state health officer designated by the state department the information required to be reported by the rules adopted under section 1 of this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-2-3

Reporting of HIV and AIDS cases

Sec. 3. (a) The following persons shall report to the state department each case of human immunodeficiency virus (HIV) infection, including each confirmed case of acquired immune deficiency syndrome (AIDS):

(1) A licensed physician.

(2) A hospital licensed under IC 16-21.

(3) A medical laboratory.

(4) The department of correction.

The report must comply with rules adopted by the state department.

(b) The records of the state department must indicate, if known:

(1) whether the individual had undergone any blood transfusions before being diagnosed as having AIDS or HIV infection;

(2) the place the transfusions took place;

(3) the blood center that furnished the blood; and

(4) any other known risk factors.

(c) A case report concerning HIV infection that does not involve a confirmed case of AIDS submitted to the state department under this section that involves an individual:

(1) enrolled in a formal research project for which a written study protocol has been filed with the state department;

(2) who is tested anonymously at a designated counseling or testing site; or

(3) who is tested by a health care provider permitted by rule by the state department to use a number identifier code;

may not include the name or other identifying characteristics of the individual tested.

As added by P.L.2-1993, SEC.24. Amended by P.L.293-2001, SEC.2.

IC 16-41-2-4

Waiver of physician-patient privilege

Sec. 4. A patient's privilege with respect to a physician under IC 34-46-3-1 is waived regarding information reported to a local or state health officer under this chapter.

As added by P.L.2-1993, SEC.24. Amended by P.L.1-1998, SEC.121.

IC 16-41-2-5

Satisfaction of statutory notification duties

Sec. 5. A person who reports information as required by this chapter does not satisfy the duties that exist under IC 16-41-7-3 or other laws to provide notification to persons identified as being at significant risk of being infected by the individual who is the subject of the report.

As added by P.L.2-1993, SEC.24.

IC 16-41-2-6

Good faith reporting; immunity

Sec. 6. A person who makes a report under this chapter in good faith is not subject to liability in:

(1) a civil;

(2) an administrative;

(3) a disciplinary; or

(4) a criminal;

action.

As added by P.L.2-1993, SEC.24.

IC 16-41-2-7

False reporting; liability

Sec. 7. A person who knowingly or recklessly makes a false report under this chapter is civilly liable for actual damages suffered by a person who is falsely reported and for punitive damages.

As added by P.L.2-1993, SEC.24.

IC 16-41-2-8

Failure to report required information; penalty

Sec. 8. A person who fails to report information as required by this chapter commits a Class A infraction.

As added by P.L.2-1993, SEC.24.

IC 16-41-2-9

Violations

Sec. 9. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.

As added by P.L.2-1993, SEC.24.

IC 16-41-3

Chapter 3. Communicable Disease: Compilation of Data for Purposes of Preventing Spread of Disease

IC 16-41-3-1

Rules; procedures; notice

Sec. 1. (a) The state department may adopt rules under IC 4-22-2 concerning the compilation for statistical purposes of information collected under IC 16-41-2.

(b) The state department shall adopt procedures to gather, monitor, and tabulate case reports of incidents involving dangerous communicable diseases or unnatural outbreaks of diseases known or suspected to be used as weapons. The state department shall specifically engage in medical surveillance, tabulation, and reporting of confirmed or suspected cases set forth by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services and the United States Public Health Service of the United States Department of Health and Human Services.

(c) The state department shall notify the:

(1) department of homeland security;

(2) Indiana State Police; and

(3) county health department and local law enforcement agency having jurisdiction of each unnatural outbreak or reported case described in subsection (b);

as soon as possible after the state department receives a report under subsection (b). Notification under this subsection must be made not more than twenty-four (24) hours after receiving a report.

As added by P.L.2-1993, SEC.24. Amended by P.L.156-2001, SEC.4; P.L.1-2006, SEC.304.

IC 16-41-3-2

Duties of state department of health

Sec. 2. (a) The state department shall tabulate all case reports of tuberculosis and other dangerous communicable diseases reported under this article or under rules adopted under this article. The state department shall determine the prevalence and distribution of disease in Indiana and devise methods for restricting and controlling disease.

(b) The state department shall include the information on the prevalence and distribution of tuberculosis and other dangerous communicable diseases in the state department's annual report.

(c) The state department shall disseminate the information prepared under this section.

(d) The state department shall develop capabilities and procedures to perform preliminary analysis and identification in as close to a real time basis as is scientifically possible of unknown bacterial substances that have been or may be employed as a weapon. The state department shall implement the developed capacity and procedures immediately after the state department achieves a Level

B capability as determined by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services and the United States Public Health Service of the United States Department of Health and Human Services.
As added by P.L.2-1993, SEC.24. Amended by P.L.156-2001, SEC.5.

IC 16-41-3-3
Violations

Sec. 3. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.
As added by P.L.2-1993, SEC.24.

IC 16-41-4
Chapter 4. Communicable Disease: AIDS Literature

IC 16-41-4-1
Content

Sec. 1. The state department must provide information stressing the moral aspects of abstinence from sexual activity in any literature that the state department distributes to school children and young adults concerning available methods for the prevention of acquired immune deficiency syndrome (AIDS). Such literature must state that the best way to avoid AIDS is for young people to refrain from sexual activity until the young people are ready as adults to establish, in the context of marriage, a mutually faithful monogamous relationship.

As added by P.L.2-1993, SEC.24.

IC 16-41-4-2
Distribution to school children

Sec. 2. The state department may not distribute AIDS literature described in section 1 of this chapter to school children without the consent of the governing body of the school corporation the school children attend.

As added by P.L.2-1993, SEC.24.

IC 16-41-4-3
Violations

Sec. 3. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.

As added by P.L.2-1993, SEC.24.

IC 16-41-5

Chapter 5. Communicable Disease: Investigation by Health Officers; Examination of Individuals With Communicable Disease

IC 16-41-5-1

Entry upon private property; conditions

Sec. 1. (a) The state department may designate an agent who may enter upon private property to inspect for and investigate possible violations of this article or a rule adopted under this article if all of the following conditions are met:

(1) The agent has probable cause to believe that evidence of a health threat exists on private property.

(2) The agent presents proper credentials.

(3) Emergency circumstances exist or a warrant is issued.

(b) This section does not impair the authority of the state department to enter public or private property as authorized by law.

As added by P.L.2-1993, SEC.24.

IC 16-41-5-2

Investigations of carriers; intervention

Sec. 2. The health officer may make an investigation of each carrier of a dangerous communicable disease to determine whether the environmental conditions surrounding the carrier or the conduct of the carrier requires intervention by the health officer or designated health official to prevent the spread of disease to others.

As added by P.L.2-1993, SEC.24.

IC 16-41-5-3

Violations

Sec. 3. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.

As added by P.L.2-1993, SEC.24.

IC 16-41-6

Chapter 6. Communicable Disease: Mandatory Testing of Individuals With Communicable or Dangerous Diseases

IC 16-41-6-0.5

"Standard licensed diagnostic test for HIV"

Sec. 0.5. As used in this chapter, "standard licensed diagnostic test for HIV" means a test recognized by the state department as a standard licensed diagnostic test for the antibody or antigen to HIV. *As added by P.L.237-2003, SEC.5.*

IC 16-41-6-1

HIV screening and testing

Sec. 1. (a) As used in this section, "physician's authorized representative" means:

(1) an advanced practice nurse (as defined by IC 25-23-1-1(b)) who is operating in collaboration with a licensed physician; or

(2) an individual acting under the supervision of a licensed physician and within the individual's scope of employment.

(b) If a physician or the physician's authorized representative determines that it is medically necessary to conduct an HIV test on an individual under the care of a physician, the physician or physician's authorized representative may order the test if the physician or the physician's authorized representative:

(1) informs the patient of the test;

(2) provides an explanation of the test; and

(3) informs the patient of the patient's right to refuse the test.

Subject to subsection (d), if the patient refuses the test, the physician or the physician's authorized representative may not perform the test and shall document the patient's refusal in the patient's medical record.

(c) After ordering an HIV test for a patient, the physician or the physician's authorized representative shall:

(1) discuss with the patient the availability of counseling concerning the test results; and

(2) notify the patient of the test results.

If a test conducted under this section indicates that a patient is HIV infected, in addition to the requirements set forth in IC 16-41-2, the physician or the physician's authorized representative shall inform the patient of treatment and referral options available to the patient.

(d) A physician or a physician's authorized representative may order an HIV test to be performed without informing the patient or the patient's representative (as defined in IC 16-36-1-2) of the test or regardless of the patient's or the patient's representative's refusal of the HIV test if any of the following conditions apply:

(1) If ordered by a physician, consent can be implied due to emergency circumstances and the test is medically necessary to diagnose or treat the patient's condition.

(2) Under a court order based on clear and convincing evidence of a serious and present health threat to others posed by an individual. A hearing held under this subdivision shall be held in camera at the request of the individual.
(3) If the test is done on blood collected or tested anonymously as part of an epidemiologic survey under IC 16-41-2-3 or IC 16-41-17-10(a)(5).
(4) The test is ordered under section 4 of this chapter.
(5) The test is required or authorized under IC 11-10-3-2.5.
(6) The individual upon whom the test will be performed is described in IC 16-41-8-6 or IC 16-41-10-2.5.
(7) A court has ordered the individual to undergo testing for HIV under IC 35-38-1-10.5(a) or IC 35-38-2-2.3(a)(17).
(8) Both of the following are met:
(A) The individual is not capable of providing consent and an authorized representative of the individual is not immediately available to provide consent or refusal of the test.
(B) A health care provider acting within the scope of the health care provider's employment comes into contact with the blood or body fluids of the individual in a manner that has been epidemiologically demonstrated to transmit HIV.

(e) The state department shall make HIV testing and treatment information from the federal Centers for Disease Control and Prevention available to health care providers.

(f) The state department may adopt rules under IC 4-22-2 necessary to implement this section.

As added by P.L.2-1993, SEC.24. Amended by P.L.106-1998, SEC.1; P.L.293-2001, SEC.3; P.L.212-2003, SEC.4; P.L.237-2003, SEC.6; P.L.97-2004, SEC.67; P.L.125-2007, SEC.1; P.L.94-2010, SEC.4; P.L.116-2012, SEC.1; P.L.147-2012, SEC.4.

IC 16-41-6-2
Informed consent; court ordered examinations

Sec. 2. (a) As used in this section, "informed consent" means authorization for physical examination, made without undue inducement or any form of force, fraud, constraint, deceit, duress, or coercion after the following:
(1) A fair explanation of the examination, including the purpose, potential uses, limitations, and the fair meaning of the examination results.
(2) A fair explanation of the procedures to be followed, including the following:
(A) The voluntary nature of the examination.
(B) The right to withdraw consent to the examination process at any time.
(C) The right to anonymity to the extent provided by law with respect to participation in the examination and

disclosure of examination results.

(D) The right to confidential treatment to the extent provided by law of information identifying the subject of the examination and the results of the examination.

(b) If the state health commissioner, the state health commissioner's legally authorized agent, or local health official has reasonable grounds to believe that an individual may have a communicable disease or other disease that is a danger to health, the state health commissioner, the state health commissioner's legally authorized agent, or local health officer may ask the individual for written informed consent to be examined to prevent the transmission of the disease to other individuals.

(c) If the individual, when requested, refuses such an examination, the state health commissioner, the state health commissioner's legally authorized agent, or local health officer may compel the examination only upon a court order based on clear and convincing evidence of a serious and present health threat to others posed by the individual.

(d) A hearing held under this section shall be held in camera at the request of the individual.

As added by P.L.2-1993, SEC.24.

IC 16-41-6-2.5
Repealed

(As added by P.L.255-1996, SEC.13. Repealed by P.L.237-2003, SEC.18.)

IC 16-41-6-3
Violations

Sec. 3. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.

As added by P.L.2-1993, SEC.24.

IC 16-41-6-4
Testing newborn infants; confidentiality; notice; information on treatment options; objecting; rules; application for funds under Ryan White CARE Amendments

Sec. 4. (a) Subject to subsection (f), if:

(1) the mother of a newborn infant has not had a test performed under section 5 or 6 of this chapter;

(2) the mother of a newborn infant has refused a test for the newborn infant to detect HIV or the antibody or antigen to HIV; and

(3) a physician believes that testing the newborn infant is medically necessary;

the physician overseeing the care of the newborn infant may order a confidential test for the newborn infant in order to detect HIV or the

antibody or antigen to HIV. The test must be ordered at the earliest feasible time not exceeding forty-eight (48) hours after the birth of the infant.

(b) If the physician orders a test under subsection (a), the physician must:

(1) notify the mother of the newborn infant of the test; and

(2) provide HIV information and counseling to the mother. The information and counseling must include the following:

(A) The purpose of the test.

(B) The risks and benefits of the test.

(C) A description of the methods of HIV transmission.

(D) A discussion of risk reduction behavior modifications, including methods to reduce the risk of perinatal HIV transmission and HIV transmission through breast milk.

(E) Referral information to other HIV prevention, health care, and psychosocial services.

(c) The confidentiality provisions of IC 16-41-2-3 apply to this section.

(d) The results of the confidential test ordered under subsection (a) must be released to the mother of the newborn infant.

(e) If a test ordered under subsection (a) is positive, the person who provides the results of the test shall inform the mother of the newborn infant of treatment options or referral options available to the newborn infant.

(f) If a parent of the newborn infant objects in writing for reasons pertaining to religious beliefs, the newborn infant is exempt from the test under subsection (a).

(g) The state department shall adopt rules under IC 4-22-2 to carry out this section.

(h) The results of a test performed under this section are confidential.

(i) The state department shall apply for funds under Section 2625 of the Ryan White CARE Amendments of 1996 (42 U.S.C. 300ff-21 et seq.) to pay for all tests conducted under subsection (a).

As added by P.L.106-1998, SEC.2. Amended by P.L.237-2003, SEC.7; P.L.220-2011, SEC.319.

IC 16-41-6-5

Ordering and submitting a pregnant woman's blood sample for testing

Sec. 5. (a) This section applies to:

(1) a physician licensed under IC 25-22.5; or

(2) an advanced practice nurse licensed under IC 25-23;

who provides prenatal care within the scope of the provider's license.

(b) Subject to section 8 of this chapter, an individual described in subsection (a) who:

(1) diagnoses the pregnancy of a woman; or

(2) is primarily responsible for providing prenatal care to a

pregnant woman;

shall order to be taken a sample of the pregnant woman's blood and shall submit the sample to an approved laboratory for a standard licensed diagnostic test for HIV.

As added by P.L.237-2003, SEC.8.

IC 16-41-6-6

No written evidence of testing; ordering and submitting sample

Sec. 6. Subject to section 8 of this chapter, if, at the time of delivery, there is no written evidence that a standard licensed diagnostic test for HIV has been performed under section 5 of this chapter, the physician or advanced practice nurse in attendance at the delivery shall order to be taken a sample of the woman's blood at the time of the delivery and shall submit the sample to an approved laboratory for a standard licensed diagnostic test for HIV.

As added by P.L.237-2003, SEC.9.

IC 16-41-6-7

Right to refuse test

Sec. 7. A pregnant woman has a right to refuse a test under section 5 or 6 of this chapter.

As added by P.L.237-2003, SEC.10.

IC 16-41-6-8

Informing pregnant woman of information; documenting information given and a refusal of test; information if test results positive; confidentiality

Sec. 8. (a) This section applies to a physician or an advanced practice nurse who orders an HIV test under section 5 or 6 of this chapter or to the physician's or nurse's designee.

(b) An individual described in subsection (a) shall:

(1) inform the pregnant woman that:

(A) the individual is required by law to order an HIV test unless the pregnant woman refuses; and

(B) the pregnant woman has a right to refuse the test; and

(2) explain to the pregnant woman:

(A) the purpose of the test; and

(B) the risks and benefits of the test.

(c) An individual described in subsection (a) shall document in the pregnant woman's medical records that the pregnant woman received the information required under subsection (b).

(d) If a pregnant woman refuses to consent to an HIV test, the refusal must be noted by an individual described in subsection (a) in the pregnant woman's medical records.

(e) If a test ordered under section 5 or 6 of this chapter is positive, an individual described in subsection (a):

(1) shall inform the pregnant woman of the test results;

(2) shall inform the pregnant woman of the treatment options or

referral options available to the pregnant woman; and

(3) shall:

(A) provide the pregnant woman with a description of the methods of HIV transmission;

(B) discuss risk reduction behavior modifications with the pregnant woman, including methods to reduce the risk of perinatal HIV transmission and HIV transmission through breast milk; and

(C) provide the pregnant woman with referral information to other HIV prevention, health care, and psychosocial services.

(f) The provisions of IC 16-41-2-3 apply to a positive HIV test under section 5 or 6 of this chapter.

(g) The results of a test performed under section 5 or 6 of this chapter are confidential.

(h) As a routine component of prenatal care, every individual described in subsection (a) is required to provide information and counseling regarding HIV and the standard licensed diagnostic test for HIV and to offer and recommend the standard licensed diagnostic test for HIV.

(i) An individual described in subsection (a) shall document:

(1) the oral or written consent of the pregnant woman to be tested; and

(2) that the pregnant woman was counseled and provided the required information set forth in subsection (b) to ensure that an informed decision has been made.

(j) A pregnant woman who refuses a test under this section must do so in writing.

As added by P.L.237-2003, SEC.11. Amended by P.L.97-2004, SEC.68; P.L.112-2011, SEC.1.

IC 16-41-6-9

Information on confidential part of birth certificate

Sec. 9. The state department shall require, on the confidential part of each birth certificate and stillbirth certificate retained by the state department, in addition to the information otherwise required to be included on the certificate, the following information:

(1) Whether a standard licensed diagnostic test for HIV was performed on the woman who bore the child.

(2) If a standard licensed diagnostic test for HIV was performed:

(A) the date the blood specimen was taken; and

(B) whether the test was performed during pregnancy or at the time of delivery.

(3) If a standard licensed diagnostic test for HIV was not performed, the reason the test was not performed.

As added by P.L.237-2003, SEC.12.

IC 16-41-6-10
Distributing information on HIV treatment options

Sec. 10. The state department shall distribute to physicians and to other individuals who are allowed by law to attend a pregnant woman information available from the federal Centers for Disease Control and Prevention that explains the treatment options available to an individual who has a positive test for HIV.
As added by P.L.237-2003, SEC.13.

IC 16-41-6-11
Rules

Sec. 11. (a) The state department shall adopt rules under IC 4-22-2 that include procedures:

(1) to inform the woman of the test results under this chapter, whether they are positive or negative;
(2) for explaining the side effects of any treatment for HIV if the test results under this chapter are positive; and
(3) to establish a process for a woman who tests positive under this chapter to appeal the woman's status on a waiting list on a treatment program for which the woman is eligible. The rule must:
(A) include a requirement that the state department make a determination in the process described in this subdivision not later than seventy-two (72) hours after the state department receives all the requested medical information; and
(B) set forth the necessary medical information that must be provided to the state department and reviewed by the state department in the process described in this subdivision.

(b) The state department shall maintain rules under IC 4-22-2 that set forth standards to provide to women who are pregnant, before delivery, at delivery, and after delivery, information concerning HIV. The rules must include:

(1) an explanation of the nature of AIDS and HIV;
(2) information concerning discrimination and legal protections;
(3) information concerning the duty to notify persons at risk as described in IC 16-41-7-1;
(4) information about risk behaviors for HIV transmission;
(5) information about the risk of transmission through breast feeding;
(6) notification that if the woman chooses not to be tested for HIV before delivery, at delivery the child will be tested subject to section 4 of this chapter;
(7) procedures for obtaining informed, written consent for testing under this chapter;
(8) procedures for post-test counseling by a health care provider when the test results are communicated to the woman, whether the results are positive or negative;

(9) procedures for referral for physical and emotional services if the test results are positive;

(10) procedures for explaining the importance of immediate entry into medical care if the test results are positive; and

(11) procedures for explaining that giving birth by cesarean section may lessen the likelihood of passing on HIV to the child during childbirth, especially when done in combination with medications, if the test results are positive.

As added by P.L.237-2003, SEC.14.

IC 16-41-6-12

Completing HIV test history and assessment form; retaining copy of form in patient's medical file; systemwide evaluation of prenatal HIV testing

Sec. 12. (a) The state department shall provide that an HIV test history and assessment form from the patient's medical records or an interview with the patient must be filled out. The state department shall develop the form to determine if:

(1) the patient is HIV positive and has been informed; or

(2) the patient was tested during the current pregnancy and tested negative or was not tested during the current pregnancy and the HIV status is unknown.

(b) The form required under subsection (a) must identify what special support or assistance for continued medical care the patient might need as a result of a positive test.

(c) A copy of the form must be:

(1) kept in the patient's medical file;

(2) kept in the baby's medical file; and

(3) given to the doctor in the hospital designated to administer the newborn HIV testing program.

(d) The state department must maintain a systemwide evaluation of prenatal HIV testing in Indiana. The state department shall prescribe the HIV test history and assessment form and a newborn blood screening form. The state department shall remove all identifying information from the maternal test history before the state department performs its analyses and shall not maintain HIV test history data with identifying information.

As added by P.L.237-2003, SEC.15.

IC 16-41-6-13

Treatment program access for women who test positive for HIV

Sec. 13. (a) Women who:

(1) meet all qualifications to participate in the children's health insurance program, the AIDS drug assistance program, the health insurance assistance program, or any other health care program of the state; and

(2) test positive under section 5 or 6 of this chapter;

shall be given first priority on a waiting list for the program if a

waiting list exists. If a program does not have a waiting list, the woman described in this subsection shall be automatically approved and accepted into the program.

(b) If the state department determines during the process described in section 11(a)(3) of this chapter that the treatment of a woman who tests positive under this chapter should not be interrupted because of medical necessity, the woman may enter a program described in subsection (a) regardless of the existence of a waiting list for the program.

As added by P.L.237-2003, SEC.16.

IC 16-41-7

Chapter 7. Communicable Disease: Duty or Authority to Warn or Notify

IC 16-41-7-1

Carriers' duty to warn persons at risk

Sec. 1. (a) This section applies to the following dangerous communicable diseases:

(1) Acquired immune deficiency syndrome (AIDS).

(2) Human immunodeficiency virus (HIV).

(3) Hepatitis B.

(b) As used in this section, "high risk activity" means sexual or needle sharing contact that has been demonstrated epidemiologically to transmit a dangerous communicable disease described in subsection (a).

(c) As used in this section, "person at risk" means:

(1) past and present sexual or needle sharing partners who may have engaged in high risk activity; or

(2) sexual or needle sharing partners before engaging in high risk activity;

with the carrier of a dangerous communicable disease described in subsection (a).

(d) Carriers who know of their status as a carrier of a dangerous communicable disease described in subsection (a) have a duty to warn or cause to be warned by a third party a person at risk of the following:

(1) The carrier's disease status.

(2) The need to seek health care such as counseling and testing.

As added by P.L.2-1993, SEC.24.

IC 16-41-7-2

Reporting of persons posing serious and present danger or being at risk

Sec. 2. (a) A carrier is a "serious and present danger to the health of others" under the following conditions:

(1) The carrier engages repeatedly in a behavior that has been demonstrated epidemiologically (as defined by rules adopted by the state department under IC 4-22-2) to transmit a dangerous communicable disease or that indicates a careless disregard for the transmission of the disease to others.

(2) The carrier's past behavior or statements indicate an imminent danger that the carrier will engage in behavior that transmits a dangerous communicable disease to others.

(3) The carrier has failed or refused to carry out the carrier's duty to warn under section 1 of this chapter.

(b) A person who has reasonable cause to believe that a person:

(1) is a serious and present danger to the health of others as described in subsection (a);

(2) has engaged in noncompliant behavior; or

(3) is suspected of being a person at risk (as described in section 1 of this chapter);

may report that information to a health officer.

(c) A person who makes a report under subsection (b) in good faith is not subject to liability in a civil, an administrative, a disciplinary, or a criminal action.

(d) A person who knowingly or recklessly makes a false report under subsection (b) is civilly liable for actual damages suffered by a person reported on and for punitive damages.

As added by P.L.2-1993, SEC.24.

IC 16-41-7-3

Notification by physician

Sec. 3. (a) A licensed physician who diagnoses, treats, or counsels a patient with a dangerous communicable disease shall inform the patient of the patient's duty under section 1 of this chapter.

(b) A physician described in subsection (a) may notify the following:

(1) A health officer if the physician has reasonable cause to believe that a patient:

(A) is a serious and present danger to the health of others as described in section 2(a) of this chapter;

(B) has engaged in noncompliant behavior; or

(C) is suspected of being a person at risk (as defined in section 1 of this chapter).

(2) A person at risk (as defined in section 1 of this chapter) or a person legally responsible for the patient if the physician:

(A) has medical verification that the patient is a carrier;

(B) knows the identity of the person at risk;

(C) has a reasonable belief of a significant risk of harm to the identified person at risk;

(D) has reason to believe the identified person at risk has not been informed and will not be informed of the risk by the patient or another person; and

(E) has made reasonable efforts to inform the carrier of the physician's intent to make or cause the state department of health to make a disclosure to the person at risk.

(c) A physician who notifies a person at risk under this section shall do the following:

(1) Identify the dangerous communicable disease.

(2) Inform the person of available health care measures such as counseling and testing.

(d) A physician who in good faith provides notification under this section is not subject to liability in a civil, an administrative, a disciplinary, or a criminal action.

(e) A patient's privilege with respect to a physician under IC 34-46-3-1 is waived regarding:

(1) notification under subsection (b); and

(2) information provided about a patient's noncompliant behavior in an investigation or action under this chapter, IC 16-41-2, IC 16-41-3, IC 16-41-5, IC 16-41-6, IC 16-41-8, IC 16-41-9, IC 16-41-13, IC 16-41-14, and IC 16-41-16.

(f) A physician's immunity from liability under subsection (d) applies only to the provision of information reasonably calculated to protect an identified person who is at epidemiological risk of infection.

(g) A physician who notifies a person under this section is also required to satisfy the reporting requirements under IC 16-41-2-2 through IC 16-41-2-8.

As added by P.L.2-1993, SEC.24. Amended by P.L.1-1998, SEC.122.

IC 16-41-7-4

Investigation of carriers; notification of persons at risk

Sec. 4. (a) As used in this section, "person at risk" means an individual who in the best judgment of a licensed physician:

(1) has engaged in high risk activity (as defined in section 1 of this chapter); or

(2) is in imminent danger of engaging in high risk activity (as defined in section 1 of this chapter).

(b) If a health officer is notified in writing by a physician under section 3(b)(1)(A) of this chapter of a patient:

(1) for whom the physician has medical verification that the patient is a carrier; and

(2) who, in the best judgment of the physician, is a serious and present danger to the health of others;

the health officer shall make an investigation of the carrier as authorized in IC 16-41-5-2 to determine whether the environmental conditions surrounding the carrier or the conduct of the carrier requires the intervention by the health officer or designated health official to prevent the spread of disease to others.

(c) If the state department is requested in writing by a physician who has complied with the requirements of section 3(b)(2) of this chapter to notify a person at risk, the state department shall notify the person at risk unless, in the opinion of the state department, the person at risk:

(1) has already been notified;

(2) will be notified; or

(3) will otherwise be made aware that the person is a person at risk.

(d) The state department shall establish a confidential registry of all persons submitting written requests under subsection (c).

(e) The state department shall adopt rules under IC 4-22-2 to implement this section. Local health officers may submit advisory guidelines to the state department to implement this chapter, IC 16-41-1, IC 16-41-3, IC 16-41-5, IC 16-41-8, or IC 16-41-9. The

state department shall fully consider such advisory guidelines before adopting a rule under IC 4-22-2-29 implementing this chapter, IC 16-41-1, IC 16-41-3, IC 16-41-5, IC 16-41-8, or IC 16-41-9.
As added by P.L.2-1993, SEC.24.

IC 16-41-7-5
Violations

Sec. 5. (a) Except as provided in IC 35-45-21-3, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.
As added by P.L.2-1993, SEC.24. Amended by P.L.1-1999, SEC.47; P.L.158-2013, SEC.240.

IC 16-41-7.5

Chapter 7.5. Communicable Disease: Syringe Exchange Program

IC 16-41-7.5-1

"Local health department"

Sec. 1. As used in this chapter, "local health department" refers to:

(1) a local health department established under IC 16-20; or

(2) the health and hospital corporation created under IC 16-22-8.

As added by P.L.208-2015, SEC.9.

IC 16-41-7.5-2

"Program"

Sec. 2. As used in this chapter, "program" means a syringe exchange program operated under this chapter.

As added by P.L.208-2015, SEC.9.

IC 16-41-7.5-3

"Qualified entity"

Sec. 3. As used in this chapter, "qualified entity" means any of the following:

(1) A local health department.

(2) A municipality (as defined by IC 36-1-2-11) that operates a program within the boundaries of the municipality.

(3) A nonprofit organization that operates a program and has been approved by official action to operate the program by:

(A) the local health department;

(B) the executive body of the county; or

(C) the legislative body of a municipality for the operation of a program within the boundaries of the municipality.

As added by P.L.208-2015, SEC.9.

IC 16-41-7.5-4

Location of programs; complying with requirements

Sec. 4. (a) A qualified entity may operate a program only in a county where a public health emergency has been declared. However, a qualified entity may not operate a program outside of the jurisdictional area of the governmental body that approved the qualified entity.

(b) A qualified entity that meets the requirements in subsection (a) and complies with the requirements of this chapter may operate a program.

As added by P.L.208-2015, SEC.9.

IC 16-41-7.5-5

Requirements to operate a program

Sec. 5. Before a qualified entity may operate a program in a

county, the following shall occur:

(1) The local health officer or the executive director must declare to the executive body of the county or the legislative body of the municipality the following:

(A) There is an epidemic of hepatitis C or HIV.

(B) That the primary mode of transmission of hepatitis C or HIV in the county is through intravenous drug use.

(C) That a syringe exchange program is medically appropriate as part of a comprehensive public health response.

(2) The legislative body of the municipality or the executive body of the county must do the following:

(A) Conduct a public hearing that allows for public testimony.

(B) Take official action adopting the declarations under subdivision (1) by the local health officer or the executive director in consideration of the public health for the area that the body represents.

(3) The legislative body of the municipality or the executive body of the county that took official action under subdivision (2) notifies the state health commissioner of:

(A) the body's actions under subdivision (2);

(B) the request that the state health commissioner declare a public health emergency; and

(C) other measures taken concerning the epidemic that have proven ineffective.

(4) The state health commissioner has declared a public health emergency for the county or municipality.

As added by P.L.208-2015, SEC.9.

IC 16-41-7.5-6

Duties

Sec. 6. A qualified entity that operates a program under this chapter must do the following:

(1) Annually register the program in a manner prescribed by the state department with the:

(A) state department; and

(B) local health department in the county where services will be provided by the qualified entity if the qualified entity is not the local health department.

(2) Have one (1) of the following licensed in Indiana provide oversight to the qualified entity's programs:

(A) A physician.

(B) A registered nurse.

(C) A physician assistant.

(3) Store and dispose of all syringes and needles collected in a safe and legal manner.

(4) Provide education and training on drug overdose response

and treatment, including the administration of an overdose intervention drug.

(5) Provide drug addiction treatment information and referrals to drug treatment programs, including programs in the local area and programs that offer medication assisted treatment that includes a federal Food and Drug Administration approved long acting, nonaddictive medication for the treatment of opioid or alcohol dependence.

(6) Provide syringe and needle distribution and collection without collecting or recording personally identifiable information.

(7) Operate in a manner consistent with public health and safety.

(8) Ensure the program is medically appropriate and part of a comprehensive public health response.

As added by P.L.208-2015, SEC.9.

IC 16-41-7.5-7
Termination

Sec. 7. (a) The following may terminate the approval of a qualified entity:

(1) The legislative body of the municipality, the executive body of the county, or the local health department that approved the qualified entity.

(2) The state health commissioner, if the state health commissioner determines that the qualified entity has failed to comply with section 6 of this chapter.

(b) If a person described in subsection (a)(1) or (a)(2) terminates the approval of a qualified entity, the person shall notify the other person with authority to terminate that is described in subsection (a) of the termination.

As added by P.L.208-2015, SEC.9.

IC 16-41-7.5-8
Use of state funds

Sec. 8. A state agency may not provide funds to a qualified entity to purchase or otherwise acquire hypodermic syringes or needles for a program under this chapter.

As added by P.L.208-2015, SEC.9.

IC 16-41-7.5-9
Attending a program does not constitute reasonable suspicion or probable cause

Sec. 9. (a) A law enforcement officer may not stop, search, or seize an individual based on the fact the individual has attended a program under this chapter.

(b) The fact an individual has attended a program under this chapter may not be the basis, in whole or in part, for a determination

of probable cause or reasonable suspicion by a law enforcement officer.
As added by P.L.208-2015, SEC.9. Amended by P.L.44-2016, SEC.1.

IC 16-41-7.5-10
Program reports

Sec. 10. A program shall file a quarterly report with the state department. The report must contain the following information listed on a daily basis and by the location, identified by the postal ZIP code, where the program distributed and collected syringes and needles:

(1) The number of individuals served.
(2) The number of syringes and needles collected.
(3) The number of syringes and needles distributed.

The state department may request that a qualified entity supply additional information concerning the program operated by the qualified entity.
As added by P.L.208-2015, SEC.9.

IC 16-41-7.5-11
Request for public health emergency declaration; approval and denial; expiration

Sec. 11. (a) If the state health commissioner receives a request to declare a public health emergency under this chapter, the state health commissioner shall approve, deny, or request additional information concerning the request under section 5 of this chapter not later than ten (10) calendar days from the date the request is submitted to the state health commissioner. If additional information is:

(1) requested by the state health commissioner; and
(2) provided by the entity seeking the declaration;

the state health commissioner shall approve or deny the request not later than ten (10) calendar days from the submission date of the additional information.

(b) A public health emergency declared under this section may remain in effect for not more than one (1) year from the date the public health emergency is declared. However, the state health commissioner may renew the declaration of a public health emergency upon the request of the executive body of the county or the legislative body of the municipality that requested the initial declaration.
As added by P.L.208-2015, SEC.9.

IC 16-41-7.5-12
State department report

Sec. 12. Before November 1 of each year, the state department shall submit a report concerning syringe exchange programs operated under this chapter to the governor and to the general assembly in an electronic format under IC 5-14-6.

As added by P.L.208-2015, SEC.9.

IC 16-41-7.5-13
Governor's authority

Sec. 13. This chapter may not be construed to preclude the governor from taking any action within the governor's authority.
As added by P.L.208-2015, SEC.9.

IC 16-41-7.5-14
Expiration of chapter

Sec. 14. This chapter expires July 1, 2019.
As added by P.L.208-2015, SEC.9.

IC 16-41-8

Chapter 8. Communicable Disease: Confidentiality Requirements

IC 16-41-8-1 Version a

"Potentially disease transmitting offense"; disclosure of medical or epidemiological information involving communicable disease prohibited; exceptions; penalties

Note: This version of section effective until 7-1-2016. See also following version of this section, effective 7-1-2016.

Sec. 1. (a) As used in this chapter, "potentially disease transmitting offense" means any of the following:

(1) Battery involving placing a bodily fluid or waste on another person (IC 35-42-2-1).

(2) An offense relating to a criminal sexual act (as defined in IC 35-31.5-2-216), if sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) occurred.

The term includes an attempt to commit an offense, if sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) occurred, and a delinquent act that would be a crime if committed by an adult.

(b) Except as provided in this chapter, a person may not disclose or be compelled to disclose medical or epidemiological information involving a communicable disease or other disease that is a danger to health (as defined under rules adopted under IC 16-41-2-1). This information may not be released or made public upon subpoena or otherwise, except under the following circumstances:

(1) Release may be made of medical or epidemiologic information for statistical purposes if done in a manner that does not identify an individual.

(2) Release may be made of medical or epidemiologic information with the written consent of all individuals identified in the information released.

(3) Release may be made of medical or epidemiologic information to the extent necessary to enforce public health laws, laws described in IC 31-37-19-4 through IC 31-37-19-6, IC 31-37-19-9 through IC 31-37-19-10, IC 31-37-19-12 through IC 31-37-19-23, IC 35-38-1-7.1, and IC 35-45-21-1 or to protect the health or life of a named party.

(4) Release may be made of the medical information of a person in accordance with this chapter.

(c) Except as provided in this chapter, a person responsible for recording, reporting, or maintaining information required to be reported under IC 16-41-2 who recklessly, knowingly, or intentionally discloses or fails to protect medical or epidemiologic information classified as confidential under this section commits a Class A misdemeanor.

(d) In addition to subsection (c), a public employee who violates

this section is subject to discharge or other disciplinary action under the personnel rules of the agency that employs the employee.

(e) Release shall be made of the medical records concerning an individual to:

(1) the individual;

(2) a person authorized in writing by the individual to receive the medical records; or

(3) a coroner under IC 36-2-14-21.

(f) An individual may voluntarily disclose information about the individual's communicable disease.

(g) The provisions of this section regarding confidentiality apply to information obtained under IC 16-41-1 through IC 16-41-16.

As added by P.L.2-1993, SEC.24. Amended by P.L.181-1993, SEC.1; P.L.1-1997, SEC.99; P.L.28-2002, SEC.2; P.L.99-2002, SEC.7; P.L.135-2005, SEC.2; P.L.125-2009, SEC.1; P.L.114-2012, SEC.41; P.L.158-2013, SEC.241; P.L.149-2016, SEC.48.

IC 16-41-8-1 Version b

"Potentially disease transmitting offense"

Note: This version of section effective 7-1-2016. See also preceding version of this section, effective until 7-1-2016.

Sec. 1. (a) As used in this chapter, "potentially disease transmitting offense" means any of the following:

(1) Battery (IC 35-42-2-1) or domestic battery (IC 35-42-2-1.3) involving placing a bodily fluid or waste on another person.

(2) An offense relating to a criminal sexual act (as defined in IC 35-31.5-2-216), if sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) occurred.

The term includes an attempt to commit an offense, if sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) occurred, and a delinquent act that would be a crime if committed by an adult.

(b) Except as provided in this chapter, a person may not disclose or be compelled to disclose medical or epidemiological information involving a communicable disease or other disease that is a danger to health (as defined under rules adopted under IC 16-41-2-1). This information may not be released or made public upon subpoena or otherwise, except under the following circumstances:

(1) Release may be made of medical or epidemiologic information for statistical purposes if done in a manner that does not identify an individual.

(2) Release may be made of medical or epidemiologic information with the written consent of all individuals identified in the information released.

(3) Release may be made of medical or epidemiologic information to the extent necessary to enforce public health laws, laws described in IC 31-37-19-4 through IC 31-37-19-6, IC 31-37-19-9 through IC 31-37-19-10, IC 31-37-19-12 through

IC 31-37-19-23, IC 35-38-1-7.1, and IC 35-45-21-1 or to protect the health or life of a named party.

(4) Release may be made of the medical information of a person in accordance with this chapter.

(c) Except as provided in this chapter, a person responsible for recording, reporting, or maintaining information required to be reported under IC 16-41-2 who recklessly, knowingly, or intentionally discloses or fails to protect medical or epidemiologic information classified as confidential under this section commits a Class A misdemeanor.

(d) In addition to subsection (c), a public employee who violates this section is subject to discharge or other disciplinary action under the personnel rules of the agency that employs the employee.

(e) Release shall be made of the medical records concerning an individual to:

(1) the individual;

(2) a person authorized in writing by the individual to receive the medical records; or

(3) a coroner under IC 36-2-14-21.

(f) An individual may voluntarily disclose information about the individual's communicable disease.

(g) The provisions of this section regarding confidentiality apply to information obtained under IC 16-41-1 through IC 16-41-16.

As added by P.L.2-1993, SEC.24. Amended by P.L.181-1993, SEC.1; P.L.1-1997, SEC.99; P.L.28-2002, SEC.2; P.L.99-2002, SEC.7; P.L.135-2005, SEC.2; P.L.125-2009, SEC.1; P.L.114-2012, SEC.41; P.L.158-2013, SEC.241; P.L.149-2016, SEC.48; P.L.65-2016, SEC.7.

IC 16-41-8-2

Voluntary contact notification program information; use as evidence; release

Sec. 2. (a) Identifying information voluntarily given to the health officer or an agent of the health officer through a voluntary contact notification program may not be used as evidence in a court proceeding to determine noncompliant behavior under IC 16-41-1 through IC 16-41-16.

(b) A court may release to:

(1) an individual; or

(2) a representative designated in writing by the individual;

information or records relating to the individual's medical condition if the individual is a party in a pending action involving restriction of the individual's actions under IC 16-41-1 through IC 16-41-16. A person who obtains information under this subsection is subject to section 1 of this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-8-3

Violations

Sec. 3. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.
As added by P.L.2-1993, SEC.24.

IC 16-41-8-4

Procedure for obtaining medical information concerning a person charged with certain offenses

Sec. 4. (a) This section applies to the release of medical information that may be relevant to the prosecution or defense of a person who has been charged with a potentially disease transmitting offense.

(b) A:

(1) prosecuting attorney may seek to obtain access to a defendant's medical information if the defendant has been charged with a potentially disease transmitting offense; and

(2) defendant who has been charged with a potentially disease transmitting offense may seek access to the medical information of another person if the medical information would be relevant to the defendant's defense;

by filing a verified petition for the release of medical information with the court.

(c) The prosecuting attorney or defendant who files a petition under subsection (b) shall serve a copy of the petition on:

(1) the person whose medical information is sought;

(2) the guardian, guardian ad litem, or court appointed special advocate appointed for a minor, parent, or custodian of a person who is incompetent, if applicable; and

(3) the provider that maintains the record, or the attorney general if the provider is a state agency;

at the time of filing in accordance with Indiana Trial Rule 4.

(d) The court shall set the matter for hearing not later than twenty (20) days after the date of filing.

(e) If, following a hearing for release of a person's medical information, the court finds probable cause to believe that the medical information may be relevant to the prosecution or defense of a person who has been charged with a potentially disease transmitting offense, the court shall order the person having custody of the person's medical information to release the medical information to the court.

(f) The court shall examine the person's medical information in camera. If, after examining the medical information in camera and considering the evidence presented at the hearing, the court finds probable cause to believe that the medical information is relevant to the prosecution or defense of a person who has been charged with a potentially disease transmitting offense, the court may order the

release of a person's medical information to the petitioner.

(g) In an order issued under subsection (f), the court shall:

(1) permit the disclosure of only those parts of the person's medical information that are essential to fulfill the objective of the order;

(2) restrict access to the medical information to those persons whose need for the information is the basis of the order; and

(3) include in its order any other appropriate measures to limit disclosure of the medical information to protect the right to privacy of the person who is the subject of the medical information.

(h) A hearing for the release of a person's medical information may be closed to the public. The transcript of the hearing, the court's order, and all documents filed in connection with the hearing are confidential. In addition, if a person's medical information is disclosed in a legal proceeding, the court shall order the record or transcript of the testimony to be preserved as a confidential court record.

(i) This section does not prohibit the application to medical information of any law concerning medical information that is not addressed by this section.

As added by P.L.125-2009, SEC.2. Amended by P.L.1-2010, SEC.72.

IC 16-41-8-5 Version a

Medical screening of a person charged with certain offenses

Note: This version of section effective until 7-1-2016. See also following version of this section, effective 7-1-2016.

Sec. 5. (a) This section does not apply to medical testing of an individual for whom an indictment or information is filed for a sex crime and for whom a request to have the individual tested under section 6 of this chapter is filed.

(b) The following definitions apply throughout this section:

(1) "Bodily fluid" means blood, human waste, or any other bodily fluid.

(2) "Dangerous disease" means any of the following:

(A) Chancroid.

(B) Chlamydia.

(C) Gonorrhea.

(D) Hepatitis.

(E) Human immunodeficiency virus (HIV).

(F) Lymphogranuloma venereum.

(G) Syphilis.

(H) Tuberculosis.

(3) "Offense involving the transmission of a bodily fluid" means any offense (including a delinquent act that would be a crime if committed by an adult) in which a bodily fluid is transmitted from the defendant to the victim in connection with the commission of the offense.

(c) This subsection applies only to a defendant who has been charged with a potentially disease transmitting offense. At the request of an alleged victim of the offense, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, or the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2), the prosecuting attorney shall petition a court to order a defendant charged with the commission of a potentially disease transmitting offense to submit to a screening test to determine whether the defendant is infected with a dangerous disease. In the petition, the prosecuting attorney must set forth information demonstrating that the defendant has committed a potentially disease transmitting offense. The court shall set the matter for hearing not later than forty-eight (48) hours after the prosecuting attorney files a petition under this subsection. The alleged victim, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, and the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2) are entitled to receive notice of the hearing and are entitled to attend the hearing. The defendant and the defendant's counsel are entitled to receive notice of the hearing and are entitled to attend the hearing. If, following the hearing, the court finds probable cause to believe that the defendant has committed a potentially disease transmitting offense, the court may order the defendant to submit to a screening test for one (1) or more dangerous diseases. If the defendant is charged with battery involving placing a bodily fluid or waste on another person (IC 35-42-2-1), the court may limit testing under this subsection to a test only for human immunodeficiency virus (HIV). However, the court may order additional testing for human immunodeficiency virus (HIV) as may be medically appropriate. The court shall take actions to ensure the confidentiality of evidence introduced at the hearing.

(d) This subsection applies only to a defendant who has been charged with an offense involving the transmission of a bodily fluid. At the request of an alleged victim of the offense, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, or the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2), the prosecuting attorney shall petition a court to order a defendant charged with the commission of an offense involving the transmission of a bodily fluid to submit to a screening test to determine whether the defendant is infected with a dangerous disease. In the petition, the prosecuting attorney must set forth information demonstrating that:

(1) the defendant has committed an offense; and

(2) a bodily fluid was transmitted from the defendant to the victim in connection with the commission of the offense.

The court shall set the matter for hearing not later than forty-eight (48) hours after the prosecuting attorney files a petition under this

subsection. The alleged victim of the offense, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, and the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2) are entitled to receive notice of the hearing and are entitled to attend the hearing. The defendant and the defendant's counsel are entitled to receive notice of the hearing and are entitled to attend the hearing. If, following the hearing, the court finds probable cause to believe that the defendant has committed an offense and that a bodily fluid was transmitted from the defendant to the alleged victim in connection with the commission of the offense, the court may order the defendant to submit to a screening test for one (1) or more dangerous diseases. If the defendant is charged with battery involving placing bodily fluid or waste on another person (IC 35-42-2-1), the court may limit testing under this subsection to a test only for human immunodeficiency virus (HIV). However, the court may order additional testing for human immunodeficiency virus (HIV) as may be medically appropriate. The court shall take actions to ensure the confidentiality of evidence introduced at the hearing.

(e) The testimonial privileges applying to communication between a husband and wife and between a health care provider and the health care provider's patient are not sufficient grounds for not testifying or providing other information at a hearing conducted in accordance with this section.

(f) A health care provider (as defined in IC 16-18-2-163) who discloses information that must be disclosed to comply with this section is immune from civil and criminal liability under Indiana statutes that protect patient privacy and confidentiality.

(g) The results of a screening test conducted under this section shall be kept confidential if the defendant ordered to submit to the screening test under this section has not been convicted of the potentially disease transmitting offense or offense involving the transmission of a bodily fluid with which the defendant is charged. The results may not be made available to any person or public or private agency other than the following:

(1) The defendant and the defendant's counsel.

(2) The prosecuting attorney.

(3) The department of correction or the penal facility, juvenile detention facility, or secure private facility where the defendant is housed.

(4) The alleged victim or the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, or the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2), and the alleged victim's counsel.

The results of a screening test conducted under this section may not be admitted against a defendant in a criminal proceeding or against a child in a juvenile delinquency proceeding.

(h) As soon as practicable after a screening test ordered under this section has been conducted, the alleged victim or the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, or the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2), and the victim's counsel shall be notified of the results of the test.

(i) An alleged victim may disclose the results of a screening test to which a defendant is ordered to submit under this section to an individual or organization to protect the health and safety of or to seek compensation for:

(1) the alleged victim;

(2) the alleged victim's sexual partner; or

(3) the alleged victim's family.

(j) The court shall order a petition filed and any order entered under this section sealed.

(k) A person that knowingly or intentionally:

(1) receives notification or disclosure of the results of a screening test under this section; and

(2) discloses the results of the screening test in violation of this section;

commits a Class B misdemeanor.

As added by P.L.125-2009, SEC.3. Amended by P.L.94-2010, SEC.5; P.L.158-2013, SEC.242; P.L.149-2016, SEC.49.

IC 16-41-8-5 Version b

Medical screening of a person charged with certain offenses

Note: This version of section effective 7-1-2016. See also preceding version of this section, effective until 7-1-2016.

Sec. 5. (a) This section does not apply to medical testing of an individual for whom an indictment or information is filed for a sex crime and for whom a request to have the individual tested under section 6 of this chapter is filed.

(b) The following definitions apply throughout this section:

(1) "Bodily fluid" means blood, human waste, or any other bodily fluid.

(2) "Dangerous disease" means any of the following:

(A) Chancroid.

(B) Chlamydia.

(C) Gonorrhea.

(D) Hepatitis.

(E) Human immunodeficiency virus (HIV).

(F) Lymphogranuloma venereum.

(G) Syphilis.

(H) Tuberculosis.

(3) "Offense involving the transmission of a bodily fluid" means any offense (including a delinquent act that would be a crime if committed by an adult) in which a bodily fluid is transmitted from the defendant to the victim in connection with the

commission of the offense.

(c) This subsection applies only to a defendant who has been charged with a potentially disease transmitting offense. At the request of an alleged victim of the offense, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, or the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2), the prosecuting attorney shall petition a court to order a defendant charged with the commission of a potentially disease transmitting offense to submit to a screening test to determine whether the defendant is infected with a dangerous disease. In the petition, the prosecuting attorney must set forth information demonstrating that the defendant has committed a potentially disease transmitting offense. The court shall set the matter for hearing not later than forty-eight (48) hours after the prosecuting attorney files a petition under this subsection. The alleged victim, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, and the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2) are entitled to receive notice of the hearing and are entitled to attend the hearing. The defendant and the defendant's counsel are entitled to receive notice of the hearing and are entitled to attend the hearing. If, following the hearing, the court finds probable cause to believe that the defendant has committed a potentially disease transmitting offense, the court may order the defendant to submit to a screening test for one (1) or more dangerous diseases. If the defendant is charged with battery (IC 35-42-2-1) or domestic battery (IC 35-42-2-1.3) involving placing a bodily fluid or waste on another person, the court may limit testing under this subsection to a test only for human immunodeficiency virus (HIV). However, the court may order additional testing for human immunodeficiency virus (HIV) as may be medically appropriate. The court shall take actions to ensure the confidentiality of evidence introduced at the hearing.

(d) This subsection applies only to a defendant who has been charged with an offense involving the transmission of a bodily fluid. At the request of an alleged victim of the offense, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, or the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2), the prosecuting attorney shall petition a court to order a defendant charged with the commission of an offense involving the transmission of a bodily fluid to submit to a screening test to determine whether the defendant is infected with a dangerous disease. In the petition, the prosecuting attorney must set forth information demonstrating that:

(1) the defendant has committed an offense; and

(2) a bodily fluid was transmitted from the defendant to the victim in connection with the commission of the offense.

The court shall set the matter for hearing not later than forty-eight (48) hours after the prosecuting attorney files a petition under this subsection. The alleged victim of the offense, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, and the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2) are entitled to receive notice of the hearing and are entitled to attend the hearing. The defendant and the defendant's counsel are entitled to receive notice of the hearing and are entitled to attend the hearing. If, following the hearing, the court finds probable cause to believe that the defendant has committed an offense and that a bodily fluid was transmitted from the defendant to the alleged victim in connection with the commission of the offense, the court may order the defendant to submit to a screening test for one (1) or more dangerous diseases. If the defendant is charged with battery (IC 35-42-2-1) or domestic battery (IC 35-42-2-1.3) involving placing bodily fluid or waste on another person, the court may limit testing under this subsection to a test only for human immunodeficiency virus (HIV). However, the court may order additional testing for human immunodeficiency virus (HIV) as may be medically appropriate. The court shall take actions to ensure the confidentiality of evidence introduced at the hearing.

(e) The testimonial privileges applying to communication between a husband and wife and between a health care provider and the health care provider's patient are not sufficient grounds for not testifying or providing other information at a hearing conducted in accordance with this section.

(f) A health care provider (as defined in IC 16-18-2-163) who discloses information that must be disclosed to comply with this section is immune from civil and criminal liability under Indiana statutes that protect patient privacy and confidentiality.

(g) The results of a screening test conducted under this section shall be kept confidential if the defendant ordered to submit to the screening test under this section has not been convicted of the potentially disease transmitting offense or offense involving the transmission of a bodily fluid with which the defendant is charged. The results may not be made available to any person or public or private agency other than the following:

(1) The defendant and the defendant's counsel.

(2) The prosecuting attorney.

(3) The department of correction or the penal facility, juvenile detention facility, or secure private facility where the defendant is housed.

(4) The alleged victim or the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, or the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2), and the alleged victim's counsel.

The results of a screening test conducted under this section may not be admitted against a defendant in a criminal proceeding or against a child in a juvenile delinquency proceeding.

(h) As soon as practicable after a screening test ordered under this section has been conducted, the alleged victim or the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, or the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2), and the victim's counsel shall be notified of the results of the test.

(i) An alleged victim may disclose the results of a screening test to which a defendant is ordered to submit under this section to an individual or organization to protect the health and safety of or to seek compensation for:

(1) the alleged victim;

(2) the alleged victim's sexual partner; or

(3) the alleged victim's family.

(j) The court shall order a petition filed and any order entered under this section sealed.

(k) A person that knowingly or intentionally:

(1) receives notification or disclosure of the results of a screening test under this section; and

(2) discloses the results of the screening test in violation of this section;

commits a Class B misdemeanor.

As added by P.L.125-2009, SEC.3. Amended by P.L.94-2010, SEC.5; P.L.158-2013, SEC.242; P.L.149-2016, SEC.49; P.L.65-2016, SEC.8.

IC 16-41-8-6

Right of a victim to require certain defendants to undergo HIV testing; procedures

Sec. 6. (a) If an indictment or information alleges that the defendant compelled another person to engage in sexual activity by force or threat of force, the alleged victim of the offense described in the indictment or information may request that the defendant against whom the indictment or information is filed be tested for the human immunodeficiency virus (HIV).

(b) Not later than forty-eight (48) hours after an alleged victim described in subsection (a) requests that the defendant be tested for the human immunodeficiency virus (HIV), the defendant must be tested for the human immunodeficiency virus (HIV).

(c) As soon as practicable, the results of a test for the human immunodeficiency virus (HIV) conducted under subsection (b) shall be sent to:

(1) the alleged victim;

(2) the parent or guardian of the alleged victim, if the alleged victim is less than eighteen (18) years of age; and

(3) the defendant.

(d) If follow-up testing of the defendant for the human immunodeficiency virus (HIV) is necessary, the results of follow-up testing of the defendant shall be sent to:

(1) the alleged victim;

(2) the parent or guardian of the alleged victim if the alleged victim is less than eighteen (18) years of age; and

(3) the defendant.

As added by P.L.94-2010, SEC.6.

IC 16-41-9

Chapter 9. Communicable Disease: Imposition of Restrictions on Individuals With Certain Communicable or Dangerous Communicable Diseases

IC 16-41-9-0.1

Repealed

(As added by P.L.220-2011, SEC.320. Repealed by P.L.63-2012, SEC.23.)

IC 16-41-9-1

Repealed

(As added by P.L.2-1993, SEC.24. Repealed by P.L.138-2006, SEC.14.)

IC 16-41-9-1.5

Isolation; quarantine; notice; hearing; orders; renewal; crime; rules

Sec. 1.5. (a) If a public health authority has reason to believe that:

(1) an individual:

(A) has been infected with; or

(B) has been exposed to;

a dangerous communicable disease or outbreak; and

(2) the individual is likely to cause the infection of an uninfected individual if the individual is not restricted in the individual's ability to come into contact with an uninfected individual;

the public health authority may petition a circuit or superior court for an order imposing isolation or quarantine on the individual. A petition for isolation or quarantine filed under this subsection must be verified and include a brief description of the facts supporting the public health authority's belief that isolation or quarantine should be imposed on an individual, including a description of any efforts the public health authority made to obtain the individual's voluntary compliance with isolation or quarantine before filing the petition.

(b) Except as provided in subsections (e) and (k), an individual described in subsection (a) is entitled to notice and an opportunity to be heard, in person or by counsel, before a court issues an order imposing isolation or quarantine. A court may restrict an individual's right to appear in person if the court finds that the individual's personal appearance is likely to expose an uninfected person to a dangerous communicable disease or outbreak.

(c) If an individual is restricted from appearing in person under subsection (b), the court shall hold the hearing in a manner that allows all parties to fully and safely participate in the proceedings under the circumstances.

(d) If the public health authority proves by clear and convincing evidence that:

(1) an individual has been infected or exposed to a dangerous communicable disease or outbreak; and

(2) the individual is likely to cause the infection of an uninfected individual if the individual is not restricted in the individual's ability to come into contact with an uninfected individual;

the court may issue an order imposing isolation or quarantine on the individual. The court shall establish the conditions of isolation or quarantine, including the duration of isolation or quarantine. The court shall impose the least restrictive conditions of isolation or quarantine that are consistent with the protection of the public.

(e) If the public health authority has reason to believe that an individual described in subsection (a) is likely to expose an uninfected individual to a dangerous communicable disease or outbreak before the individual described in subsection (a) can be provided with notice and an opportunity to be heard, the public health authority may seek in a circuit or superior court an emergency order of quarantine or isolation by filing a verified petition for emergency quarantine or isolation. The verified petition must include a brief description of the facts supporting the public health authority's belief that:

(1) isolation or quarantine should be imposed on an individual; and

(2) the individual described in subsection (a) may expose an uninfected individual to a dangerous communicable disease or outbreak before the individual described in subsection (a) can be provided with notice and an opportunity to be heard.

The verified petition must include a description of any efforts the public health authority made to obtain the individual's voluntary compliance with isolation or quarantine before filing the petition.

(f) If the public health authority proves by clear and convincing evidence that:

(1) an individual has been infected or exposed to a dangerous communicable disease or outbreak;

(2) the individual is likely to cause the infection of an uninfected individual if the individual is not restricted in the individual's ability to come into contact with an uninfected individual; and

(3) the individual may expose an uninfected individual to a dangerous communicable disease or outbreak before the individual can be provided with notice and an opportunity to be heard;

the court may issue an emergency order imposing isolation or quarantine on the individual. The court shall establish the duration and other conditions of isolation or quarantine. The court shall impose the least restrictive conditions of isolation or quarantine that are consistent with the protection of the public.

(g) A court may issue an emergency order of isolation or

quarantine without the verified petition required under subsection (e) if the court receives sworn testimony of the same facts required in the verified petition:

(1) in a nonadversarial, recorded hearing before the judge;

(2) orally by telephone or radio;

(3) in writing by facsimile transmission (fax); or

(4) through other electronic means approved by the court.

If the court agrees to issue an emergency order of isolation or quarantine based upon information received under subdivision (2), the court shall direct the public health authority to sign the judge's name and to write the time and date of issuance on the proposed emergency order. If the court agrees to issue an emergency order of isolation or quarantine based upon information received under subdivision (3), the court shall direct the public health authority to transmit a proposed emergency order to the court, which the court shall sign, add the date of issuance, and transmit back to the public health authority. A court may modify the conditions of a proposed emergency order.

(h) If an emergency order of isolation or quarantine is issued under subsection (g)(2), the court shall record the conversation on audiotape and order the court reporter to type or transcribe the recording for entry in the record. The court shall certify the audiotape, the transcription, and the order retained by the judge for entry in the record.

(i) If an emergency order of isolation or quarantine is issued under subsection (g)(3), the court shall order the court reporter to retype or copy the facsimile transmission for entry in the record. The court shall certify the transcription or copy and order retained by the judge for entry in the record.

(j) The clerk shall notify the public health authority who received an emergency order under subsection (g)(2) or (g)(3) when the transcription or copy required under this section is entered in the record. The public health authority shall sign the typed, transcribed, or copied entry upon receiving notice from the court reporter.

(k) The public health authority may issue an immediate order imposing isolation or quarantine on an individual if exigent circumstances, including the number of affected individuals, exist that make it impracticable for the public health authority to seek an order from a court, and obtaining the individual's voluntary compliance is or has proven impracticable or ineffective. An immediate order of isolation or quarantine expires after seventy-two (72) hours, excluding Saturdays, Sundays, and legal holidays, unless renewed in accordance with subsection (l). The public health authority shall establish the other conditions of isolation or quarantine. The public health authority shall impose the least restrictive conditions of isolation or quarantine that are consistent with the protection of the public. If the immediate order applies to a group of individuals and it is impracticable to provide individual

notice, the public health authority shall post a copy of the order where it is likely to be seen by individuals subject to the order.

(l) The public health authority may seek to renew an order of isolation or quarantine or an immediate order of isolation or quarantine issued under this section by doing the following:

(1) By filing a petition to renew the emergency order of isolation or quarantine or the immediate order of isolation or quarantine with:

(A) the court that granted the emergency order of isolation or quarantine; or

(B) a circuit or superior court, in the case of an immediate order.

The petition for renewal must include a brief description of the facts supporting the public health authority's belief that the individual who is the subject of the petition should remain in isolation or quarantine and a description of any efforts the public health authority made to obtain the individual's voluntary compliance with isolation or quarantine before filing the petition.

(2) By providing the individual who is the subject of the emergency order of isolation or quarantine or the immediate order of isolation or quarantine with a copy of the petition and notice of the hearing at least twenty-four (24) hours before the time of the hearing.

(3) By informing the individual who is the subject of the emergency order of isolation or quarantine or the immediate order of isolation or quarantine that the individual has the right to:

(A) appear, unless the court finds that the individual's personal appearance may expose an uninfected person to a dangerous communicable disease or outbreak;

(B) cross-examine witnesses; and

(C) counsel, including court appointed counsel in accordance with subsection (c).

(4) If:

(A) the petition applies to a group of individuals; and

(B) it is impracticable to provide individual notice;

by posting the petition in a conspicuous location on the isolation or quarantine premises.

(m) If the public health authority proves by clear and convincing evidence at a hearing under subsection (l) that:

(1) an individual has been infected or exposed to a dangerous communicable disease or outbreak; and

(2) the individual is likely to cause the infection of an uninfected individual if the individual is not restricted in the individual's ability to come into contact with an uninfected individual;

the court may renew the existing order of isolation or quarantine or

issue a new order imposing isolation or quarantine on the individual. The court shall establish the conditions of isolation or quarantine, including the duration of isolation or quarantine. The court shall impose the least restrictive conditions of isolation or quarantine that are consistent with the protection of the public.

(n) Unless otherwise provided by law, a petition for isolation or quarantine, or a petition to renew an immediate order for isolation or quarantine, may be filed in a circuit or superior court in any county. Preferred venue for a petition described in this subsection is:

(1) the county or counties (if the area of isolation or quarantine includes more than one (1) county) where the individual, premises, or location to be isolated or quarantined is located; or

(2) a county adjacent to the county or counties (if the area of isolation or quarantine includes more than one (1) county) where the individual, premises, or location to be isolated or quarantined is located.

This subsection does not preclude a change of venue for good cause shown.

(o) Upon the motion of any party, or upon its own motion, a court may consolidate cases for a hearing under this section if:

(1) the number of individuals who may be subject to isolation or quarantine, or who are subject to isolation or quarantine, is so large as to render individual participation impractical;

(2) the law and the facts concerning the individuals are similar; and

(3) the individuals have similar rights at issue.

A court may appoint an attorney to represent a group of similarly situated individuals if the individuals can be adequately represented. An individual may retain his or her own counsel or proceed pro se.

(p) A public health authority that imposes a quarantine that is not in the person's home:

(1) shall allow the parent or guardian of a child who is quarantined under this section; and

(2) may allow an adult;

to remain with the quarantined individual in quarantine. As a condition of remaining with the quarantined individual, the public health authority may require a person described in subdivision (2) who has not been exposed to a dangerous communicable disease to receive an immunization or treatment for the disease or condition, if an immunization or treatment is available and if requiring immunization or treatment does not violate a constitutional right.

(q) If an individual who is quarantined under this section is the sole parent or guardian of one (1) or more children who are not quarantined, the child or children shall be placed in the residence of a relative, friend, or neighbor of the quarantined individual until the quarantine period has expired. Placement under this subsection must be in accordance with the directives of the parent or guardian, if possible.

(r) State and local law enforcement agencies shall cooperate with the public health authority in enforcing an order of isolation or quarantine.

(s) The court shall appoint an attorney to represent an indigent individual in an action brought under this chapter or under IC 16-41-6. If funds to pay for the court appointed attorney are not available from any other source, the state department may use the proceeds of a grant or loan to reimburse the county, state, or attorney for the costs of representation.

(t) A person who knowingly or intentionally violates a condition of isolation or quarantine under this chapter commits violating quarantine or isolation, a Class A misdemeanor.

(u) The state department shall adopt rules under IC 4-22-2 to implement this section, including rules to establish guidelines for:

(1) voluntary compliance with isolation and quarantine;

(2) quarantine locations and logistical support; and

(3) moving individuals to and from a quarantine location.

The absence of rules adopted under this subsection does not preclude the public health authority from implementing any provision of this section.

As added by P.L.138-2006, SEC.6. Amended by P.L.1-2007, SEC.137; P.L.109-2015, SEC.39.

IC 16-41-9-1.6

Actions of public health authority in event of quarantine

Sec. 1.6. (a) A public health authority may impose or petition a court to impose a quarantine and do the following:

(1) Distribute information to the public concerning:

(A) the risks of the disease;

(B) how the disease is transmitted;

(C) available precautions to reduce the risk of contracting the disease;

(D) the symptoms of the disease; and

(E) available medical or nonmedical treatments available for the disease.

(2) Instruct the public concerning social distancing.

(3) Request that the public inform the public health authority or a law enforcement agency if a family member contracts the disease.

(4) Instruct the public on self quarantine and provide a distinctive means of identifying a home that is self quarantined.

(5) Instruct the public on the use of masks, gloves, disinfectant, and other means of reducing exposure to the disease.

(6) Close schools, athletic events, and other nonessential situations in which people gather.

If a quarantine is imposed under section 1.5 of this chapter, the public health authority shall ensure that, to the extent possible, quarantined individuals have sufficient supplies to remain in their

own home.

(b) If an out of home, nonhospital quarantine is imposed on an individual, the individual shall be housed as close as possible to the individual's residence.

(c) In exercising the powers described in this section or in section 1.5 of this chapter, the public health authority may not prohibit a person lawfully permitted to possess a firearm from possessing one (1) or more firearms unless the person is quarantined in a mass quarantine location. The public health authority may not remove a firearm from the person's home, even if the person is quarantined in a mass quarantine location.

(d) This section does not prohibit a public health authority from adopting rules and enforcing rules to implement this section if the rules are not inconsistent with this section.

As added by P.L.138-2006, SEC.7. Amended by P.L.1-2007, SEC.138.

IC 16-41-9-1.7

Immunization programs

Sec. 1.7. (a) An immunization program established by a public health authority to combat a public health emergency involving a dangerous communicable disease must comply with the following:

(1) The state department must develop and distribute or post information concerning the risks and benefits of immunization.

(2) No person may be required to receive an immunization without that person's consent. No child may be required to receive an immunization without the consent of the child's parent, guardian, or custodian. The state department may implement the procedures described in section 1.5 of this chapter concerning a person who refuses to receive an immunization or the child of a parent, guardian, or custodian who refuses to consent to the child receiving an immunization.

(b) The state department shall adopt rules to implement this section. The absence of rules adopted under this subsection does not preclude the public health authority from implementing any provision of this section.

As added by P.L.138-2006, SEC.8.

IC 16-41-9-2

Repealed

(As added by P.L.2-1993, SEC.24. Repealed by P.L.138-2006, SEC.14.)

IC 16-41-9-3

Infected students; exclusion from school

Sec. 3. (a) The local health officer may exclude from school a student who has a dangerous communicable disease that:

(1) is transmissible through normal school contacts; and

(2) poses a substantial threat to the health and safety of the school community.

(b) If the local health officer subsequently determines that a student who has been excluded from school under subsection (a) does not have a dangerous communicable disease that:

(1) is transmissible through normal school contacts; and

(2) poses a substantial threat to the health and safety of the school community;

the local health officer shall issue a certificate of health to admit or readmit the student to school.

(c) A person who objects to the determination made by the local health officer under this section may appeal to the executive board of the state department, which is the ultimate authority. IC 4-21.5 applies to proceedings under this section.

As added by P.L.2-1993, SEC.24.

IC 16-41-9-4

Repealed

(As added by P.L.2-1993, SEC.24. Repealed by P.L.138-2006, SEC.14.)

IC 16-41-9-5

Mentally ill and dangerous or gravely disabled carriers; detention; reports

Sec. 5. (a) If a designated health official determines that a carrier has a dangerous communicable disease and has reasonable grounds to believe that the carrier is mentally ill and either dangerous or gravely disabled, the designated health official may request:

(1) immediate detention under IC 12-26-4; or

(2) emergency detention under IC 12-26-5;

for the purpose of having the carrier apprehended, detained, and examined. The designated health official may provide to the superintendent of the psychiatric hospital or center or the attending physician information about the carrier's communicable disease status. Communications under this subsection do not constitute a breach of confidentiality.

(b) If the written report required under IC 12-26-5-5 states there is probable cause to believe the carrier is mentally ill and either dangerous or gravely disabled and requires continuing care and treatment, proceedings may continue under IC 12-26.

(c) If the written report required under IC 12-26-5-5 states there is not probable cause to believe the carrier is mentally ill and either dangerous or gravely disabled and requires continuing care and treatment, the carrier shall be referred to the designated health official who may take action under this article.

As added by P.L.2-1993, SEC.24.

IC 16-41-9-6

Detained carriers; isolation; unauthorized absences

Sec. 6. (a) The chief medical officer of a hospital or other institutional facility may direct that a carrier detained under this article be placed apart from the others and restrained from leaving the facility. A carrier detained under this article shall observe all the rules of the facility or is subject to further action before the committing court.

(b) A carrier detained under this article who leaves a tuberculosis hospital or other institutional facility without being authorized to leave or who fails to return from an authorized leave without having been formally discharged is considered absent without leave.

(c) The sheriff of the county in which a carrier referred to in subsection (b) is found shall apprehend the carrier and return the carrier to the facility at which the carrier was being detained upon written request of the superintendent of the facility. Expenses incurred under this section are treated as expenses described in section 13 of this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-9-7

Voluntarily admitted carriers; unauthorized absences; prevention of health threat

Sec. 7. (a) A carrier who:

(1) poses a serious and present danger to the health of others;

(2) has been voluntarily admitted to a hospital or other facility for the treatment of tuberculosis or another dangerous communicable disease; and

(3) who leaves the facility without authorized leave or against medical advice or who fails to return from authorized leave;

shall be reported to a health officer by the facility not more than twenty-four (24) hours after discovery of the carrier's absence.

(b) If a health officer fails or refuses to institute or complete necessary legal measures to prevent a health threat (as defined in IC 16-41-7-2) by the carrier, the case shall be referred to a designated health official for appropriate action under this article.

As added by P.L.2-1993, SEC.24.

IC 16-41-9-8

Discharge reports; release orders

Sec. 8. (a) A local health officer may file a report with the court that states that a carrier who has been detained under this article may be discharged without danger to the health or life of others.

(b) The court may enter an order of release based on information presented by the local health officer or other sources.

As added by P.L.2-1993, SEC.24. Amended by P.L.138-2006, SEC.9; P.L.1-2007, SEC.139.

IC 16-41-9-9

Release of carriers from state penal institutions; advanced reports; jurisdiction of health officers

Sec. 9. (a) Not more than thirty (30) days after the proposed release from a state penal institution of a prisoner who is known to have:

(1) tuberculosis in a communicable stage; or

(2) other dangerous communicable disease;

the chief administrative officer of the penal institution shall report to the state department the name, address, age, sex, and date of release of the prisoner.

(b) The state department shall provide the information furnished the state department under subsection (a) to the health officer having jurisdiction over the prisoner's destination address.

(c) Each health officer where the prisoner may be found has jurisdiction over the released prisoner.

As added by P.L.2-1993, SEC.24.

IC 16-41-9-10

Nonresident indigent carriers; transfer to legal residences

Sec. 10. (a) The administrator of a hospital or other facility for the treatment of tuberculosis or other dangerous communicable disease may transfer or authorize the transfer of a nonresident indigent carrier to the carrier's state or county of legal residence if the carrier is able to travel. If the carrier is unable to travel, the administrator may have the carrier hospitalized until the carrier is able to travel.

(b) Costs for the travel and hospitalization authorized by this section shall be paid by the:

(1) carrier under section 13 of this chapter; or

(2) state department if the carrier cannot pay the full cost.

As added by P.L.2-1993, SEC.24.

IC 16-41-9-11

Repealed

(As added by P.L.2-1993, SEC.24. Repealed by P.L.138-2006, SEC.14.)

IC 16-41-9-12

Refusal of admission to facilities; actions against persons and licensed facilities

Sec. 12. (a) The superintendent or the chief executive officer of the facility to which a carrier has been ordered under this chapter may decline to admit a patient if the superintendent or chief executive officer determines that there is not available adequate space, treatment staff, or treatment facilities appropriate to the needs of the patient.

(b) The state department may commence an action under IC 4-21.5-3-6 or IC 4-21.5-4 for issuance of an order of compliance and a civil penalty not to exceed one thousand dollars ($1,000) per

violation per day against a person who:

(1) fails to comply with IC 16-41-1 through IC 16-41-3, IC 16-41-5 through IC 16-41-9, IC 16-41-13, IC 16-41-14, or IC 16-41-16 or a rule adopted under these chapters; or

(2) interferes with or obstructs the state department or the state department's designated agent in the performance of official duties under IC 16-41-1 through IC 16-41-3, IC 16-41-5 through IC 16-41-9, IC 16-41-13, IC 16-41-14, or IC 16-41-16 or a rule adopted under these chapters.

(c) The state department may commence an action against a facility licensed by the state department under either subsection (b) or the licensure statute for that facility, but the state department may not bring an action arising out of one (1) incident under both statutes.
As added by P.L.2-1993, SEC.24.

IC 16-41-9-13
Costs of care or treatment

Sec. 13. (a) The court shall determine what part of the cost of care or treatment ordered by the court, if any, the carrier can pay and whether there are other available sources of public or private funding responsible for payment of the carrier's care or treatment. The carrier shall provide the court documents and other information necessary to determine financial ability. If the carrier cannot pay the full cost of care and other sources of public or private funding responsible for payment of the carrier's care or treatment are not available, the county is responsible for the cost. If the carrier:

(1) provides inaccurate or misleading information; or

(2) later becomes able to pay the full cost of care;

the carrier becomes liable to the county for costs paid by the county.

(b) Except as provided in subsections (c) and (d), the costs incurred by the county under this chapter are limited to the costs incurred under section 1.5 of this chapter.

(c) However, subsection (b) does not relieve the county of the responsibility for the costs of a carrier who is ordered by the court under this chapter to a county facility.

(d) Costs, other than costs described in subsections (b) and (c) that are incurred by the county for care ordered by the court under this chapter, shall be reimbursed by the state under IC 16-21-7 to the extent funds have been appropriated for reimbursement.
As added by P.L.2-1993, SEC.24. Amended by P.L.138-2006, SEC.10.

IC 16-41-9-14
Repealed

(As added by P.L.2-1993, SEC.24. Repealed by P.L.138-2006, SEC.14.)

IC 16-41-9-15

Cooperation to implement least restrictive but medically necessary procedures to protect public health

Sec. 15. In carrying out its duties under this chapter, a public health authority shall attempt to seek the cooperation of cases, carriers, contacts, or suspect cases to implement the least restrictive but medically necessary procedures to protect the public health.

As added by P.L.16-2009, SEC.26.

IC 16-41-10

Chapter 10. Communicable Disease: Exposure Notification for Emergency Care Providers

IC 16-41-10-1

"Emergency medical services provider" defined

Sec. 1. As used in this chapter, "emergency medical services provider" means a firefighter, a law enforcement officer, a paramedic, an emergency medical technician, a physician licensed under IC 25-22.5, a nurse licensed under IC 25-23, or other person who provides emergency medical services in the course of the person's employment.

As added by P.L.2-1993, SEC.24. Amended by P.L.186-1995, SEC.15; P.L.212-2003, SEC.5.

IC 16-41-10-2

Notification of emergency medical services providers

Sec. 2. (a) An emergency medical services provider who is exposed to blood or body fluids while providing emergency medical services to a patient may request notification concerning exposure to a dangerous communicable disease under this chapter if the exposure is of a type that has been demonstrated epidemiologically to transmit a dangerous communicable disease.

(b) If an emergency medical services provider desires to be notified of results of testing following a possible exposure to a dangerous communicable disease under this chapter, the emergency medical services provider shall notify the emergency medical services provider's employer not more than twenty-four (24) hours after the emergency medical services provider is exposed on a form that is prescribed by the state department and the Indiana emergency medical services commission.

(c) The emergency medical services provider shall distribute a copy of the completed form required under subsection (b) to the following:

(1) If applicable, the medical director of the emergency department of the medical facility:

(A) to which the patient was admitted following the exposure; or

(B) in which the patient was located at the time of the exposure.

(2) The emergency medical services provider's employer.

(3) The state department.

As added by P.L.2-1993, SEC.24. Amended by P.L.186-1995, SEC.16; P.L.212-2003, SEC.6.

IC 16-41-10-2.5

Consent by patient to testing and release of testing results; refusing testing; petitioning court

Sec. 2.5. (a) A patient (including a patient who is unable to consent due to physical or mental incapacity) to whose blood or body fluids an emergency medical services provider is exposed as described in section 2 of this chapter is considered to have consented to:

(1) testing for the presence of a dangerous communicable disease of a type that has been epidemiologically demonstrated to be transmittable by an exposure of the kind experienced by the emergency medical services provider; and

(2) release of the testing results to a medical director or physician described in section 3 of this chapter.

The medical director or physician shall notify the emergency medical services provider of the test results.

(b) If a patient described in subsection (a) refuses to provide a blood or body fluid specimen for testing for a dangerous communicable disease, the exposed emergency medical services provider, the exposed emergency medical services provider's employer, or the state department may petition the circuit or superior court having jurisdiction in the county:

(1) of the patient's residence; or

(2) where the employer of the exposed emergency medical services provider has the employer's principal office;

for an order requiring that the patient provide a blood or body fluid specimen.

As added by P.L.212-2003, SEC.7.

IC 16-41-10-3

Notification of facilities

Sec. 3. (a) Except as provided in subsection (b), if a patient to whose blood or body fluids an emergency medical services provider is exposed as described in section 2 of this chapter:

(1) is admitted to a medical facility following the exposure or is located in a medical facility at the time of the exposure, a physician designated by the medical facility shall, not more than seventy-two (72) hours after the medical facility is notified under section 2 of this chapter:

(A) cause a blood or body fluid specimen to be obtained from the patient and testing to be performed for a dangerous communicable disease of a type that has been epidemiologically demonstrated to be transmittable by an exposure of the kind experienced by the emergency medical services provider; and

(B) notify the medical director of the emergency medical services provider's employer; or

(2) is not described in subdivision (1), the exposed emergency medical services provider, the exposed emergency medical services provider's employer, or the state department may:

(A) arrange for testing of the patient as soon as possible; or

(B) petition the circuit or superior court having jurisdiction in the county of the patient's residence or where the employer of the exposed emergency medical services provider has the employer's principal office for an order requiring that the patient provide a blood or body fluid specimen.

(b) An emergency medical services provider may, on the form described in section 2 of this chapter, designate a physician other than the medical director of the emergency medical services provider's employer to receive the test results.

(c) The medical director or physician described in this section shall notify the emergency medical services provider of the test results not more than forty-eight (48) hours after the medical director or physician receives the test results.

As added by P.L.2-1993, SEC.24. Amended by P.L.186-1995, SEC.17; P.L.212-2003, SEC.8; P.L.97-2004, SEC.69.

IC 16-41-10-3.5

Prohibiting physical restraint; releasing patient; immunity

Sec. 3.5. (a) A medical facility may not physically restrain a patient described in section 2.5 of this chapter in order to test the patient for the presence of a dangerous communicable disease.

(b) Nothing in this chapter prohibits a patient from being discharged from a medical facility before:

(1) a test is performed under section 2.5 or 3 of this chapter; or

(2) the results of a test are released under section 3 of this chapter.

(c) A provider or a facility that tests a patient for the presence of a dangerous communicable disease under section 2.5 or section 3 of this chapter is immune from liability for the performance of the test over the patient's objection or without the patient's consent. However, this subsection does not apply to an act or omission that constitutes gross negligence or willful or wanton misconduct.

As added by P.L.212-2003, SEC.9.

IC 16-41-10-4

Disclosure of exposure to infectious disease; treatment and counseling

Sec. 4. (a) A medical director or physician notified under section 3 of this chapter shall, not more than forty-eight (48) hours after receiving the notification under section 3 of this chapter, contact the emergency medical services provider described in section 2 of this chapter to do the following:

(1) Explain, without disclosing information about the patient, the dangerous communicable disease to which the emergency medical services provider was exposed.

(2) Provide for any medically necessary treatment and counseling to the emergency medical services provider.

(b) Expenses of testing or treatment and counseling are the responsibility of the emergency medical services provider or the provider's employer.
As added by P.L.2-1993, SEC.24. Amended by P.L.186-1995, SEC.18; P.L.212-2003, SEC.10.

IC 16-41-10-5
Disclosure of medical or epidemiological information; penalties

Sec. 5. (a) Except as otherwise provided in this chapter, the medical information referred to in this chapter is confidential, and a person may not disclose or be compelled to disclose medical or epidemiological information referred to in this chapter.

(b) A person responsible for recording, reporting, or maintaining information referred to in this chapter who recklessly, knowingly, or intentionally discloses or fails to protect medical or epidemiological information classified as confidential under this section commits a Class A misdemeanor.

(c) In addition to the penalty prescribed by subsection (b), a public employee who violates this section is subject to discharge or other disciplinary action under the personnel rules of the agency that employs the employee.
As added by P.L.2-1993, SEC.24. Amended by P.L.212-2003, SEC.11.

IC 16-41-10-6
Good faith reports; immunity

Sec. 6. A person who makes a report under this chapter in good faith is not subject to liability in a civil, an administrative, a disciplinary, or a criminal action.
As added by P.L.2-1993, SEC.24.

IC 16-41-10-7
Violations

Sec. 7. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.
As added by P.L.2-1993, SEC.24.

IC 16-41-10-8
Rules

Sec. 8. The state department shall adopt rules under IC 4-22-2 to carry out this chapter.
As added by P.L.2-1993, SEC.24.

IC 16-41-11

Chapter 11. Communicable Disease: Training in Health Precautions for Communicable Diseases

IC 16-41-11-1

Employer

Sec. 1. As used in this chapter, "employer" has the meaning set forth in IC 22-8-1.1-1.

As added by P.L.2-1993, SEC.24.

IC 16-41-11-2

Facility

Sec. 2. As used in this chapter, "facility" means a building where an individual handles blood or other body fluids in the regular course of the individual's employment.

As added by P.L.2-1993, SEC.24.

IC 16-41-11-3

Universal precautions

Sec. 3. As used in this chapter, "universal precautions" means procedures specified by rule adopted by the state department under IC 4-22-2 that are used to prevent the transmission of dangerous communicable diseases, including acquired immune deficiency syndrome (AIDS), through blood or other body fluids.

As added by P.L.2-1993, SEC.24.

IC 16-41-11-4

Use of universal precautions

Sec. 4. An individual who has professional, employment, or volunteer duties that require the individual to have direct contact with blood or body fluids in the scope of the individual's duties must use universal precautions.

As added by P.L.2-1993, SEC.24.

IC 16-41-11-5

Training and equipment

Sec. 5. An employer shall provide training and the necessary equipment to each employee and student trainee who has duties that require the employee to have direct contact with blood or body fluids in the scope of the employee's employment. The employer shall comply with the following:

(1) The training must be provided before the individual is given an assignment where contact with blood or body fluids is likely.

(2) The training must include training in the universal precautions and other infection control measures that the state department adopts by rule under IC 4-22-2.

(3) An attendance record must be maintained of an individual's participation in the training that is provided. The record must be

made available to the state department for inspection under section 7 of this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-11-6

Personnel policy

Sec. 6. An employer who is required to provide training under section 5 of this chapter shall develop a written personnel policy that does the following:

(1) Requires the use of universal precautions when an individual has direct contact with blood or other body fluids.

(2) Provides sanctions, including discipline and dismissal if warranted, for failure to use universal precautions.

As added by P.L.2-1993, SEC.24.

IC 16-41-11-7

Inspections; compliance orders; civil penalties; reports of violations

Sec. 7. (a) The state department may designate an agent who, upon presentation of proper credentials, may enter a facility to inspect for possible violations of this chapter or rules adopted under this chapter.

(b) The state department may commence an action under IC 4-21.5-3-6 or IC 4-21.5-4 for issuance of an order of compliance and civil penalty not to exceed one thousand dollars ($1,000) per violation per day against a person who does any of the following:

(1) Fails to comply with this chapter or rules adopted under this chapter.

(2) Interferes with or obstructs the state department or the state department's designated agent in the performance of official duties under this chapter.

(c) The state department may commence an action against a facility under either:

(1) subsection (b); or

(2) the licensure statute for the facility;

if the facility is licensed by the state department. However, the state department may not bring an action arising out of one (1) incident under both statutes.

(d) The state department may report to any other board or agency responsible for licensure, registration, or certification of health care providers, facilities, or other health care workers an individual or facility that is found to be operating in violation of this chapter or rules adopted under this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-11-8

Complaints

Sec. 8. (a) A person who believes that this chapter or rules

adopted under this chapter have been violated may file a complaint with the state department. A complaint must be in writing unless the violation complained of constitutes an emergency. The state department shall reduce an oral complaint to writing. The state department shall maintain the confidentiality of the person who files the complaint.

(b) The state department shall promptly investigate all complaints received under this section.

(c) The state department shall not disclose the name or identifying characteristics of the person who files a complaint under this section unless:

(1) the person consents in writing to the disclosure; or

(2) the investigation results in an administrative or judicial proceeding and disclosure is ordered by the administrative law judge or the court.

(d) The state department shall give a person who files a complaint under this section the opportunity to withdraw the complaint before disclosure.

(e) An employee must make a reasonable attempt to ascertain the correctness of any information to be furnished and may be subject to disciplinary actions for knowingly furnishing false information, including suspension or dismissal, as determined by the employer or the ethics commission. However, an employee disciplined under this subsection is entitled to process an appeal of the disciplinary action under any procedure otherwise available to the employee by employment contract, collective bargaining agreement, or, if the employee is an employee of the state, IC 4-15-2.2-42.

(f) The employer of an employee who files a complaint in good faith with the state department under this section may not, solely in retaliation for filing the complaint, do any of the following:

(1) Dismiss the employee.

(2) Withhold salary increases or employment related benefits from the employee.

(3) Transfer or reassign the employee.

(4) Deny a promotion that the employee would have received.

(5) Demote the employee.

As added by P.L.2-1993, SEC.24. Amended by P.L.222-2005, SEC.31; P.L.6-2012, SEC.121.

IC 16-41-11-9

Rules

Sec. 9. The state department shall adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-11-10

Expert review panels

Sec. 10. (a) This section does not apply to a medical review panel

created under IC 34-18-10 (or IC 27-12-10 before its repeal) or a peer review committee (as defined in IC 34-6-2-99).

(b) The state department may authorize by rule expert review panels to provide confidential consultation and advice to health care workers who are:

(1) infected with the human immunodeficiency virus (HIV); or

(2) infected with the hepatitis-B virus (HBV) and are hepatitis-Be antigen (HBeAg) positive.

(c) All proceedings and communications of an authorized expert review panel are confidential and privileged communications.

(d) A member or a member of the staff of an authorized expert review panel is immune from any civil liability for any act, statement, determination, or recommendation made in good faith in the scope of the panel's duties.

As added by P.L.95-1994, SEC.3. Amended by P.L.1-1998, SEC.123.

IC 16-41-12

Chapter 12. Communicable Disease: Precautionary Measures for Use of Human Tissues and Blood Products; Regulation of Blood Centers

IC 16-41-12-1

Autologous donation

Sec. 1. As used in this chapter, "autologous donation" means the removal and storage of blood from a donor or patient for an intended transfusion to the same donor or patient.

As added by P.L.2-1993, SEC.24. Amended by P.L.213-2013, SEC.4.

IC 16-41-12-2

Bank

Sec. 2. As used in this chapter, "bank" has the meaning set forth in IC 29-2-16.1-1.

As added by P.L.2-1993, SEC.24. Amended by P.L.147-2007, SEC.5.

IC 16-41-12-2.5

Blood

Sec. 2.5. (a) As used in this chapter, "blood" means any of the following:

(1) Human blood.

(2) Human blood components.

(3) Human blood derivatives.

(b) The term does not include human cells, tissues, or cellular or tissue-based products (HCT/Ps).

As added by P.L.213-2013, SEC.5.

IC 16-41-12-3

Blood center

Sec. 3. As used in this chapter, "blood center" includes a blood bank, a blood storage facility, a plasma center, a hospital, or other facility where blood is collected.

As added by P.L.2-1993, SEC.24. Amended by P.L.213-2013, SEC.6.

IC 16-41-12-4

Confirmatory test

Sec. 4. As used in this chapter, "confirmatory test" means a laboratory test or a series of tests approved by the state department and used in conjunction with a screening test to confirm or refute the results of the screening test for the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV).

As added by P.L.2-1993, SEC.24.

IC 16-41-12-5

Directed donation

Sec. 5. As used in this chapter, "directed donation" means a donation of blood collected from an individual on behalf of an intended recipient of the transfusion.
As added by P.L.2-1993, SEC.24. Amended by P.L.213-2013, SEC.7.

IC 16-41-12-5.5
Distributed for use
Sec. 5.5. (a) As used in this chapter, "distributed for use" refers to a blood center releasing or shipping blood for use in a blood inventory intended for or made available for transfusion or injection to a patient.
(b) The term does not include the release or shipment of blood:
(1) to a researcher; or
(2) for further manufacturing;
as approved in writing by the federal Food and Drug Administration.
As added by P.L.213-2013, SEC.8.

IC 16-41-12-6
Hospital
Sec. 6. As used in this chapter, "hospital" has the meaning set forth in IC 29-2-16.1-1.
As added by P.L.2-1993, SEC.24. Amended by P.L.147-2007, SEC.6.

IC 16-41-12-6.5
Human cells, tissues, or cellular or tissue-based products
Sec. 6.5. As used in this chapter, "human cells, tissues, or cellular or tissue-based products" or "HCT/Ps" has the meaning set forth in 21 CFR 1271.3(d).
As added by P.L.213-2013, SEC.9.

IC 16-41-12-7
Physician
Sec. 7. As used in this chapter, "physician" has the meaning set forth in IC 29-2-16.1-1.
As added by P.L.2-1993, SEC.24. Amended by P.L.147-2007, SEC.7.

IC 16-41-12-8
Screening test
Sec. 8. As used in this chapter, "screening test" means a laboratory screening test or a series of tests approved by the federal Food and Drug Administration and required by the state department to be performed on blood collected under this chapter, including the following:
(1) Tests for antibodies to the human immunodeficiency virus (HIV).
(2) Other tests determined by the state department.
As added by P.L.2-1993, SEC.24. Amended by P.L.213-2013, SEC.10.

IC 16-41-12-9
Storage facility

Sec. 9. As used in this chapter, "storage facility" has the meaning set forth in IC 29-2-16.1-1.

As added by P.L.2-1993, SEC.24. Amended by P.L.147-2007, SEC.8.

IC 16-41-12-10
Surgeon

Sec. 10. As used in this chapter, "surgeon" has the meaning set forth in IC 29-2-16.1-1.

As added by P.L.2-1993, SEC.24. Amended by P.L.147-2007, SEC.9.

IC 16-41-12-11
Implied warranties; strict liability; screening tests; specification of blood use; distributions by foreign blood centers

Sec. 11. (a) The:

(1) procurement, processing, distribution, or use of:

(A) blood;

(B) plasma;

(C) human cells, tissues, or cellular or tissue-based products; or

(D) other human tissue, such as corneas, bones, or organs;

by a bank, storage facility, or hospital; and

(2) injection, transfusion, or transplantation of any of the human tissue listed in subdivision (1) into the human body by a hospital, physician, or surgeon, whether or not any remuneration is paid;

is the rendition of a service and not the sale of a product. Such services do not give rise to an implied warranty of merchantability or fitness for a particular purpose, nor do the services give rise to strict liability in tort.

(b) A hospital, physician, or other person is not required to perform another screening test on blood or plasma that:

(1) is provided by a blood center if the blood or plasma is labeled indicating that the blood or plasma has been tested as required under section 13(b) of this chapter; or

(2) is provided by a blood center under section 13(j) of this chapter and is labeled as required by 21 CFR 606.121(h).

(c) An autologous blood donor may specify that the donor's blood must be used for the donor. Blood that is donated under this section must be tested for the human immunodeficiency virus (HIV). The blood center shall reserve the donor's blood for the purposes specified by the donor and shall label the blood accordingly.

(d) A directed blood donor may specify that the donor's blood is to be used for another person. The blood center shall consider the medical suitability and the wishes of the donor and recipient in making final distribution of the blood.

(e) The blood center is subject to penalties under this chapter if

the blood center knowingly fails to reserve the blood for the purposes specified by the recipient under this section or if the blood center fails to comply with subsections (c) through (d).

(f) A blood center located outside Indiana may not distribute:

(1) blood; or

(2) plasma;

in Indiana unless the blood center has certified to the state department that the blood has undergone a screening test as required under this chapter.

As added by P.L.2-1993, SEC.24. Amended by P.L.213-2013, SEC.11.

IC 16-41-12-12

Rules

Sec. 12. The state department shall adopt rules under IC 4-22-2 to carry out the purposes of this chapter. In formulating the rules, the state department shall consider:

(1) present medical and scientific practices in the field;

(2) rules and regulations of the federal Food and Drug Administration; and

(3) any other procedure that should be followed to reasonably ensure the safety of the donor and recipient of blood.

As added by P.L.2-1993, SEC.24. Amended by P.L.213-2013, SEC.12.

IC 16-41-12-13

Screening tests; blood labeling; confirmatory tests; disposal of blood; notification and referral of donors; records; violations; medical emergencies

Sec. 13. (a) Except as provided in subsection (j), a blood center shall perform a screening test on a donor's blood and obtain the results of the test before blood or plasma is distributed for use.

(b) The blood center shall label blood or plasma before distribution for use by the blood center to indicate the results of the screening tests required by this chapter. The blood center shall also label each blood sample according to the regulations of the federal Food and Drug Administration.

(c) The blood center shall perform a confirmatory test on a blood donation from a donor when the screening test performed under subsection (a) yields repeatedly reactive results.

(d) Except for:

(1) a sample retained to perform a confirmatory test;

(2) blood or plasma units used for research purposes or in the production of pharmaceutical products if the blood center or the manufacturer of the pharmaceutical products has obtained approval from the federal Food and Drug Administration;

(3) an autologous donation for stem cell transplantation; or

(4) other autologous donations of blood or HCT/Ps, if:

(A) the blood center agrees to distribute the blood or HCT/Ps for use; and

(B) the attending physician has been informed of the screening test results;

the blood center shall dispose of a blood donation after an inconclusive or repeatedly reactive screening test has been performed. The disposal must be made under rules adopted by the state department under this chapter and IC 16-41-16.

(e) A blood center shall report to the state department the results of each positive confirmatory test conducted under subsection (c).

(f) A blood center shall attempt to notify a donor and refer the donor to counseling when the confirmatory test on the donor's blood is inconclusive or indicates the presence of antibodies to the human immunodeficiency virus (HIV).

(g) Each health care provider that administers blood transfusions shall keep a record of the following:

(1) Blood center that furnished the blood.

(2) Unit number assigned to the blood.

(h) An employee who is responsible for conducting the screening test required under this section who knowingly or intentionally fails to conduct the screening test commits a Class A misdemeanor.

(i) A blood center may not ship any blood or plasma before the completion of the screening test except in a documented medical emergency, as described in subsection (j).

(j) This subsection applies when:

(1) a health care provider has determined that a patient is in imminent danger of death;

(2) the results of the screening test performed on the blood described in subsection (a) are not available at the time that the blood is to be used;

(3) the patient or the patient's representative has been provided notice that the results of the screening test performed on the blood are not available and has consented in writing to the use of the blood; and

(4) no other appropriate blood is available.

Subject to 21 CFR 610.40(g), a blood center may distribute for use blood or plasma before the completion of the screening test in a documented medical emergency. However, upon completion of the screening test, the blood center shall immediately provide the test results to the physician or hospital that received the blood or plasma and the physician who is responsible for the patient.

As added by P.L.2-1993, SEC.24. Amended by P.L.59-2012, SEC.1; P.L.213-2013, SEC.13.

IC 16-41-12-14

Confidentiality of information; violations

Sec. 14. (a) A person may not disclose or be compelled to disclose information collected under this chapter or under rules adopted under

this chapter. This information may not be released or made public upon subpoena or otherwise, except under the following circumstances:

(1) For statistical purposes if done in a manner that does not identify any individual.

(2) With the written consent of all individuals identified in the information released.

(3) To the extent necessary to enforce public health laws or to protect the health or life of a named person.

(b) Except as provided in subsection (a), a person responsible for recording, reporting, or maintaining information required to be reported under this chapter who recklessly, knowingly, or intentionally discloses or fails to protect information classified as confidential under this section commits a Class A misdemeanor.

(c) In addition to subsection (b), a public employee who violates this section is subject to discharge or other disciplinary action under the personnel rules of the agency that employs the employee.

As added by P.L.2-1993, SEC.24.

IC 16-41-12-15

Donor information; informed consent

Sec. 15. (a) A blood center shall require a blood donor to provide to the blood center the following information:

(1) Name.

(2) Address.

(3) Date of birth.

(4) The blood donor's Social Security number, if the blood donor is receiving monetary compensation for the donation.

(b) A blood center shall report the name and address of a blood donor to the state department when a confirmatory test of the blood donor's blood confirms the presence of antibodies to the human immunodeficiency virus (HIV).

(c) A blood center shall provide to a blood donor information to enable the blood donor to give informed consent to the procedures required by this chapter or IC 16-36. The information required by this subsection must be in the following form:

NOTICE

(1) This blood center performs a screening test for the human immunodeficiency virus (HIV) on every donor's blood.

(2) This blood center reports to the state department of health the name and address of a blood donor when a confirmatory test of the blood donor's blood confirms the presence of antibodies to the human immunodeficiency virus (HIV).

(3) A person who recklessly, knowingly, or intentionally donates (excluding self-donations for stem cell transplantation, other autologous donations, or donations not intended by the blood center for distribution or use), sells, or transfers blood that contains antibodies for the human immunodeficiency virus

(HIV) commits transferring contaminated blood, a Level 5 felony. The offense is a Level 4 felony if the offense results in the transmission of the virus to another person.

As added by P.L.2-1993, SEC.24. Amended by P.L.59-2012, SEC.2; P.L.213-2013, SEC.14; P.L.158-2013, SEC.243; P.L.168-2014, SEC.31.

IC 16-41-12-16

Blood center licensing; inspections

Sec. 16. (a) It is unlawful to operate a blood center in Indiana without a license issued by the state department under this chapter. A blood center that applies for a license in Indiana must also be licensed or appropriately registered by the federal Food and Drug Administration and remain in compliance with all applicable federal regulations.

(b) An application for a license must be made on a form prescribed by the state department and must be accompanied by a license fee established by the state department.

(c) After inspection of an applicant's facility, if the state department finds that the applicant has complied with this chapter and the rules adopted under this chapter, the state department shall issue a license to the applicant.

(d) A license expires one (1) year after the date of issuance unless the license is renewed. A blood center may submit a renewal application on a form prescribed by the state department. The procedure and conditions for renewal are the same as the procedure and conditions established for the issuance of the original license.

(e) A person who inspects an applicant's facility under this section must have knowledge in blood banking and the nationally accepted standards of practice.

(f) For the purposes of this chapter, a hospital licensed under IC 16-21-2 that operates a blood center within the facility is subject to the rules adopted under this chapter concerning the operation of the blood center. However, the hospital may be licensed only under IC 16-21-2 and shall be surveyed concurrently, for licensure purposes, as a blood center and a hospital.

As added by P.L.2-1993, SEC.24.

IC 16-41-12-17

Rules

Sec. 17. The state department may adopt rules under IC 4-22-2, after considering the guidelines of the federal Food and Drug Administration, for the minimum standards and specific requirements for operation of a blood center, including the following:

(1) Physical facilities, including refrigeration, lighting, construction, and equipment of the blood center to ensure the operation of the blood center in a manner that protects the public health.

(2) Testing procedures for communicable diseases transmitted by blood.
(3) Standards for collection, processing, storage, distribution, and proper conduct of the blood transfusion service of blood.
(4) Identification and screening of donors.
(5) Qualifications for medical and laboratory personnel employed in a blood center.
(6) Restrictions on the use of blood and plasma donations.
(7) System of identifying the donor of the blood at all times, including after the blood has been administered to the recipient.
(8) Establishment of a system for determining the inventory level of blood in all blood centers and the coordination of the distribution of blood.
(9) Proficiency testing.
(10) All sanitary conditions within the blood center and the blood center's surroundings needed to protect the public and the employees.
(11) A quality assurance program.

As added by P.L.2-1993, SEC.24. Amended by P.L.213-2013, SEC.15.

IC 16-41-12-18
Blood shortage emergencies

Sec. 18. (a) This section does not apply to a blood center when the blood center declares a blood shortage emergency for a specific or unusual blood type for a specific patient.

(b) A blood center must have written criteria for a blood shortage emergency before the blood center may declare a blood shortage emergency. The criteria required under this section must be based on quantitative factors within the geographic region served by the blood center.

(c) A blood center must file the written criteria required under this section with the state department.

(d) Unless an emergency is declared by another regional blood center, a blood center may not declare a blood shortage emergency for the sole purpose of selling or transferring blood to another center.

(e) Whenever a blood center declares a blood shortage emergency, the blood center shall notify the state department and affirm that a blood shortage emergency exists.

As added by P.L.2-1993, SEC.24.

IC 16-41-12-19
Transfusion records; financial information; proficiency demonstrations; operation reports

Sec. 19. (a) A health care provider that administers blood transfusions shall keep a record of the following:
(1) Blood center that furnished the blood.
(2) Unit number assigned to the blood.

The record must be made available to the state department for inspection.

(b) The state department may require a blood center to submit financial information on allegations of financial impropriety involving the blood supply.

(c) The state department may require the demonstration of proficiency in the performance of the tests offered by the blood center.

(d) The state department may require the owner and director of a blood center to submit reports under oath that contain information and data concerning the technical operation of the blood center.

As added by P.L.2-1993, SEC.24.

IC 16-41-12-20

Blood center supervision; medical directors

Sec. 20. (a) Except as provided in subsection (c), a responsible head (as defined in 21 CFR 600.10(a)) shall supervise the operations of a blood center.

(b) Except as provided in subsection (d), each blood center must employ a medical director who is a licensed physician and who:

(1) is certified or eligible for certification in:

(A) clinical pathology; or

(B) the operation of a blood bank;

by the American Board of Pathology; or

(2) has:

(A) received a minimum of one (1) year of specialized training in blood banking; or

(B) equivalent experience and training.

(c) The medical director shall supervise and is responsible for the following:

(1) The proper performance of all medical procedures in the blood center.

(2) The continuous application of quality assurance procedures in the blood center.

(d) A blood center collecting blood exclusively for further manufacturing or research purposes under programs subject to and licensed by the federal Food and Drug Administration must employ a medical director who is a licensed physician to supervise the donor screening process. A blood center that utilizes blood for a purpose other than manufacturing or research under this subsection is subject to the penalties described in section 21 of this chapter.

As added by P.L.2-1993, SEC.24. Amended by P.L.213-2013, SEC.16.

IC 16-41-12-21

Inspections; violations

Sec. 21. (a) The state department may designate an agent who may, upon presentation of proper credentials, enter a facility to

inspect for possible violations of this chapter or rules adopted under this chapter.

(b) The state department may commence an action under IC 4-21.5-3-6 or IC 4-21.5-4 for issuance of an order of compliance and civil penalty not to exceed ten thousand dollars ($10,000) per violation per day against a person who:

(1) fails to comply with this chapter or rules adopted under this chapter; or

(2) interferes with or obstructs the state department or the state department's designated agent in the performance of official duties under this chapter.

(c) The state department may commence an action to suspend or revoke a blood center's license under IC 4-21.5-3-8 or IC 4-21.5-4 if the licensee has done any of the following:

(1) Made false statements concerning material information on the license application or any other document required by the state department.

(2) Permitted unauthorized persons to perform medical or technical procedures (as defined by the state department by rule adopted under this chapter) when a licensed physician licensed to practice medicine in Indiana is not available for consultation.

(3) Demonstrated incompetence in the performance of any procedure.

(4) Performed a procedure for which approval was not granted.

(5) Operated the center in a manner considered hazardous to public health.

(6) Violated this chapter or rules adopted under this chapter.

(d) The state department may report to any other board or agency responsible for licensure, registration, or certification of health care providers, facilities, or other health care workers an individual or facility that is found to be operating in violation of this chapter or rules adopted under this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-13

Chapter 13. Communicable Disease: Body Fluid Precautions With Respect to Handling of Dead Bodies

IC 16-41-13-1

Notice requirement

Sec. 1. (a) The attending physician or health care provider shall prepare and attach to the body of a deceased individual a conspicuous notice with the statement: "Observe Body Fluid Precautions" whenever the physician or provider knows that at least one (1) of the following disease processes was present in the deceased at the time of death:

(1) Hepatitis (Types B, non A, non B).
(2) Human immunodeficiency virus (HIV) infection (acquired immune deficiency syndrome and AIDS related complex).
(3) Tuberculosis.
(4) Herpes.
(5) Gonorrhea.
(6) Syphilis (primary and secondary).
(7) Burkett's lymphoma.
(8) Kaposi's sarcoma.
(9) Arthropod-borne viral diseases.
(10) Babesiosis.
(11) Creutzfeldt-Jakob disease.
(12) Leptospirosis.
(13) Malaria.
(14) Rat-bite fever.
(15) Relapsing fever.
(16) Y. Pestis.
(17) Hemorrhagic fevers.
(18) Rabies.
(19) Any other communicable disease (as defined in IC 16-41-2).

(b) The notice required in this chapter must accompany the body when the body is picked up for disposition.

As added by P.L.2-1993, SEC.24.

IC 16-41-13-2

Presentation of notice

Sec. 2. A person who:

(1) picks up or transports a body for disposition; and
(2) has received notice of a communicable disease under this chapter;

shall present the notice described in section 1 of this chapter to the embalmer, funeral director, or other person taking possession of the body.

As added by P.L.2-1993, SEC.24.

IC 16-41-13-3
Confidentiality of information

Sec. 3. (a) Information regarding a deceased individual's communicable disease contained in the notice required by this chapter shall be kept confidential by the attending physician, health care provider, funeral director, or other person in possession of the body. Such information may be disclosed only if the information is required by state or federal law or under a court order based on circumstances described in IC 16-41-8-1.

(b) An attending physician, health care provider, or other person in possession of the body who discloses information in violation of this chapter commits a Class A misdemeanor.

As added by P.L.2-1993, SEC.24.

IC 16-41-13-4
Refusal or failure to give notice; penalty

Sec. 4. A person who knowingly refuses or fails to give notice under section 1 of this chapter to persons disposing of a body that the deceased individual was known to have been diagnosed as having a communicable disease listed in section 1 of this chapter commits a Class C misdemeanor.

As added by P.L.2-1993, SEC.24.

IC 16-41-13-5
Use of universal precautions

Sec. 5. The provisions of IC 16-41-11 requiring the use of universal precautions apply to embalmers, funeral directors, and other persons who take possession of or handle a body.

As added by P.L.2-1993, SEC.24.

IC 16-41-13-6
Violations

Sec. 6. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.

As added by P.L.2-1993, SEC.24.

IC 16-41-14

Chapter 14. Communicable Disease: Testing of Semen Used in Artificial Insemination for Communicable and Sexually Transmitted Diseases

IC 16-41-14-0.2

Application of certain amendments to prior law

Sec. 0.2. P.L.184-1989 does not apply to semen donations that are provided to a practitioner (as defined in IC 16-8-7.5-5, before its repeal, now codified at section 4 of this chapter and at IC 16-18-2-288) before July 1, 1989.

As added by P.L.220-2011, SEC.321.

IC 16-41-14-1

Application of chapter to husbands

Sec. 1. This chapter does not apply to a donor who is the husband of the recipient.

As added by P.L.2-1993, SEC.24.

IC 16-41-14-2

Artificial insemination

Sec. 2. As used in this chapter, "artificial insemination" means the introduction of semen into the vagina or cervix of a woman by means other than through the act of coitus.

As added by P.L.2-1993, SEC.24.

IC 16-41-14-3

Donor insemination

Sec. 3. As used in this chapter, "donor insemination" means artificial insemination by a donor.

As added by P.L.2-1993, SEC.24.

IC 16-41-14-4

Practitioner

Sec. 4. As used in this chapter, "practitioner" means a person who:

(1) performs donor insemination; or

(2) receives, processes, or stores semen intended for donor insemination.

As added by P.L.2-1993, SEC.24.

IC 16-41-14-5

Disease testing; reports; pretesting donation

Sec. 5. (a) Except as provided in subsection (e) and section 7 of this chapter, a practitioner shall test each donor of semen for the following diseases before the donor provides a donation:

(1) Syphilis.

(2) Hepatitis B surface antigen and core antibody.

(3) HIV antibody.

(b) Except as provided in section 7 of this chapter, a practitioner shall test each recipient initially and at least annually as long as artificial insemination procedures are continuing for the following diseases:

(1) Syphilis.

(2) Hepatitis B surface antigen.

(3) HIV antibody.

(c) A practitioner shall perform or arrange for a confirmatory test for HIV antibody if the initial screening test for HIV antibody yields positive results.

(d) The practitioner shall report the information required under IC 16-41-2 when a test performed under subsection (c) confirms the presence of a disease required to be reported to the state department.

(e) If a practitioner states in writing that a person has a disease or will soon undergo medical treatment that may damage the person's:

(1) ability to donate semen; or

(2) semen;

the practitioner shall allow the person to donate semen before performing the tests required under subsection (a).

As added by P.L.2-1993, SEC.24. Amended by P.L.255-1996, SEC.14.

IC 16-41-14-6

Testing rules

Sec. 6. The state department shall adopt rules under IC 4-22-2 to provide for testing for communicable and sexually transmitted diseases under this chapter, including the identification of the diseases to be tested and the type of test to be used.

As added by P.L.2-1993, SEC.24.

IC 16-41-14-7

Use of semen; conditions; HIV testing

Sec. 7. (a) Except as provided in subsection (b), a practitioner may not use a donation of semen until the following conditions are met:

(1) The specimen has been frozen and quarantined for at least one hundred eighty (180) days.

(2) The donor is retested after one hundred eighty (180) days for the HIV antibody.

(b) If the recipient indicates that the donor is in a mutually monogamous relationship with the recipient, the practitioner:

(1) shall perform the HIV test required under this chapter for the donor at least annually as long as artificial insemination procedures are continuing; and

(2) may not perform artificial insemination unless the tests for HIV antibody performed under this chapter produce negative results.

As added by P.L.2-1993, SEC.24.

IC 16-41-14-8
Disposal of HIV infected semen

Sec. 8. A practitioner shall dispose of a donation of semen after a confirmatory test indicates the presence of the HIV antibody. The disposal must be made according to the rules concerning the disposal of infectious waste.
As added by P.L.2-1993, SEC.24.

IC 16-41-14-9
Reporting of diseases; notification of donors

Sec. 9. (a) A practitioner shall report the name and address of a donor or recipient to the state department if a required test shows the presence of a disease required to be reported under IC 16-41-2.

(b) A practitioner shall attempt to notify a donor or recipient if a required test indicates the presence of a disease that must be reported under IC 16-41-2.
As added by P.L.2-1993, SEC.24.

IC 16-41-14-10
Referral of HIV infected donors to counseling

Sec. 10. A practitioner shall refer a donor or recipient to appropriate counseling if a confirmatory test indicates the presence of the HIV antibody.
As added by P.L.2-1993, SEC.24.

IC 16-41-14-11
Additional testing

Sec. 11. A practitioner or other person is not required to perform a test on the donor's semen if the following conditions are met:

(1) The semen is labeled indicating that the semen has been previously tested as required by this chapter.

(2) Evidence is submitted that the donor has been tested as required by this chapter and all tests were negative.

As added by P.L.2-1993, SEC.24.

IC 16-41-14-12
Donor information

Sec. 12. (a) A practitioner shall require a semen donor to provide the following information:

(1) Name.

(2) Address.

(3) Date of birth.

(b) A practitioner shall request a semen donor to provide the semen donor's Social Security number.
As added by P.L.2-1993, SEC.24.

IC 16-41-14-13
Informed consent

Sec. 13. A practitioner shall provide information to a semen donor to enable the semen donor to give informed consent to the procedures required by this chapter. The information required by this section must be in the following form:

NOTICE

(1) This facility performs a screening test for the human immunodeficiency virus (HIV) on every donor's blood.

(2) This facility reports to the state department of health the name and address of a semen donor or recipient when a confirmatory test of the semen donor's blood or the recipient's blood confirms the presence of antibodies to the human immunodeficiency virus (HIV).

(3) A person who, for the purpose of artificial insemination, recklessly, knowingly, or intentionally donates, sells, or transfers semen that contains antibodies for the human immunodeficiency virus (HIV) commits transferring contaminated semen, a Level 5 felony. The offense is a Level 4 felony if the offense results in the transmission of the virus to another person.

As added by P.L.2-1993, SEC.24. Amended by P.L.158-2013, SEC.244.

IC 16-41-14-14
Practitioners' records; inspections

Sec. 14. (a) A practitioner shall keep the following:

(1) A record of the information required under this chapter.

(2) The results of tests required under sections 5 and 7 of this chapter.

(3) A writing required under section 5(e) of this chapter.

(b) Records kept under this section shall be made available to the state department for inspection.

(c) The state department may enter and inspect a practitioner's facility to investigate the premises, books, and records as necessary to carry out this chapter.

(d) A person may not interfere with the performance of the state department of health under this chapter.

As added by P.L.2-1993, SEC.24. Amended by P.L.255-1996, SEC.15.

IC 16-41-14-15
Confidentiality of information; violations

Sec. 15. (a) A person may not disclose or be compelled to disclose information collected under this chapter or rules adopted under this chapter. This information may not be released or made public on subpoena or otherwise, except under the following circumstances:

(1) Release may be made of the information for statistical

purposes if done in a manner that does not identify an individual.

(2) Release may be made of the information with the written consent of all individuals identified in the information released.

(3) Release may be made of the information to the extent necessary to enforce public health laws or to protect the health or life of a named person.

(b) Except as provided in subsection (a), a person who:

(1) is responsible for recording, reporting, or maintaining information required to be reported under this chapter; and

(2) recklessly, knowingly, or intentionally discloses or fails to protect information classified as confidential under this section;

commits a Class A misdemeanor.

(c) In addition to subsection (b), a public employee who violates this section is subject to discharge or other disciplinary action under the personnel rules of the agency that employs the employee.

As added by P.L.2-1993, SEC.24.

IC 16-41-14-16

Failure to conduct tests; penalty

Sec. 16. A practitioner who:

(1) is responsible for conducting a screening test required under this chapter; and

(2) knowingly or intentionally fails to conduct the screening test;

commits a Class A misdemeanor.

As added by P.L.2-1993, SEC.24.

IC 16-41-14-17

Donation, sale, or transfer of HIV infected semen; penalties

Sec. 17. (a) This section does not apply to a person who transfers for research purposes semen that contains antibodies for the human immunodeficiency virus (HIV).

(b) A person who, for the purpose of artificial insemination, recklessly, knowingly, or intentionally donates, sells, or transfers semen that contains antibodies for the human immunodeficiency virus (HIV) commits transferring contaminated semen, a Level 5 felony. The offense is a Level 4 felony if the offense results in the transmission of the virus to another person.

As added by P.L.2-1993, SEC.24. Amended by P.L.158-2013, SEC.245.

IC 16-41-14-18

Inspections on private property

Sec. 18. (a) The state department may designate an agent who:

(1) if the agent has probable cause to believe that evidence of a health threat exists on private property;

(2) upon presentation of proper credentials; and

(3) under emergency circumstances or on issuance of a warrant; may enter upon private property to inspect for and investigate possible violations of this chapter or rules adopted under this chapter.

(b) This section does not impair the authority of the state department to enter public or private property as authorized by law. *As added by P.L.2-1993, SEC.24.*

IC 16-41-14-19
Orders of compliance; civil penalties

Sec. 19. (a) The state department may commence an action under IC 4-21.5-3-6 or IC 4-21.5-4 for issuance of an order of compliance and a civil penalty not to exceed one thousand dollars ($1,000) per violation per day against any person who:

(1) fails to comply with this chapter or a rule adopted under this chapter; or

(2) interferes with or obstructs the state department or the state department's designated agent in the performance of official duties under this chapter or a rule adopted under this chapter.

(b) The state department may commence an action against a facility licensed by the state department under either subsection (a) or the licensure statute for the facility, but the state department may not bring an action arising out of one (1) incident under both statutes. *As added by P.L.2-1993, SEC.24.*

IC 16-41-14-20
Violations

Sec. 20. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with section 18 or 19 of this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense. *As added by P.L.2-1993, SEC.24.*

IC 16-41-15

Chapter 15. Communicable Disease: Prevention and Control of Venereal Diseases

IC 16-41-15-1

Approved laboratory

Sec. 1. As used in this chapter, "approved laboratory" means a laboratory approved by the state department for making serological tests.

As added by P.L.2-1993, SEC.24.

IC 16-41-15-2

Standard serological test for syphilis

Sec. 2. As used in this chapter, "standard serological test for syphilis" means a test recognized as a standard serological test for syphilis by the state department.

As added by P.L.2-1993, SEC.24.

IC 16-41-15-3

Venereal disease prevention and control programs; appropriation requests

Sec. 3. The local board of health or health officer may request from the appropriate body an appropriation for a venereal disease prevention and control program, which may include hospitalization and quarantine, when the local board of health or health officer determines that either of the following conditions exist:

(1) There is a prevalency of venereal disease inimical to the public health, safety, and welfare of the citizens.

(2) Venereal disease is causing economic interference with any phase of public welfare in the local health board's or health officer's jurisdiction.

As added by P.L.2-1993, SEC.24.

IC 16-41-15-4

Appropriations

Sec. 4. The local health officer shall transmit the request for funds to establish the venereal disease prevention and control program to the appropriate governing body, which may appropriate, out of any money that may be available in the governing body's general fund, an amount the governing body considers necessary and advisable to properly carry out the program as an emergency appropriation.

As added by P.L.2-1993, SEC.24.

IC 16-41-15-5

Tax levies; collection; credit

Sec. 5. The appropriate governing body may levy annually a tax of not more than one cent ($0.01) on each one hundred dollars ($100) of taxable property for the control and prevention of venereal

disease. The tax is in addition to other taxes of the local governing body. The tax shall be collected in the same manner as other taxes and shall be credited to the local board of health venereal disease prevention and control fund.
As added by P.L.2-1993, SEC.24. Amended by P.L.6-1997, SEC.178.

IC 16-41-15-6
Infant eye examinations; treatment
Sec. 6. A person in professional attendance at a birth shall carefully examine the eyes of the infant and if there is reason for suspecting infection in one (1) or both eyes, the person in professional attendance at the birth shall apply such prophylactic treatment as may be prescribed by the state department.
As added by P.L.2-1993, SEC.24.

IC 16-41-15-7
Birth certificates; ophthalmia neonatorum precaution information
Sec. 7. The state department shall require in each birth certificate, in addition to information otherwise required in the certificate, an answer to the question "Were precautions taken against ophthalmia neonatorum?".
As added by P.L.2-1993, SEC.24.

IC 16-41-15-8
Duty to provide ophthalmia neonatorum precaution information
Sec. 8. It is unlawful for any person in professional attendance at a birth to fail to include an answer to the question on a birth certificate: "Were precautions taken against ophthalmia neonatorum?".
As added by P.L.2-1993, SEC.24.

IC 16-41-15-9
Infant eye inflammation, swelling, or discharge; reports; treatment
Sec. 9. (a) If:
(1) one (1) or both eyes of an infant become inflamed, swollen, or show an unnatural discharge or secretion at any time within two (2) weeks after birth; and
(2) there is no legally qualified person in professional attendance;
the parent or other person who is in charge of the care of the infant shall immediately report in writing the infection or unnatural discharge not more than six (6) hours after discovery to the health officer.
(b) If treatment has not been secured by the time the report on the infection or unnatural discharge is made, the local health officer shall direct the person to secure adequate medical service and to make a report to the local health officer when the treatment has been secured.

(c) If the person who is in charge of the care of the infant is unable to pay for medical treatment for the infant, the local health officer may direct the person to place the infant in the charge of the proper agency or official responsible for the medical care of indigents.
As added by P.L.2-1993, SEC.24.

IC 16-41-15-10
Syphilis testing during pregnancy; duty of physician
Sec. 10. A physician who diagnoses a pregnancy of a woman shall take or cause to be taken a sample of blood:
(1) at the time of diagnosis of pregnancy; and
(2) during the third trimester of pregnancy, if the woman belongs to a high risk population for which the Centers for Disease Control "Sexually Transmitted Diseases Treatment Guidelines" recommend a third trimester syphilis testing;
and shall submit each sample to an approved laboratory for a standard serological test for syphilis.
As added by P.L.2-1993, SEC.24. Amended by P.L.255-1996, SEC.16.

IC 16-41-15-11
Syphilis testing during pregnancy; duty of attendant
Sec. 11. A person other than a physician who is permitted by law to attend a pregnant woman, but who is not permitted by law to take blood specimens, shall cause a sample of the blood of the pregnant woman to be taken by a licensed physician, who shall submit the sample to an approved laboratory for a standard serological test for syphilis.
As added by P.L.2-1993, SEC.24.

IC 16-41-15-12
Syphilis testing at time of delivery
Sec. 12. If at the time of delivery positive evidence is not available to show that standard serological tests for syphilis have been made in accordance with section 10 of this chapter, the person in attendance at the delivery shall take or cause to be taken a sample of the blood of the woman at the time of the delivery and shall submit the sample to an approved laboratory for a standard serological test for syphilis.
As added by P.L.2-1993, SEC.24.

IC 16-41-15-13
Syphilis testing information; inclusion in birth and stillbirth certificates
Sec. 13. (a) The state department shall require in each birth certificate and stillbirth certificate, in addition to information otherwise required in the certificate, the following information:

(1) Whether a serological test for syphilis was made for the woman who bore the child.
(2) If a serological test for syphilis was made, the date the blood specimen was taken.
(3) If a serological test for syphilis was made, whether the test was made during pregnancy or at the time of delivery.
(4) If a serological test for syphilis was not made, the reason why the test was not made.

(b) A person who prepares a birth certificate or a stillbirth certificate shall include the information required in subsection (a).
As added by P.L.2-1993, SEC.24.

IC 16-41-15-14
Admission of infected persons to charitable and penal institutions

Sec. 14. The fact that a person has a venereal disease may not bar the person's admission to a benevolent, charitable, or penal institution or correctional facility supported and maintained in any part by state funds.
As added by P.L.2-1993, SEC.24. Amended by P.L.12-1996, SEC.12.

IC 16-41-15-15
Treatment of infected persons admitted to charitable and penal institutions

Sec. 15. Whenever a person with a venereal disease is admitted to a benevolent, charitable, or penal institution or correctional facility of Indiana, the superintendent or official in charge of the institution or correctional facility shall institute and provide the proper treatment for the person and shall carry out laboratory tests necessary to determine the nature, course, duration, and results of the treatment.
As added by P.L.2-1993, SEC.24. Amended by P.L.12-1996, SEC.13.

IC 16-41-15-16
Free laboratory service for charitable and penal institutions

Sec. 16. The services of the laboratory of the state department shall be available without charge for the laboratory diagnoses and tests as may be necessary to carry out sections 14 and 15 of this chapter. The state institutions and the state department shall cooperate in every reasonable way in the prevention and suppression of venereal diseases.
As added by P.L.2-1993, SEC.24.

IC 16-41-15-17
Application of chapter to spiritual and prayer healing

Sec. 17. Sections 10 through 12 of this chapter do not apply to the following:
(1) A person who administers to or treats the sick or suffering by spiritual means or prayer.
(2) A person who, because of the person's religious belief, in

good faith selects and depends upon spiritual means or prayer for treatment or cure of diseases.

As added by P.L.2-1993, SEC.24.

IC 16-41-15-18

Violations

Sec. 18. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.

As added by P.L.2-1993, SEC.24.

IC 16-41-16

Chapter 16. Communicable Disease: Treatment of Infectious Waste

IC 16-41-16-1

Application of chapter

Sec. 1. (a) This chapter applies to persons and facilities that handle infectious waste, including the following:

(1) Hospitals.
(2) Ambulatory surgical facilities.
(3) Medical laboratories.
(4) Diagnostic laboratories.
(5) Blood centers.
(6) Pharmaceutical companies.
(7) Academic research laboratories.
(8) Industrial research laboratories.
(9) Health facilities.
(10) Offices of health care providers.
(11) Diet or health care clinics.
(12) Offices of veterinarians.
(13) Veterinary hospitals.
(14) Emergency medical services providers.
(15) Mortuaries.
(16) Abortion clinics.

(b) Except as provided in sections 2, 4, and 7.5 of this chapter, this chapter does not apply to:

(1) home health agencies; or
(2) hospice services delivered in the home of a hospice patient.

As added by P.L.2-1993, SEC.24. Amended by P.L.146-1996, SEC.5; P.L.213-2016, SEC.23.

IC 16-41-16-2

Contaminated sharp

Sec. 2. (a) As used in this chapter, "contaminated sharp" means an object that meets the following conditions:

(1) Is capable of cutting or penetrating the skin.
(2) Has been in contact with blood or body fluids.

(b) The term includes a hypodermic or suture needle, syringe, scalpel blade, pipette, lancet, or broken glass.

As added by P.L.2-1993, SEC.24.

IC 16-41-16-3

Effective treatment

Sec. 3. (a) As used in this chapter, "effective treatment" means treatment that meets the following conditions:

(1) Reduces the pathogenic qualities of infectious waste to a point where the waste is safe to handle.
(2) Is designed for the specific waste involved.

(3) Is carried out in a manner consistent with rules adopted by the state department under section 8 of this chapter.

(b) The term includes the following:

(1) Incineration.

(2) Steam sterilization.

(3) Chemical disinfection.

(4) Thermal inactivation.

(5) Irradiation.

As added by P.L.2-1993, SEC.24.

IC 16-41-16-4

Infectious waste

Sec. 4. (a) Except as provided in subsections (c) and (d), as used in this chapter, "infectious waste" means waste that epidemiologic evidence indicates is capable of transmitting a dangerous communicable disease (as defined by rule adopted under IC 16-41-2-1).

(b) The term includes the following:

(1) Pathological wastes.

(2) Biological cultures and associated biologicals.

(3) Contaminated sharps.

(4) Infectious agent stock and associated biologicals.

(5) Blood and blood products in liquid or semiliquid form.

(6) Laboratory animal carcasses, body parts, and bedding.

(7) Wastes (as described under section 8 of this chapter).

(c) "Infectious waste", as the term applies to a:

(1) home health agency; or

(2) hospice service delivered in the home of a hospice patient;

includes only contaminated sharps.

(d) The term does not include an aborted fetus or a miscarried fetus.

As added by P.L.2-1993, SEC.24. Amended by P.L.146-1996, SEC.6; P.L.213-2016, SEC.24.

IC 16-41-16-5

Pathological waste

Sec. 5. As used in this chapter, "pathological waste" includes:

(1) tissues;

(2) organs;

(3) body parts; and

(4) blood or body fluids in liquid or semiliquid form;

that are removed during surgery, biopsy, or autopsy. The term does not include an aborted fetus or a miscarried fetus.

As added by P.L.2-1993, SEC.24. Amended by P.L.213-2016, SEC.25.

IC 16-41-16-6

Secure area

Sec. 6. As used in this chapter, "secure area" means an area that is designed and maintained to prevent the entry of unauthorized persons.
As added by P.L.2-1993, SEC.24.

IC 16-41-16-7
Treatment of infectious waste

Sec. 7. (a) Before infectious waste is placed in an area that is not a secure area and before the waste is sent for final disposal, all infectious waste must be:

(1) effectively treated on site; or
(2) transported off site for effective treatment;

according to rules adopted under section 8 of this chapter.

(b) A facility shall treat liquid infectious waste or excreta that are infectious waste as required by subsection (a) or flush the liquid infectious waste or excreta that are infectious waste in compliance with rules adopted under IC 4-22-2.
As added by P.L.2-1993, SEC.24.

IC 16-41-16-7.5
Treatment of noninfectious waste

Sec. 7.5. Any waste that is not infectious waste (as defined in section 4(c) of this chapter) must be double bagged and tied to protect handlers.
As added by P.L.146-1996, SEC.7.

IC 16-41-16-7.6
Disposition of a miscarried fetus or an aborted fetus

Sec. 7.6. (a) This section applies to a person or facility possessing either an aborted fetus or a miscarried fetus.

(b) Within ten (10) business days after a miscarriage occurs or an abortion is performed, a person or facility described in subsection (a) shall:

(1) conduct the final disposition of a miscarried fetus or an aborted fetus in the manner required by IC 16-21-11-6 or IC 16-34-3-4; or
(2) ensure that the miscarried fetus or aborted fetus is preserved until final disposition under IC 16-21-11-6 or IC 16-34-3-4 occurs.

As added by P.L.213-2016, SEC.26.

IC 16-41-16-8
Rules

Sec. 8. (a) After consulting with an advisory committee composed of representatives of persons or facilities that handle infectious wastes, the state department shall adopt rules under IC 4-22-2 necessary to carry out this chapter.

(b) The state department shall adopt rules under this section after

considering the guidelines of the following:

(1) United States Environmental Protection Agency.

(2) United States Centers for Disease Control.

(3) United States Occupational Safety and Health Administration.

(4) State department of labor.

(5) State department of environmental management.

(c) The state department shall adopt rules under this section that establish an alternative to 410 IAC 1-3-28 to allow a person or facility that transports infectious waste offsite to label each container of infectious waste in a manner that:

(1) does not specifically identify the generating facility or treatment facility; and

(2) ensures that the identity of the generating facility or treatment facility may be readily obtained based on the label information.

As added by P.L.2-1993, SEC.24. Amended by P.L.128-1997, SEC.9.

IC 16-41-16-9

Inspections on private property

Sec. 9. (a) The state department may designate an agent who may enter on private property to inspect for and investigate possible violations of this chapter or rules adopted under this chapter if the following conditions are met:

(1) The agent has probable cause to believe that evidence of a health threat exists on private property.

(2) The agent presents proper credentials.

(3) Emergency circumstances exist or a warrant is issued.

(b) This section does not impair the authority of the state department to enter public or private property as authorized by law.

As added by P.L.2-1993, SEC.24.

IC 16-41-16-10

Orders of compliance; civil penalties

Sec. 10. (a) The state department may commence an action under IC 4-21.5-3-6 or IC 4-21.5-4 for issuance of an order of compliance and a civil penalty not to exceed one thousand dollars ($1,000) per violation per day against a person who:

(1) fails to comply with this chapter or a rule adopted under this chapter; or

(2) interferes with or obstructs the state department or the state department's designated agent in the performance of official duties under this chapter or a rule adopted under this chapter.

(b) The state department may commence an action against a facility licensed by the state department under either subsection (a) or the licensure statute for that facility, but the state department may not bring an action arising out of one (1) incident under both statutes.

As added by P.L.2-1993, SEC.24.

IC 16-41-16-11
Violations

Sec. 11. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.
As added by P.L.2-1993, SEC.24.

IC 16-41-17

Chapter 17. Prevention and Treatment Programs: Examination of Infants for Phenylketonuria, Hypothyroidism, and Other Disorders

IC 16-41-17-1

Waste blood specimen

Sec. 1. As used in this chapter, "waste blood specimen" means a blood sample or a solid, liquid, or semiliquid blood product that:

(1) has served the intended purpose under section 4 of this chapter; or

(2) has served the natural, biological, medical, or intended purpose and has been discarded or accumulated for discard from a use other than as provided under section 10(a)(5) of this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-17-2

Examinations; religious exemption

Sec. 2. (a) Subject to subsection (d), every infant shall be given examinations at the earliest feasible time for the detection of the following disorders:

(1) Phenylketonuria.

(2) Hypothyroidism.

(3) Hemoglobinopathies, including sickle cell anemia.

(4) Galactosemia.

(5) Maple Syrup urine disease.

(6) Homocystinuria.

(7) Inborn errors of metabolism that result in an intellectual disability and that are designated by the state department.

(8) Congenital adrenal hyperplasia.

(9) Biotinidase deficiency.

(10) Disorders detected by tandem mass spectrometry or other technologies with the same or greater detection capabilities as tandem mass spectrometry, if the state department determines that the technology is available for use by a designated laboratory under section 7 of this chapter.

(b) Subject to subsection (d), every infant shall be given a physiologic hearing screening examination at the earliest feasible time for the detection of hearing impairments.

(c) Beginning January 1, 2012, and subject to subsection (d), every infant shall be given a pulse oximetry screening examination at the earliest feasible time for the detection of low oxygen levels. Section 10(a)(2) of this chapter does not apply to this subsection.

(d) If a parent of an infant objects in writing, for reasons pertaining to religious beliefs only, the infant is exempt from the examinations required by this chapter.

As added by P.L.2-1993, SEC.24. Amended by P.L.91-1999, SEC.2;

P.L.149-2001, SEC.3; P.L.229-2011, SEC.165; P.L.117-2015, SEC.34.

IC 16-41-17-3
Educational program

Sec. 3. The state department shall conduct an intensive educational program among physicians, hospitals, public health nurses, and the public concerning the disorders listed in section 2 of this chapter. The educational program must include information about:

(1) the nature of the disorders; and

(2) examinations for the detection of the disorders in infancy;

so that measures may be taken to prevent the intellectual disabilities, medical complications, or mortality resulting from the disorders.
As added by P.L.2-1993, SEC.24. Amended by P.L.117-2015, SEC.35.

IC 16-41-17-4
Tests

Sec. 4. After consultation with medical authorities, the state department shall require appropriate tests to be used in the detection of disorders listed in section 2 of this chapter.
As added by P.L.2-1993, SEC.24.

IC 16-41-17-5
Detection plans and procedures

Sec. 5. The state department and all local boards of health shall encourage and promote the development of plans and procedures for the detection of the disorders listed in section 2 of this chapter in all local health jurisdictions of Indiana.
As added by P.L.2-1993, SEC.24.

IC 16-41-17-6
Reports

Sec. 6. (a) The state department shall provide forms on which the results of tests performed on each child for the disorders listed in section 2 of this chapter shall be reported to the state department by physicians and hospitals.

(b) The state department shall ascertain at least quarterly the extent of such testing and the findings shall be reported to all hospitals, physicians, and other groups interested in child welfare.
As added by P.L.2-1993, SEC.24.

IC 16-41-17-7
Testing laboratories

Sec. 7. (a) The state department shall designate at least one (1) laboratory for testing for disorders listed in section 2(a) of this chapter.

(b) The designated laboratories shall perform tests on all infants for the detection of disorders under section 2(a) of this chapter.

(c) This section does not prevent other facilities from conducting tests for disorders under this chapter.

As added by P.L.2-1993, SEC.24. Amended by P.L.91-1999, SEC.3.

IC 16-41-17-8

Blood samples

Sec. 8. Each hospital and physician shall:

(1) take or cause to be taken a blood sample from every infant born under the hospital's and physician's care; and

(2) transport or cause to be transported each blood sample described in subdivision (1) to a laboratory designated under section 7 of this chapter;

for testing for the disorders listed in section 2(a) of this chapter.

As added by P.L.2-1993, SEC.24. Amended by P.L.91-1999, SEC.4.

IC 16-41-17-9

Rules

Sec. 9. The state department shall adopt rules under IC 4-22-2 to carry out this chapter, including rules to ensure the following:

(1) Proper and timely sample collection and transportation under section 8 of this chapter.

(2) Quality testing procedures at the laboratories designated under section 7 of this chapter.

(3) Uniform reporting procedures.

(4) Centralized coordination, tracking, and follow-up.

(5) Appropriate diagnosis and management of affected newborns and counseling and support programs for newborns' families.

As added by P.L.2-1993, SEC.24.

IC 16-41-17-10

Follow-up programs; newborn screening fees; waste blood specimen confidentiality

Sec. 10. (a) The state department shall develop the following:

(1) A registry for tracking and follow-up of all newborns and individuals for screening.

(2) A centralized program that provides follow-up, diagnosis, management, and family counseling and support, including equipment, supplies, formula, and other materials, for all infants and individuals identified as having one (1) of the disorders listed in section 2 of this chapter.

(3) A laboratory quality assurance program, including proficiency testing.

(4) A statewide network of genetic evaluation and counseling services.

(5) A system for using, for epidemiological survey and research

purposes, any waste blood specimen generated under this chapter.

(b) The program described in subsection (a) shall be funded by collection of a newborn screening fee for each newborn screened by a designated laboratory.

(c) The state department shall set the fee and procedures for disbursement under rules adopted under IC 4-22-2. The fee must be based upon the projected cost of the program. The proposed fee must be approved by the budget agency before the rule is adopted.

(d) The designated laboratory shall assess, collect, and deposit the fees established under subsection (c) in the newborn screening fund established under section 11 of this chapter.

(e) The state department shall annually review the newborn screening fee.

(f) Waste blood specimens used for the purpose of implementing the system described under subsection (a)(5) may not include the name or other identifying characteristics that would identify the individual submitting the specimen.

As added by P.L.2-1993, SEC.24.

IC 16-41-17-11

Newborn screening fund

Sec. 11. (a) The newborn screening fund is established for the purpose of carrying out this chapter. The state department shall administer the fund.

(b) The expenses of the newborn screening program shall be paid from money in the fund.

(c) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.2-1993, SEC.24.

IC 16-41-18

Chapter 18. Prevention and Treatment Programs: Hemophilia Care and Treatment Program

IC 16-41-18-1

Repealed

(Repealed by P.L.87-1994, SEC.16.)

IC 16-41-18-2

Hemophilia

Sec. 2. As used in this chapter, "hemophilia" means a bleeding tendency resulting from a genetically determined deficiency factor in the blood.

As added by P.L.2-1993, SEC.24.

IC 16-41-18-3

Care and treatment programs

Sec. 3. (a) The state department shall establish a program for the care and treatment of persons suffering from hemophilia.

(b) The program established under subsection (a) shall assist persons who:

(1) require continuing treatment with blood and blood derivatives to avoid crippling, extensive hospitalization, and other effects associated with the critical, chronic bleeding condition; and

(2) are unable to pay for the entire cost of such services on a continuing basis despite the existence of various types of hospital medical insurance coverage, Medicare, Medicaid, other government assistance programs, and private charitable assistance programs.

As added by P.L.2-1993, SEC.24.

IC 16-41-18-4

Repealed

(Repealed by P.L.87-1994, SEC.16.)

IC 16-41-18-5

Development of care and treatment programs

Sec. 5. The state department may do the following:

(1) Develop standards for determining eligibility for care and treatment under the hemophilia program established under this chapter.

(2) Assist in the development and expansion of programs for the care and treatment of persons suffering from hemophilia, including the following:

(A) Self-administration.

(B) Prevention.

(C) Home care.

(D) Other medical and dental procedures and techniques designed to provide maximum control over bleeding episodes typical of the condition.

(3) Extend financial assistance to persons suffering from hemophilia in obtaining blood, blood derivatives and concentrates, and other efficacious agents for use in hospital, medical, and dental facilities and at home or participate in the cost of blood processing to the extent that such support will facilitate the supplying of blood, blood derivatives and concentrates, and other efficacious agents to hemophiliac patients at an economical cost, thus increasing the effectiveness of the money appropriated to carry out this chapter.

(4) Adopt rules necessary to carry out this chapter.

As added by P.L.2-1993, SEC.24. Amended by P.L.87-1994, SEC.10.

IC 16-41-18-6
Violations

Sec. 6. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.

As added by P.L.2-1993, SEC.24.

IC 16-41-18.5

Chapter 18.5. Lupus Education

IC 16-41-18.5-1

State department working with national lupus organization in educating the public

Sec. 1. The state department may work with a national lupus organization in educating the public about the following concerning lupus:

(1) The symptoms and nature of lupus.

(2) Personal risk factors.

(3) Options for diagnosing and treating lupus.

(4) Populations with elevated risk for lupus, including women and communities of color.

As added by P.L.108-2011, SEC.1.

IC 16-41-18.5-2

State department promoting national organization's lupus education initiatives; distribution of health information on state department web site

Sec. 2. (a) The state department may promote a national lupus organization's initiatives to educate and train physicians, other health care providers, and human services providers on the most current and accurate scientific and medical information regarding the following concerning lupus:

(1) Diagnosis.

(2) Treatment.

(3) Risks and benefits of medications.

(4) Research advances.

(5) Therapeutic decision making, including medical best practices for diagnosing and treatment.

(b) The state department may distribute medically sound health information on the state department's Internet web site for review by the following:

(1) Local health departments.

(2) Schools.

(3) The division of aging.

(4) Employer wellness programs.

(5) Physicians and other health care providers.

(6) Hospitals.

As added by P.L.108-2011, SEC.1.

IC 16-41-18.5-3

Participation in identifying partners for lupus education

Sec. 3. The state department may participate in identifying the appropriate partners to aid in the education components of this chapter, including the following:

(1) Local health departments.

(2) Schools.
(3) Division of aging.
(4) Area agencies on aging.
(5) Employer wellness programs.
(6) Physicians and other health care providers.
(7) Accident and sickness insurance companies and health maintenance organizations.
(8) Hospitals.
(9) Women's health organizations.
(10) Nonprofit entities.
(11) Community organizations.

As added by P.L.108-2011, SEC.1.

IC 16-41-18.5-4

Acceptance of grants, services, and property for national education programs; seeking federal waivers

Sec. 4. The state department may accept grants, services, and property from the federal government, public entities, and private entities for the purpose of participating in national education programs. The state department may seek any federal waiver needed to maximize federal funds to educate the public about lupus.

As added by P.L.108-2011, SEC.1.

IC 16-41-18.6

Chapter 18.6. Parkinson's Disease Education

IC 16-41-18.6-1

State department working with national Parkinson's disease organization in educating public

Sec. 1. The state department may work with a national Parkinson's disease organization in educating the public about the following concerning Parkinson's disease:

(1) The symptoms and nature of Parkinson's disease.

(2) Personal risk factors.

(3) Options for diagnosing and treating Parkinson's disease.

(4) Populations with elevated risk for Parkinson's disease.

As added by P.L.108-2011, SEC.2.

IC 16-41-18.6-2

State department promoting national organization education initiatives; distribution of health information on state department web site

Sec. 2. (a) The state department may promote a national Parkinson's disease organization's initiatives to educate and train physicians, other health care providers, and human services providers on the most current and accurate scientific and medical information regarding the following concerning Parkinson's disease:

(1) Diagnosis.

(2) Treatment.

(3) Risks and benefits of medications.

(4) Research advances.

(5) Therapeutic decision making, including medical best practices for diagnosing and treatment.

(b) The state department may distribute medically sound health information on the state department's Internet web site for review by the following:

(1) Local health departments.

(2) Schools.

(3) The division of aging.

(4) Employer wellness programs.

(5) Physicians and other health care providers.

(6) Hospitals.

As added by P.L.108-2011, SEC.2.

IC 16-41-18.6-3

Participation in identifying partners for Parkinson's disease education

Sec. 3. The state department may participate in identifying the appropriate partners to aid in the education components of this chapter, including the following:

(1) Local health departments.

(2) Schools.
(3) Division of aging.
(4) Area agencies on aging.
(5) Employer wellness programs.
(6) Physicians and other health care providers.
(7) Accident and sickness insurance companies and health maintenance organizations.
(8) Hospitals.
(9) Women's health organizations.
(10) Nonprofit entities.
(11) Community organizations.

As added by P.L.108-2011, SEC.2.

IC 16-41-18.6-4

Acceptance of grants, services, and property for national education programs; seeking federal waivers

Sec. 4. The state department may accept grants, services, and property from the federal government, public entities, and private entities for the purpose of participating in national education programs. The state department may seek any federal waiver needed to maximize federal funds to educate the public about Parkinson's disease.

As added by P.L.108-2011, SEC.2.

IC 16-41-19

Chapter 19. Prevention and Treatment Programs: Provision of Free Drugs and Vaccines to Indigents

IC 16-41-19-1

Biologicals

Sec. 1. As used in this chapter, "biologicals" means drugs and vaccines.

As added by P.L.2-1993, SEC.24.

IC 16-41-19-2

Antitoxins and vaccines

Sec. 2. All counties, cities, and towns shall supply without charge diphtheria, scarlet fever, and tetanus (lockjaw) antitoxin and rabies vaccine to persons financially unable to purchase the antitoxin or vaccine, upon the application of a licensed physician.

As added by P.L.2-1993, SEC.24.

IC 16-41-19-3

Application forms

Sec. 3. The state department shall supply the necessary application forms to all local health officers for the administration of section 2 of this chapter and IC 12-20-16-14. The local health officers shall supply physicians with the forms on request. The application forms shall be designed to provide the statistical information required by the state department.

As added by P.L.2-1993, SEC.24.

IC 16-41-19-4

Physicians' affirmation

Sec. 4. The physician or advanced practice nurse applying for free biologicals as provided in this chapter and IC 12-20-16-14 shall sign in ink the following affirmation printed on the application form:

> I solemnly affirm that the free biologicals applied for will be administered to the person named above, and it is my belief after inquiry that the person is financially unable to pay for the biologicals.

As added by P.L.2-1993, SEC.24. Amended by P.L.262-2003, SEC.8.

IC 16-41-19-5

Supply of biologicals

Sec. 5. On receipt of an official form properly filled out and signed in ink by a physician, any dealer may supply the biologicals called for in the application form.

As added by P.L.2-1993, SEC.24.

IC 16-41-19-6

Payment claims

Sec. 6. When the application form is filed with the proper financial officer, the application form constitutes a legal claim for the market price of the furnished biologicals against the appropriate county, township, city, or town in which biologicals are used and against which the application form is issued.
As added by P.L.2-1993, SEC.24.

IC 16-41-19-7
Costs

Sec. 7. (a) Except as provided in subsection (b), all costs that are incurred in furnishing biologicals under this chapter, IC 12-20-16-2(c)(13), or IC 12-20-16-14 shall be paid by:

(1) the appropriate county, city, or town against which the application form is issued from general funds; and

(2) the appropriate township against which the application form is issued from funds in the township assistance fund;

not otherwise appropriated without appropriations.

(b) A township is not responsible for paying for biologicals as provided in subsection (a)(2) if the township trustee has evidence that the individual has the financial ability to pay for the biologicals.

(c) When a township trustee is presented with a legal claim for insulin being furnished to an individual, the township trustee may require the individual to complete and file a standard application for township assistance in order to investigate the financial condition of the individual claiming to be indigent.

(d) For purposes of this section, the township shall consider an adult individual needing insulin as an individual and not as a member of a household requesting township assistance.
As added by P.L.2-1993, SEC.24. Amended by P.L.259-2001, SEC.9; P.L.73-2005, SEC.169; P.L.51-2015, SEC.1.

IC 16-41-19-8
Records

Sec. 8. Each local health officer shall make official records of all cases in which free biologicals are furnished in the local health officer's jurisdiction. The local health officer shall, by the fifth day of each month, send information concerning the preceding month as required by the state department.
As added by P.L.2-1993, SEC.24.

IC 16-41-19-9
Preventive biologicals

Sec. 9. (a) The state department may supply without charge, in the interest of disease prevention and control, preventive biologicals to local health officers for immunization of individuals financially unable to purchase the biologicals.

(b) The state department shall determine the procedures necessary for the proper administration of this section.

As added by P.L.2-1993, SEC.24.

IC 16-41-19-10
Violations

Sec. 10. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.
As added by P.L.2-1993, SEC.24.

IC 16-41-19.5

Chapter 19.5. Prevention and Treatment Programs: Post-Organ Transplant Program

IC 16-41-19.5-1

"Post-organ transplant program" defined

Sec. 1. As used in this chapter, "post-organ transplant program" refers to a program established by the state department to pay recipients eligible under this chapter for costs of immunosuppressive drugs prescribed exclusively for the maintenance of individuals who undergo the transplant of an internal organ, including a heart, lung, liver, or kidney, if the costs of the drugs are not reimbursed from other sources.

As added by P.L.27-1999, SEC.2.

IC 16-41-19.5-2

Establishment

Sec. 2. The state department shall establish a post-organ transplant program.

As added by P.L.27-1999, SEC.2.

IC 16-41-19.5-3

Eligibility

Sec. 3. An individual who meets the following requirements is eligible for the post-organ transplant program:

(1) The individual has submitted a properly completed application on a form supplied by the state department.

(2) The individual has a household income that is not more than two hundred fifty percent (250%) of the federal poverty level as determined by the federal Office of Management and Budget.

(3) The individual is a resident of Indiana and has resided in Indiana for twelve (12) months before submitting the application. An individual is not excluded from the program for receiving an organ transplant outside Indiana.

(4) The individual meets any other eligibility standards adopted by the state department.

As added by P.L.27-1999, SEC.2.

IC 16-41-19.5-4

Amount paid by state department to applicants

Sec. 4. (a) The state department shall determine the maximum amount the state department will pay each eligible post-organ transplant program applicant based on the following criteria:

(1) Available money.

(2) Covered immunosuppressive drugs.

(3) The terms of any contract between the state department and the patient's health care provider.

(4) The reimbursement rate for a post-organ transplant drug

may not be greater than the Medicaid reimbursement rate for the drug, minus a copayment by the recipient.

(b) The state health commissioner may restrict or categorize payments for post-organ transplant drugs to meet budgetary limitations.

As added by P.L.27-1999, SEC.2.

IC 16-41-19.5-5

Reimbursement of recipients by state department

Sec. 5. (a) Except as provided in subsection (b), the state department may not reimburse an eligible recipient under the post-organ transplant program for drug costs that are reimbursed or eligible for reimbursement by a governmental entity or other third party, including Medicaid, Medicare, the Veterans Administration, a health insurance company, or a health maintenance organization.

(b) The state health commissioner may waive the requirements of subsection (a) on a case by case basis if the commissioner determines that enforcement of subsection (a) will deny services to a class of post-organ transplant patients because of conflicting state or federal law.

(c) The state department shall adopt rules under IC 4-22-2 to ensure that all required benefit payments for post-organ transplant drugs under subsection (a) are properly paid.

As added by P.L.27-1999, SEC.2.

IC 16-41-19.5-6

Duties of state department

Sec. 6. The state department shall:

(1) maintain an immunosuppressive drug formulary that includes the drugs that are eligible for reimbursement under the post-organ transplant program;

(2) establish an internal review procedure for updating the formulary that includes procedures for adding and deleting drugs from the formulary; and

(3) review the formulary at least quarterly each year.

As added by P.L.27-1999, SEC.2.

IC 16-41-19.5-7

Post-organ transplant program fund

Sec. 7. (a) The post-organ transplant program fund is established for the purpose of providing payment of immunosuppressive drugs to eligible organ transplant recipients under this chapter. The fund shall be administered by the state department.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The treasurer of state shall invest money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues

from these investments shall be deposited in the fund.

(d) Money in the fund consists of appropriations, gifts, grants, and donations from public or private sources. Money in the fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.27-1999, SEC.2.

IC 16-41-19.5-8

Rules

Sec. 8. The state department may adopt rules under IC 4-22-2 that are necessary to implement this chapter.

As added by P.L.27-1999, SEC.2.

IC 16-41-20

Chapter 20. Health, Sanitation, and Safety: Dwellings Unfit for Human Habitation

IC 16-41-20-1

Dwellings unfit for human habitation

Sec. 1. A dwelling is unfit for human habitation when the dwelling is dangerous or detrimental to life or health because of any of the following:

(1) Want of repair.

(2) Defects in the drainage, plumbing, lighting, ventilation, or construction.

(3) Infection with contagious disease.

(4) The existence on the premises of an unsanitary condition that is likely to cause sickness among occupants of the dwelling.

As added by P.L.2-1993, SEC.24.

IC 16-41-20-2

Powers of local inspectors of buildings

Sec. 2. The inspector of buildings in a city or town may exercise all the powers granted the inspector in the following:

(1) A city or town ordinance dealing with housing.

(2) This chapter to boards of health.

As added by P.L.2-1993, SEC.24.

IC 16-41-20-3

Exercise of powers by the state health department

Sec. 3. The state department may not exercise a power granted in this chapter without giving to the local board of health or county health officer having jurisdiction a notice setting forth the conditions that have been certified to the state department or of which the state department has knowledge. If the local board of health or county health officer fails to act not more than three (3) days after the notice, the state department may exercise the granted powers.

As added by P.L.2-1993, SEC.24.

IC 16-41-20-4

Orders to vacate dwellings

Sec. 4. Whenever the state department, the local board of health, or county health officer determines that a dwelling is unfit for human habitation, the state department, local board of health, or county health officer may issue an order requiring all persons living in the dwelling to vacate the dwelling within not less than five (5) days and not more than fifteen (15) days. The order must mention at least one (1) reason for the order.

As added by P.L.2-1993, SEC.24.

IC 16-41-20-5
Extension or revocation of orders to vacate dwellings

Sec. 5. (a) The state department, local board of health, or county health officer that issued an order to vacate under section 4 of this chapter shall, for a good reason, extend the time within which to comply with the order.

(b) The state department, local board of health, or county health officer may revoke the order if satisfied that the danger from the dwelling has ceased to exist and that the dwelling is fit for habitation.
As added by P.L.2-1993, SEC.24.

IC 16-41-20-6
Public nuisances

Sec. 6. The state department, local board of health, or county health officer may declare a dwelling that is unfit for human habitation a public nuisance. The state department, local board of health, or county health officer may order to be removed, abated, suspended, altered, improved, or purified a dwelling, structure, excavation, business, pursuit, or thing in or about the dwelling or the dwelling's lot, or the plumbing, sewerage, drainage, light, or ventilation of the dwelling.
As added by P.L.2-1993, SEC.24.

IC 16-41-20-7
Orders for cleaning, repairing, or improving

Sec. 7. The state department, local board of health, or county health officer may order purified, cleansed, disinfected, renewed, altered, repaired, or improved a dwelling, excavation, building, structure, sewer, plumbing, pipe, passage, premises, ground, or thing in or about a dwelling that is found to be unfit for human habitation or the dwelling's lot.
As added by P.L.2-1993, SEC.24.

IC 16-41-20-8
Service of orders

Sec. 8. An order issued under this chapter shall be served on the tenant and the owner of the dwelling or the owner's rental agent. The order may be served on a person who by contract has assumed the duty of doing the things that the order specifies to be done.
As added by P.L.2-1993, SEC.24.

IC 16-41-20-9
Judicial review of orders

Sec. 9. (a) A person aggrieved by an order of a local board of health or county health officer issued under this chapter may, not more than ten (10) days after the making of the order, file with the circuit or superior court a petition seeking a review of the order.

(b) The court shall hear the appeal. The court's decision is final.

As added by P.L.2-1993, SEC.24.

IC 16-41-20-10
Appeal bonds

Sec. 10. The person appealing to the circuit or superior court shall file with the court a bond in an amount to be fixed by the court with sureties to be approved by the judge and conditioned to pay all the costs on the appeal if the person fails to sustain the appeal or the appeal is dismissed.
As added by P.L.2-1993, SEC.24.

IC 16-41-20-11
Review proceedings

Sec. 11. (a) Review proceedings shall be docketed as an action between the appellant and the local board of health or county health officer and shall be tried as civil actions are tried.

(b) The:

(1) corporation counsel or the department of law in the city or town; and

(2) prosecuting attorney in cases arising outside of cities and towns and in cities and towns that do not have a department of law or any other legal representative;

shall attend to all the proceedings on the part of the local board of health or county health officer.

(c) If no appeal is taken within the required ten (10) days, the order of the local board of health or county health officer is final and conclusive.
As added by P.L.2-1993, SEC.24.

IC 16-41-20-12
Costs and expenses

Sec. 12. A person who:

(1) violates this chapter; or

(2) fails to comply with an order of:

(A) the state department or the state department's authorized agents;

(B) a local board of health; or

(C) a county health officer;

is liable for all costs and expenses paid or incurred by the state department, a local board of health or the local board of health's authorized agents, or a local health officer in executing the order. This amount may be recovered in a civil action brought by the state department, the local board of health or the local board of health's authorized agents, or the county health officer, who is entitled to recover reasonable attorney's fees.
As added by P.L.2-1993, SEC.24.

IC 16-41-20-13

Violations

Sec. 13. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.

As added by P.L.2-1993, SEC.24.

IC 16-41-21
Repealed
(Repealed by P.L.86-2015, SEC.1.)

IC 16-41-21.1

Chapter 21.1. Testing of Water in School Buildings

IC 16-41-21.1-1

"School building"

Sec. 1. As used in this chapter, "school building" means any building used by a public school (as defined in IC 20-18-2-15), including a charter school (as defined in IC 20-18-2-2.5), for the classroom instruction of students in any grade from kindergarten through grade 12.

As added by P.L.127-2016, SEC.2.

IC 16-41-21.1-2

Potable water supply required for school buildings

Sec. 2. Every school building shall be supplied with safe, potable water from a public water system approved by the commissioner of the department of environmental management in accordance with IC 13-18-16.

As added by P.L.127-2016, SEC.2.

IC 16-41-22

Chapter 22. Health, Sanitation, and Safety: Mass Gatherings

IC 16-41-22-1

Exemptions from application of chapter

Sec. 1. (a) This chapter does not apply to a regularly established, permanent place of worship, a stadium, an athletic field, an arena, an auditorium, a coliseum, or other similar permanently established place of assembly for assemblies that do not exceed by more than two hundred fifty (250) people the maximum seating capacity of the structure where the assembly is held.

(b) This chapter does not apply to government sponsored fairs held on regularly established fairgrounds or to assemblies required to be licensed by other statutes or ordinances.

(c) This chapter does not apply to local or regional festivals, celebrations, or events that are held on an annual or regular basis and that were observed or celebrated at least two (2) times before January 1, 1973.

(d) This chapter does not apply to assemblies that are held on land owned or leased by the state or the federal government.

As added by P.L.2-1993, SEC.24.

IC 16-41-22-2

Assembly

Sec. 2. As used in this chapter, "assembly" means a collection of individuals gathered together at any location at any one (1) time for any purpose.

As added by P.L.2-1993, SEC.24.

IC 16-41-22-3

Governing body

Sec. 3. As used in this chapter, "governing body" means the following:

(1) County executive of a county.

(2) City-county fiscal and legislative body of a consolidated city.

(3) Fiscal and legislative body of a city.

(4) Town fiscal and legislative body.

As added by P.L.2-1993, SEC.24.

IC 16-41-22-4

Unit

Sec. 4. As used in this chapter, "unit" means a city, town, or county.

As added by P.L.2-1993, SEC.24.

IC 16-41-22-5

Licenses to hold assemblies

Sec. 5. A person may not:
(1) permit;
(2) maintain;
(3) promote;
(4) conduct;
(5) advertise;
(6) act as entrepreneur;
(7) undertake;
(8) organize;
(9) manage; or
(10) sell or give tickets to;
an actual or a reasonably anticipated assembly of at least five thousand (5,000) people that continues or can reasonably be expected to continue for at least eighteen (18) consecutive hours, whether on public or private property, unless a license to hold the assembly has first been issued by the appropriate law enforcement official of the unit in which the assembly is to gather. A license to hold an assembly issued to one (1) person permits any person to engage in any lawful activity in connection with the holding of the licensed assembly.
As added by P.L.2-1993, SEC.24.

IC 16-41-22-6
Separate licenses
Sec. 6. A separate license is required for each day and each location in which at least five thousand (5,000) people assemble or can reasonably be anticipated to assemble and can reasonably be expected to continue for at least eighteen (18) consecutive hours.
As added by P.L.2-1993, SEC.24.

IC 16-41-22-7
License fees
Sec. 7. The fee for each license is one hundred dollars ($100), payable to the state.
As added by P.L.2-1993, SEC.24.

IC 16-41-22-8
Maximum attendance
Sec. 8. A license permits the assembly of only the maximum number of people stated in the license. The licensee may not sell tickets to or permit to assemble at the licensed location more than the maximum permissible number of people.
As added by P.L.2-1993, SEC.24.

IC 16-41-22-9
Noise restriction
Sec. 9. The licensee may not permit the sound of the assembly to carry unreasonably beyond the boundaries of the location of the assembly.

As added by P.L.2-1993, SEC.24.

IC 16-41-22-10
Conditions for licensing

Sec. 10. (a) Before an applicant may be issued a license, the applicant must comply with this section.

(b) The applicant must determine the maximum number of people that will be assembled or admitted to the location of the assembly. The maximum number may not exceed the maximum number that can reasonably assemble at the location of the assembly. If the assembly is to continue overnight, the maximum number is not more than is allowed to sleep within the boundaries of the location of the assembly by zoning or health ordinances of the unit.

(c) The applicant must provide proof of the following:

(1) Food concessions will be in operation on the grounds with sufficient capacity to accommodate the number of persons expected to be in attendance.

(2) The applicant, at the applicant's own expense, before the assembly commences, will do the following:

(A) Furnish potable water that meets the following conditions:

(i) Meets all federal and state requirements for purity.

(ii) Is sufficient to provide drinking water for the maximum number of people to be assembled at the rate of at least one (1) gallon per person per day and water for bathing at the rate of at least ten (10) gallons per person per day.

(B) Furnish separate, enclosed toilets for males and females that meet the following conditions:

(i) Meet all state and local specifications.

(ii) Are conveniently located throughout the grounds.

(iii) Are sufficient to provide facilities for the maximum number of people to be assembled, at the rate of at least one (1) toilet for every one hundred fifty (150) females and at least one (1) toilet for each two hundred (200) males.

(C) Furnish a lavatory with running water under pressure and a continuous supply of soap and paper towels with each toilet.

(D) Provide, together with the toilets, an efficient, sanitary means of disposing of waste matter deposited in compliance with all state and local laws and rules.

(E) Provide a sanitary method of disposing of solid waste, in compliance with state and local laws and rules, sufficient to dispose of the solid waste production of the maximum number of people to be assembled, at the rate of at least two and one-half (2 1/2) pounds of solid waste per person per day.

(F) Provide a plan for holding and collecting all solid waste at least one (1) time each day of the assembly and provide sufficient trash cans with tight fitting lids and personnel to perform the task.

(G) Provide physicians and nurses licensed to practice in Indiana, at the rate of at least one (1) physician for every ten thousand (10,000) people and at least one (1) nurse for every five thousand (5,000) people anticipated to be assembled, with one-half (1/2) of the physicians and nurses to be on the site for which the license has been issued and the other one-half (1/2) to be readily available.

(H) Provide an enclosed covered structure where treatment may be provided containing a separately enclosed treatment room for each physician.

(I) Provide at least one (1) emergency ambulance available at all times.

(J) If the assembly is to continue during hours of darkness, provide illumination sufficient to light the entire area of the assembly at the rate of at least five (5) foot candles. However, the illumination may not shine unreasonably beyond the boundaries of the location of the assembly.

(K) Provide a free parking area inside the assembly grounds sufficient to provide parking space for the maximum number of people to be assembled, at the rate of at least one (1) parking space for every four (4) persons.

(L) Provide telephones connected to outside lines sufficient to provide for the maximum number of people to be assembled, at the rate of at least one (1) separate line and receiver for each one thousand (1,000) people.

(M) If the assembly is to continue overnight, provide camping facilities in compliance with all state and local requirements, sufficient to provide camping accommodations for the maximum number of people to be assembled.

(N) Provide security guards:

(i) who are either regularly employed, duly sworn, off duty law enforcement officers or private guards licensed in Indiana; and

(ii) sufficient to provide adequate security for the maximum number of people to be assembled, at a rate of at least one (1) security guard for each seven hundred fifty (750) people.

(O) Provide fire protection that meets the following conditions:

(i) Includes alarms, extinguishing devices, fire lanes, and escapes.

(ii) Is sufficient to meet all state and local standards for the location of the assembly.

(iii) Includes sufficient emergency personnel to operate efficiently the required equipment.

(P) Take all reasonably necessary precautions to ensure that the sound of the assembly will not carry unreasonably beyond the enclosed boundaries of the location of the assembly.

(Q) File a bond with the clerk of the unit in which the assembly is to gather. The bond must meet the following conditions:

(i) Be either in cash or underwritten by a surety agent licensed to do business in Indiana.

(ii) Be issued at the rate of four dollars ($4) per person for the maximum number of people permitted to assemble.

(iii) Indemnify and hold harmless the unit or the unit's agents, officers, or employees from any liability or causes of action that might arise by reason of granting the license and from any cost incurred in cleaning up any waste material produced or left by the assembly.

(iv) Guarantee the state the payment of any taxes that accrue as a result of the gathering.

(v) Guarantee reimbursement of ticketholders if the event is canceled.

(vi) Guarantee repayment to any unit for actual expenses of repair or replacement of property owned by the unit or for which the unit is responsible.

As added by P.L.2-1993, SEC.24.

IC 16-41-22-11
License applications

Sec. 11. Application for a license to hold an actual or anticipated assembly of at least five thousand (5,000) persons that can reasonably be expected to continue for at least eighteen (18) consecutive hours must be made in writing to the chief of police of the municipality or sheriff of the county at least sixty (60) days in advance of the assembly. The application must be accompanied by the bond required by section 10(c)(2)(Q) of this chapter and the license fee required by section 7 of this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-22-12
Approval of licenses

Sec. 12. (a) The chief of police or the sheriff to whom the application is made shall on the same day forward the application with the chief of police's or sheriff's recommendations to the local health department.

(b) The local health department shall examine the application and make the investigation that the local health department considers necessary and either approve or disapprove the application not more

than fifteen (15) days after receipt. Immediately after making a determination, the local health department shall return the application, marked approved or disapproved, to the sheriff or chief of police who submitted the application.

(c) The sheriff or chief of police shall notify the applicant within five (5) days that the application has been disapproved or that the sheriff or chief of police will issue the license. The sheriff or chief of police may issue the license provided for in this chapter.

As added by P.L.2-1993, SEC.24. Amended by P.L.142-1995, SEC.24.

IC 16-41-22-13

Statement of truth and accuracy of information

Sec. 13. The application must contain a statement made upon oath or affirmation that the statements contained in the application are true and correct to the best knowledge of the applicant. The statement must be signed and sworn to or affirmed by the following:

(1) The individual for an individual.

(2) All officers for a corporation.

(3) All partners for a partnership.

(4) All officers of an unincorporated association, a society, or a group.

(5) All members of an association, a society, or a group if there are no officers.

As added by P.L.2-1993, SEC.24.

IC 16-41-22-14

Contents of license applications

Sec. 14. The application must disclose the following:

(1) The name, age, residence, and mailing address of each person required to sign the application by section 13 of this chapter and, in the case of a corporation, a certified copy of the articles of incorporation together with the name, age, residence, and mailing address of each person holding at least ten percent (10%) of the stock of the corporation.

(2) The address and legal description of all property on which the assembly is to be held, together with the name, residence, and mailing address of the record owner or owners of all the property.

(3) Proof of ownership of all property on which the assembly is to be held, or a statement made upon oath or affirmation by the record owner or owners of all property that the applicant has permission to use the property for an assembly of at least five thousand (5,000) persons.

(4) The nature or purpose of the assembly.

(5) The total number of days or hours during which the assembly is to last.

(6) The maximum number of persons that the applicant will

permit to assemble at any time, not to exceed the maximum number that can reasonably assemble at the location of the assembly, in consideration of the nature of the assembly, or the maximum number of persons allowed to sleep within the boundaries of the location of the assembly by the zoning ordinances of the unit if the assembly is to continue overnight.

(7) The maximum number of tickets to be sold, if any.

(8) The plans of the applicant to limit the maximum number of people permitted to assemble.

(9) The plans for supplying potable water, including the source, amount available, and location of outlets.

(10) The plans for providing toilet and lavatory facilities, including the source, number, location, and type and the means of disposing of waste deposited.

(11) The plans for holding, collecting, and disposing of solid waste materials.

(12) The plans to provide for medical facilities, including the names, addresses, and hours of availability of physicians and nurses, and provisions for emergency ambulance service.

(13) The plans, if any, to illuminate the location of the assembly, including the source, amount of power, and the location of lamps.

(14) The plans for parking vehicles, including size and location of lots, points of highway access, interior roads, and routes between highway access and parking lots.

(15) The plans for telephone service, including the source, number, and location of telephones.

(16) The plans for camping facilities, if any, including facilities and the locations of the facilities.

(17) The plans for security, including the number of guards, the guards' employment, names, addresses, credentials, and hours of availability.

(18) The plans for fire protection, including the number, type, and location of all protective devices including alarms and extinguishers, and the number of emergency fire personnel available to operate the equipment.

(19) The plans for sound control and sound amplification, if any, including the number, location, and power of amplifiers and speakers.

(20) The plans for food concessions and concessionaires who will be allowed to operate on the grounds, including the names and addresses of all concessionaires and the concessionaires' license or permit numbers.

As added by P.L.2-1993, SEC.24.

IC 16-41-22-15

Processing of applications and issuance of licenses

Sec. 15. An application for a license under this chapter must be

processed not more than twenty (20) days after receipt and must be issued if all conditions are met.
As added by P.L.2-1993, SEC.24.

IC 16-41-22-16
Revocation of licenses
Sec. 16. A license issued under this chapter may be revoked by the governing body of the unit issuing the license at any time if any of the conditions necessary for the issuing of or contained in the license are not met or if any condition previously met ceases to be met.
As added by P.L.2-1993, SEC.24.

IC 16-41-22-17
Appeals from denial or revocation of licenses
Sec. 17. A person aggrieved by the denial or revocation of a license under this chapter may appeal to the circuit court, superior court, or probate court of the county in which the assembly was to gather. The appeal must be taken not more than fifteen (15) days after the denial or revocation. The appeal is privileged.
As added by P.L.2-1993, SEC.24. Amended by P.L.84-2016, SEC.92.

IC 16-41-22-18
Injunctions
Sec. 18. This chapter may be enforced by injunction, and the injunction has statewide application.
As added by P.L.2-1993, SEC.24.

IC 16-41-22-19
Public nuisance
Sec. 19. The holding of an assembly in violation of a provision or condition contained in this chapter constitutes a public nuisance.
As added by P.L.2-1993, SEC.24.

IC 16-41-22-20
Traffic control
Sec. 20. When the licensing authority determines that the public health, safety, or welfare is or may be affected, or where damage or obstruction may occur, the authority may close an access road to or from the site of the assembly or otherwise control or limit traffic.
As added by P.L.2-1993, SEC.24.

IC 16-41-22-21
License violations
Sec. 21. A person who knowingly violates section 5 of this chapter or violates a condition on which the person is granted a license commits a Level 6 felony.
As added by P.L.2-1993, SEC.24. Amended by P.L.158-2013,

SEC.246.

IC 16-41-22-22
Violations

Sec. 22. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.
As added by P.L.2-1993, SEC.24.

IC 16-41-23

Chapter 23. Health, Sanitation, and Safety: Public Restroom Use Charges

IC 16-41-23-1

Sexual discrimination prohibited

Sec. 1. An establishment that maintains restrooms for use by the public may not discriminate in charges required for facilities used by men and facilities used by women.

As added by P.L.2-1993, SEC.24.

IC 16-41-23-2

Coin lock controls; free toilet units

Sec. 2. (a) As used in this section, "toilet units" means commodes and urinals.

(b) When coin lock controls are used in public restrooms:

(1) at least one-half (1/2) of the toilet units must be free of charge; and

(2) the number of free toilet units available to women must equal the number of free toilet units available to men.

As added by P.L.2-1993, SEC.24.

IC 16-41-23-3

Admission keys

Sec. 3. If coin locks are placed on entry doors of public restrooms:

(1) admission keys must be readily provided without charge when requested; and

(2) notice as to the availability of the admission keys must be posted on the restroom entry door.

As added by P.L.2-1993, SEC.24.

IC 16-41-23-4

Violations

Sec. 4. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.

As added by P.L.2-1993, SEC.24.

IC 16-41-24
Chapter 24. Health, Sanitation, and Safety: Water Supplies

IC 16-41-24-1
Deposit of deleterious substances prohibited

Sec. 1. A person may not deposit or cause or permit to be deposited in the waters of Indiana a substance that meets any of the following conditions:

(1) Is deleterious to the public health or to the prosecution of any industry or lawful occupation in which the water may be lawfully used.

(2) Adversely affects any agricultural, floricultural, or horticultural pursuit.

(3) Lessens or impairs any livestock industry or the use of the water for domestic animals.

(4) Lessens, impairs, or materially interferes with the use of the water by the state or any political subdivision of the state.

(5) Destroys or jeopardizes any beneficial animal, fish, or vegetable life in the water.

As added by P.L.2-1993, SEC.24.

IC 16-41-24-2
Pollution abatement actions

Sec. 2. (a) A person who has suffered or is threatened with damage because of pollution of water by any person may bring a suit to abate the pollution or threatened pollution.

(b) A suit under this section must originate in a superior or circuit court in the jurisdiction in which the pollution occurs or is threatened.

As added by P.L.2-1993, SEC.24.

IC 16-41-24-3
Sale of unfit water prohibited

Sec. 3. A person, firm, or corporation may not offer for sale for public consumption any drinking water, bottled water, or mineral water that shows a bacteriological or chemical content deleterious to public health. The state department shall prohibit the further distribution or consumption of the unfit water.

As added by P.L.2-1993, SEC.24.

IC 16-41-24-4
Analysis of potability and suitability

Sec. 4. At intervals designated by the state department, a person offering for sale for public consumption any drinking water, bottled water, or mineral water shall submit to the state department samples of the drinking water, bottled water, or mineral water, natural or treated, for analysis to determine the water's potability and suitability for the purpose for which the water is intended.

As added by P.L.2-1993, SEC.24.

IC 16-41-24-5
Analysis costs

Sec. 5. For each sample of water analyzed and tested each year, the state department shall collect a fee of not more than ten dollars ($10) to be paid into the state general fund.
As added by P.L.2-1993, SEC.24.

IC 16-41-24-6
Enforcement

Sec. 6. The state department shall enforce this chapter and the statutes relating to pollution of waters and public water supply, except where jurisdiction is vested in the environmental rules board and the department of environmental management.
As added by P.L.2-1993, SEC.24. Amended by P.L.113-2014, SEC.104.

IC 16-41-24-7
Sewage treatment plant assessments

Sec. 7. All municipalities may provide the means for paying the cost of constructing a plant for purifying the discharge of public sewers and drains by assessing the cost of the plant against all of the several parcels of real property situated within the corporate limits and make each assessment in an amount as great as but not greater than the value of the benefits received by each parcel respectively as the result of the construction of the plant.
As added by P.L.2-1993, SEC.24.

IC 16-41-24-8
Assessments against real property

Sec. 8. Statutes for the construction of public sewers and assessing the cost of the sewers against real property in the municipalities apply to the construction of sewage treatment plants and the assessing of the cost of the plant against the real property benefited.
As added by P.L.2-1993, SEC.24.

IC 16-41-24-9
Payment of assessments by installment

Sec. 9. At the option of the owner assessed, the assessment may be paid in ten (10) equal annual installments as in the case of assessments for other sewers.
As added by P.L.2-1993, SEC.24.

IC 16-41-24-10
Water testing fees and costs

Sec. 10. (a) For testing a sample of water for a private person,

firm, or corporation not offering drinking water, bottled water, or mineral water for sale for public consumption, the state department shall charge and collect a fee of not more than ten dollars ($10). In addition, the state department may charge a mailing and shipping charge to defray the costs of mailing and shipping.

(b) A fee and the mailing and shipping charges collected under this section shall be deposited in a revolving fund to the credit of the state department and used to defray the expenses.

(c) The state department may adopt rules under IC 4-22-2 to set a fee under this section. The fee must equal an amount necessary to cover the cost of the test.

As added by P.L.2-1993, SEC.24.

IC 16-41-24-11

Violations

Sec. 11. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.

As added by P.L.2-1993, SEC.24.

IC 16-41-25

Chapter 25. Health, Sanitation, and Safety: Residential Septic Systems

IC 16-41-25-1

Plan review; permit rules; septic systems in fill soil in certain counties

Sec. 1. (a) The state department shall adopt rules under IC 4-22-2 that provide for a reasonable period not exceeding forty-five (45) days in which a plan review and permit for residential septic systems must be approved or disapproved.

(b) This subsection applies to a county with a population of more than seventy-seven thousand (77,000) but less than eighty thousand (80,000). As used in this subsection, "fill soil" means soil transported and deposited by humans or soil recently transported and deposited by natural erosion forces. A rule that the state department adopts concerning the installation of residential septic systems in fill soil may not prohibit the installation of a residential septic system in fill soil on a plat if:

(1) before the effective date of the rule, the plat of the affected lot was recorded;

(2) there is not an available sewer line within seven hundred fifty (750) feet of the property line of the affected lot; and

(3) the local health department determines that the soil, although fill soil, is suitable for the installation of a residential septic system.

As added by P.L.2-1993, SEC.24. Amended by P.L.167-1999, SEC.1; P.L.170-2002, SEC.110; P.L.119-2012, SEC.144.

IC 16-41-25-2

Violations

Sec. 2. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with rules adopted under section 1 of this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.

As added by P.L.2-1993, SEC.24. Amended by P.L.150-1996, SEC.1.

IC 16-41-25-3

Residential septic systems installed after July 1, 1996; requirements; enforcement

Sec. 3. (a) This section applies only to residential septic systems that are installed after July 1, 1996, and that use a raiser that is more than six (6) inches in diameter and opens to ground level.

(b) Each opening to an underground tank of a residential septic system that allows access from ground level must be covered with a lid or top that is securely fastened.

(c) Below a residential septic system's lid or top described in subsection (b), the tank of the residential septic system must have a

cap or plug.

(d) A person who installs a residential septic system after June 30, 1996, commits a Class B infraction if the residential septic system does not meet the requirements of this section.

(e) Each local health department established within a county under IC 16-20-2-2 shall enforce this section in the county.

As added by P.L.150-1996, SEC.2.

IC 16-41-25-4

Notice of property located in service district of regional sewage district; onsite soil evaluation

Sec. 4. (a) Before a local health department may act on an application for a residential septic system permit, the local health department shall inform the applicant for a residential septic system permit if the property is located in the service district of a regional sewage district.

(b) An employee of a local health department may conduct an onsite soil evaluation concerning the repair or replacement of a failed residential onsite sewage system (as defined in IC 13-11-2-144.8) if:

(1) the employee was hired by the local health department before January 1, 2013;

(2) the local health board has determined that the employee has the necessary knowledge of the principles of soil science as acquired by professional education;

(3) the employee uses guidelines set forth in the soil manuals, technical bulletins, and handbooks of the Natural Resources Conservation Service of the United States Department of Agriculture; and

(4) the employee files a written report with the local health department for each onsite soil evaluation conducted by the employee.

As added by P.L.97-2012, SEC.17. Amended by P.L.10-2013, SEC.1.

IC 16-41-26

Chapter 26. Health, Sanitation, and Safety: Agricultural Labor Camps

IC 16-41-26-1

Agricultural labor camp

Sec. 1. As used in this chapter, "agricultural labor camp" includes at least one (1) building or structure, tent, trailer, or vehicle, including the land, established, operated, or used as living quarters for at least five (5) adult seasonal or temporary workers engaged in agricultural activities, including related food processing.

As added by P.L.2-1993, SEC.24.

IC 16-41-26-2

Application of chapter

Sec. 2. A person operating or maintaining an agricultural labor camp shall comply with this chapter and rules adopted under this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-26-3

Permits

Sec. 3. (a) Except as provided in subsection (b), a person may not directly or indirectly operate an agricultural labor camp until the person has obtained from the state department a permit to operate the camp and unless the permit is in full force and effect and is posted and kept posted in the camp to which the permit applies at all times during maintenance and operation of the camp.

(b) A person may operate at least one (1) living unit of an agricultural labor camp under a permit issued under section 4 of this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-26-4

Limited permits

Sec. 4. (a) In addition to a permit issued under section 6 of this chapter, the state department may issue a permit that is limited to at least one (1) specific living unit of an agricultural labor camp. The state may issue more than one (1) permit under this section to a person operating an agricultural labor camp.

(b) Rules adopted under this chapter apply to permits issued under this section.

As added by P.L.2-1993, SEC.24.

IC 16-41-26-5

Conditions for issuance of limited permits

Sec. 5. The state department may issue a permit under section 4 of this chapter only if:

(1) all mobile homes used as shelters and equipped with an operable toilet, shower, lavatory, and hot and cold water under pressure, provide a minimum floor space of sixty (60) square feet for each resident; and

(2) all other shelters provide a minimum floor space of eighty (80) square feet for each resident.

As added by P.L.2-1993, SEC.24.

IC 16-41-26-6

Applications for permits; issuance, duration, and transferability of permits; inspections; hearings

Sec. 6. (a) An application to operate an agricultural labor camp must be made to the state department in writing on a form and under rules prescribed by the state department.

(b) The state department shall issue a permit for the operation of an agricultural labor camp if the state department is satisfied, after investigation or inspection, that the camp meets the minimum standards of construction, sanitation, equipment, and operation required by rules adopted under section 8 of this chapter.

(c) A permit is valid from the date of issuance through May 1 of the following year unless the permit is revoked.

(d) A labor camp must be inspected and a permit issued before the labor camp is occupied.

(e) The annual inspection must occur during the sixty (60) days before the first occupation by agricultural laborers each year.

(f) A permit is not transferable.

(g) If an applicant is refused a permit, the state department shall, upon request, afford the applicant a fair hearing in accordance with IC 4-21.5-3.

As added by P.L.2-1993, SEC.24.

IC 16-41-26-7

Revocation of permits

Sec. 7. The state department may, after reasonable notice and opportunity for a fair hearing in accordance with IC 4-21.5-3, revoke a permit authorizing the operation of an agricultural labor camp if the state department finds that the holder of the permit has failed to comply with a provision of this chapter or a rule or an order issued under this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-26-8

Rules

Sec. 8. (a) Except as provided in subsection (b), the state department shall adopt rules under IC 4-22-2 necessary to protect the health, safety, and welfare of persons living in agricultural labor camps, prescribing standards for living quarters at agricultural labor camps, including provisions relating to construction of camps,

sanitary conditions, light, air, safety protection from fire hazards, equipment, maintenance and operation of the camp, sewage disposal through septic tank absorption fields, and other matters appropriate for the security of the life and health of occupants.

(b) The environmental rules board shall adopt rules under IC 4-22-2 pertaining to water supplies and sewage disposal systems other than septic tank absorption fields required for agricultural labor camps.

(c) In the preparation of rules, the state department:

(1) shall consult with and request technical assistance from other appropriate state agencies; and

(2) may appoint and consult with committees of technically qualified persons and of representatives of employers and employees.

(d) If a conflict exists between rules adopted under this chapter and rules adopted by the fire prevention and building safety commission, the rules authorized in this section apply.

(e) A copy of every rule adopted under this chapter shall be sent to each health officer in Indiana and to the heads of other state agencies with specific or related responsibility affecting agricultural labor camps and to any person requesting the rules. The rules affecting agricultural labor camps adopted under this chapter shall be published periodically in the manner the state department determines.
As added by P.L.2-1993, SEC.24. Amended by P.L.113-2014, SEC.105.

IC 16-41-26-9
Enforcement; inspections and investigations

Sec. 9. (a) The state department may initiate an action under IC 4-21.5-3-6 or IC 4-21.5-3-8 to enforce this chapter and rules adopted under this chapter.

(b) The state department and the state department's authorized representatives may enter and inspect agricultural labor camps at reasonable hours and may question the persons and investigate the facts, conditions, and practices or matters that the state department considers necessary or appropriate to determine whether a person has violated a provision of this chapter or to aid in the enforcement of this chapter or in the adoption of rules under this chapter. The state department may, to the extent appropriate, utilize the services of any other state department or agency of the government for assistance in the inspections and investigations.
As added by P.L.2-1993, SEC.24.

IC 16-41-26-10
Judicial review

Sec. 10. (a) A person aggrieved by an order of the state department denying or revoking a permit to operate an agricultural labor camp may, in accordance with IC 4-21.5-5, petition the circuit

or superior court for a review of the order asking that the order be modified or set aside.

(b) A person aggrieved by a rule adopted under section 8 of this chapter by the state department may, not more than thirty (30) days after the rule becomes effective, petition the circuit or superior court to modify or set aside the rule in whole or in part, but only on the ground that the rule is unlawful or unreasonable.

(c) A copy of a petition filed under subsection (a) or (b) shall be served on the state health commissioner. The state department shall keep and, on notice of filing of the petition, shall certify and file in the court a full record in the proceeding on which the action complained of is based.

(d) The review authorized in subsection (a) or (b) is limited to questions of law. Findings of fact by the state department, if supported by substantial evidence, are conclusive.

(e) The jurisdiction of the court is exclusive and the court's judgment is final, except that the judgment is subject to review by the supreme court.

As added by P.L.2-1993, SEC.24.

IC 16-41-26-11

Notice of enforcement actions

Sec. 11. To adequately place and care for workers and the workers' families housed in an agricultural labor camp, the state department shall serve notice of an action initiated under section 13 of this chapter to the following:

(1) The county agricultural extension educator.

(2) The representative of the nearest office of the public employment service whose duty it is to aid in placing such workers in suitable employment.

(3) The county department of public welfare.

As added by P.L.2-1993, SEC.24. Amended by P.L.40-1993, SEC.52.

IC 16-41-26-12

Inspections and investigations by designated agents

Sec. 12. The state department may designate an agent who may, on presentation of proper credentials, enter on private or public property to inspect for and investigate possible violations of this chapter or a rule adopted under this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-26-13

Civil penalties and compliance orders

Sec. 13. (a) The state department shall adopt rules under IC 4-22-2 that establish a schedule of civil penalties that may be levied in an action to enforce the provisions of the following:

(1) This chapter.

(2) The rules of the state department.

(b) A penalty included in the schedule of civil penalties adopted under subsection (a) may not exceed five hundred dollars ($500) per violation per day.

(c) The state department may issue an order of compliance, impose a civil penalty included in the schedule of civil penalties adopted under subsection (a), or both, against a person who:

(1) fails to comply with this chapter or a rule adopted under this chapter; or

(2) interferes with or obstructs the state department or the state department's designated agent in the performance of duties under this chapter.

(d) An order of compliance may be issued under IC 4-21.5-3-6, IC 4-21.5-3-8, or IC 4-21.5-4. A civil penalty may be imposed only in a proceeding under IC 4-21.5-3-8.

(e) A proceeding commenced to impose a civil penalty may be consolidated with any other proceeding commenced to enforce this chapter or a rule adopted under this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-26-14

Destruction or damage of property; penalty

Sec. 14. The owner or operator of an agricultural labor camp may under 29 U.S.C. 1821(c) impose a penalty on an agricultural laborer who knowingly or intentionally destroys or damages property on the premises of an agricultural labor camp.

As added by P.L.2-1993, SEC.24.

IC 16-41-26-15

Construction permit issuance

Effective 1-1-2017.

Sec. 15. A construction permit issued by the state department for an agricultural labor camp under 410 IAC 6-9 is issued in accordance with IC 16-19-3.5.

As added by P.L.49-2016, SEC.2.

IC 16-41-27
Chapter 27. Health, Sanitation, and Safety: Mobile Homes

IC 16-41-27-1
Authority of state department of health

Sec. 1. This chapter recognizes mobile homes and manufactured homes as suitable and necessary dwelling units in Indiana. The state department may do the following:

(1) Require reasonable standards of health, sanitation, and safety in using the dwelling units.

(2) Require:

(A) persons dwelling in mobile homes and manufactured homes; and

(B) mobile home community operators;

to comply with the standards.

(3) Authorize local boards to enforce the standards adopted.

As added by P.L.2-1993, SEC.24. Amended by P.L.87-2005, SEC.4.

IC 16-41-27-2
Repealed

(Repealed by P.L.144-1996, SEC.15.)

IC 16-41-27-3
Local board

Sec. 3. As used in this chapter, "local board" means a local agency of government authorized to enforce the standards of health and sanitation prescribed for:

(1) mobile homes and manufactured homes; and

(2) mobile home communities by the state department.

As added by P.L.2-1993, SEC.24. Amended by P.L.87-2005, SEC.5.

IC 16-41-27-3.5
Manufactured home

Sec. 3.5. As used in this chapter, "manufactured home" has the meaning set forth in IC 22-12-1-16.

As added by P.L.87-2005, SEC.6.

IC 16-41-27-4
Mobile home

Sec. 4. As used in this chapter, "mobile home" means a dwelling, including the equipment sold as a part of the dwelling, that:

(1) is factory assembled;

(2) is transportable;

(3) is intended for year-round occupancy;

(4) is designed for transportation on its own chassis; and

(5) was manufactured before the effective date of the federal Manufactured Housing Construction and Safety Standards Law of 1974 (42 U.S.C. 5401 et seq.).

As added by P.L.2-1993, SEC.24. Amended by P.L.87-2005, SEC.7.

IC 16-41-27-5
Mobile home community

Sec. 5. (a) As used in this chapter, "mobile home community" means one (1) or more parcels of land:

(1) that are subdivided and contain individual lots that are leased or otherwise contracted;

(2) that are owned, operated, or under the control of one (1) or more persons; and

(3) on which a total of at least five (5) mobile homes or manufactured homes are located for the purpose of being occupied as principal residences.

(b) The term includes the following:

(1) All real and personal property used in the operation of the mobile home community.

(2) A single parcel of land.

(3) Contiguous but separately owned parcels of land that are jointly operated.

(4) Parcels of land:

(A) that are separated by other parcels of land; and

(B) that are:

(i) jointly operated; and

(ii) connected by a private road.

(5) One (1) or more parcels of land, if at least two (2) of the mobile homes or manufactured homes located on the land are:

(A) accessible from a private road or interconnected private roads;

(B) served by a common water distribution system; or

(C) served by a common sewer or septic system.

As added by P.L.2-1993, SEC.24. Amended by P.L.87-2005, SEC.8; P.L.1-2007, SEC.140.

IC 16-41-27-6
Repealed

(As added by P.L.2-1993, SEC.1. Repealed by P.L.87-2005, SEC.40.)

IC 16-41-27-7
Repealed

(As added by P.L.2-1993, SEC.1. Repealed by P.L.87-2005, SEC.40.)

IC 16-41-27-8
Rules

Sec. 8. (a) Except as provided in subsection (b), the state department may adopt rules under IC 4-22-2 to carry out this chapter, including rules for the following:

(1) Health, sanitation, and safety.
(2) Sewage collection.
(3) Sewage disposal through septic tank absorption fields.

(b) The environmental rules board shall adopt rules under IC 4-22-2 concerning the following:

(1) Public water supplies required for mobile home communities.
(2) Sewage disposal systems other than septic tank absorption fields.

As added by P.L.2-1993, SEC.24. Amended by P.L.87-2005, SEC.9; P.L.113-2014, SEC.106.

IC 16-41-27-9
Mobile home community attendants and caretakers

Sec. 9. A mobile home community must be in the personal charge of an adult attendant or caretaker designated by the owner or operator of the mobile home community at the times when mobile homes and manufactured homes in the mobile home community are occupied by tenants. The caretaker present at the time of a violation of this chapter is equally responsible with the owner or operator of the mobile home community for a violation of this chapter.

As added by P.L.2-1993, SEC.24. Amended by P.L.87-2005, SEC.10.

IC 16-41-27-10
Mobile home community water supplies

Sec. 10. A mobile home community shall provide a water supply through the use of a public water system if the water supply is reasonably available within a reasonable distance from the mobile home community. A mobile home community is not required to use a public water system if the water system is more than two thousand (2,000) feet from the mobile home community. If a public water system is not available, water shall be provided by a system approved by the environmental commissioner under rules adopted by the environmental rules board.

As added by P.L.2-1993, SEC.24. Amended by P.L.184-2002, SEC.27; P.L.87-2005, SEC.11; P.L.113-2014, SEC.107.

IC 16-41-27-11
Mobile home community sewage disposal

Sec. 11. (a) A mobile home community shall dispose of sewage through the use of a public sewerage system if the sewerage system is available within a reasonable distance from the mobile home community. If a public sewerage system is not available, sewage may be disposed of in accordance with rules adopted under section 8 of this chapter. A water carriage system of collecting sewage shall be used. The mobile home community operator shall require the owner of a mobile home to provide a watertight and odor-tight connection of a type acceptable to the state department under rules adopted by

the state department.

(b) All occupied mobile homes and manufactured homes shall be connected to the sewerage system of the mobile home community at all times. All sewer connections not in use must be closed in a manner that does not:

(1) emit odor; or

(2) cause a breeding place for flies.

(c) Sewerage systems other than water carriage systems may not be approved for a mobile home community, except nonwater carriage systems may be provided for emergency use only during a temporary failure of a water or an electric system.

As added by P.L.2-1993, SEC.24. Amended by P.L.87-2005, SEC.12.

IC 16-41-27-12

Mobile home community garbage disposal

Sec. 12. Suitable garbage containers or a garbage disposal system and trash containers shall be made available in a sanitary manner to each occupied mobile home and manufactured home. The garbage and trash of the mobile home community must be disposed of in a manner approved by the state department.

As added by P.L.2-1993, SEC.24. Amended by P.L.142-1995, SEC.25; P.L.87-2005, SEC.13.

IC 16-41-27-13

Repealed

(Repealed by P.L.142-1995, SEC.32.)

IC 16-41-27-14

Repealed

(Repealed by P.L.142-1995, SEC.32.)

IC 16-41-27-15

Streets and parking

Sec. 15. Streets must be at least ten (10) feet wide and sufficiently wide to prevent vehicular and pedestrian traffic problems. Adequate area must be provided for the parking of vehicles. All roads in a mobile home community shall be maintained to be dust proof. Each mobile home and manufactured home in a mobile home community shall have ready and free access to the road in a community.

As added by P.L.2-1993, SEC.24. Amended by P.L.87-2005, SEC.14.

IC 16-41-27-16

Animal control

Sec. 16. (a) This section does not apply to feral cats that are caught and released as part of a spay and neuter program designed to reduce the number of feral cats in the area.

(b) Domestic animals and house pets may not be permitted to run at large or commit a nuisance within the limits of a mobile home

community.
As added by P.L.2-1993, SEC.24. Amended by P.L.87-2005, SEC.15; P.L.182-2014, SEC.1.

IC 16-41-27-16.6
Mobile home park weather radios and smoke detectors

Sec. 16.6. (a) Each year during National Fire Prevention Week, the operator of a mobile home community is encouraged to provide a written reminder to the owners of all manufactured homes in the mobile home community to replace the batteries in all weather radios and smoke detectors contained in their manufactured homes.

(b) Any reminder, assistance, or instructions provided by an operator of a mobile home community concerning the function of a weather radio or smoke detector contained in a manufactured home shall not subject the operator or an owner or employee of the mobile home community to liability for the functionality of that weather radio or smoke detector.
As added by P.L.31-2007, SEC.1.

IC 16-41-27-17
Lighting

Sec. 17. Every part of a mobile home community must be lighted at night.
As added by P.L.2-1993, SEC.24. Amended by P.L.142-1995, SEC.26; P.L.87-2005, SEC.16.

IC 16-41-27-18
License requirement

Sec. 18. A mobile home community may not be operated without obtaining a license from the state department.
As added by P.L.2-1993, SEC.24. Amended by P.L.87-2005, SEC.17.

IC 16-41-27-19
License duration

Sec. 19. A license to operate a mobile home community shall be issued for four (4) years and expires at midnight on December 31.
As added by P.L.2-1993, SEC.24. Amended by P.L.87-2005, SEC.18.

IC 16-41-27-20
License application

Sec. 20. (a) An application for a license to operate a mobile home community must be made to the state department on a form prescribed and furnished by the state department, only after plans for the mobile home community have been approved.

(b) If an operator does not apply for the renewal of a license before the date the license expires:

(1) the license expires on that date; and

(2) the operator must pay the penalty fee set forth in section

24(b) of this chapter to obtain a new license.

As added by P.L.2-1993, SEC.24. Amended by P.L.87-2005, SEC.19.

IC 16-41-27-21

Temporary license

Sec. 21. The state department may license a temporary mobile home community for a period of six (6) months and waive the requirements of this chapter if:

(1) the failure to comply with this chapter is:

(A) for a temporary period of time; and

(B) required by public convenience; and

(2) the operation of the mobile home community will not jeopardize the health and welfare of the occupants of the mobile home community or the public.

As added by P.L.2-1993, SEC.24. Amended by P.L.87-2005, SEC.20.

IC 16-41-27-22 Version a

Mobile home community construction and alteration

Note: This version of section effective until 1-1-2017. See also following version of this section, effective 1-1-2017.

Sec. 22. (a) The construction of a new mobile home community or alteration of an existing mobile home community shall be made only after plans for the proposed construction or alteration have been forwarded to and approved by the state department.

(b) A public water system may not be constructed or altered in a new or existing mobile home community until plans for the construction or alteration have been forwarded to and approved by the environmental commissioner under rules adopted by the environmental rules board.

(c) A sewage collection and disposal system may not be constructed or altered in a new or existing mobile home community until:

(1) plans for construction or alteration of the sewage collection system and any septic tank absorption field have been forwarded to and approved by the state department under rules adopted by the state department; and

(2) plans for construction or alteration of any sewage disposal system other than a septic tank absorption field have been forwarded to and approved by the environmental commissioner under rules adopted by the environmental rules board.

As added by P.L.2-1993, SEC.24. Amended by P.L.184-2002, SEC.28; P.L.87-2005, SEC.21; P.L.113-2014, SEC.108.

IC 16-41-27-22 Version b

Mobile home community construction and alteration

Note: This version of section effective 1-1-2017. See also preceding version of this section, effective until 1-1-2017.

Sec. 22. (a) The construction of a new mobile home community

or alteration of an existing mobile home community shall be made only after plans for the proposed construction or alteration have been forwarded to and approved by the state department in accordance with IC 16-19-3.5.

(b) A public water system may not be constructed or altered in a new or existing mobile home community until plans for the construction or alteration have been forwarded to and approved by the environmental commissioner under rules adopted by the environmental rules board.

(c) A sewage collection and disposal system may not be constructed or altered in a new or existing mobile home community until:

(1) plans for construction or alteration of the sewage collection system and any septic tank absorption field have been forwarded to and approved by the state department under rules adopted by the state department; and

(2) plans for construction or alteration of any sewage disposal system other than a septic tank absorption field have been forwarded to and approved by the environmental commissioner under rules adopted by the environmental rules board.

As added by P.L.2-1993, SEC.24. Amended by P.L.184-2002, SEC.28; P.L.87-2005, SEC.21; P.L.113-2014, SEC.108; P.L.49-2016, SEC.3.

IC 16-41-27-23
Mobile home park construction and alteration plan approval

Sec. 23. The state department or the environmental commissioner shall, not more than ninety (90) days after filing, approve plans filed under section 22 of this chapter that comply with this chapter and rules adopted under this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-27-24
Inspection; penalties

Sec. 24. (a) An inspection fee must be submitted to the state department with each license application. The fee is two hundred dollars ($200) for a total of not more than fifty (50) mobile home and manufactured home sites and one hundred fifty dollars ($150) for each increment of not more than fifty (50) additional sites. Units of state and local government are exempt from the fee.

(b) This subsection does not apply to an application made after an enforcement action. A penalty fee of two hundred dollars ($200) for a total of not more than fifty (50) mobile home and manufactured home sites and one hundred fifty dollars ($150) for each increment of not more than fifty (50) additional sites may be imposed by the state department for an application for license renewal filed after the license has expired.

As added by P.L.2-1993, SEC.24. Amended by P.L.168-2003, SEC.2;

P.L.87-2005, SEC.22.

IC 16-41-27-25
Civil penalties and compliance orders

Sec. 25. (a) The state department shall adopt a schedule of civil penalties that may be levied in an action to enforce the following:

(1) This chapter.
(2) The rules of the state department.
(3) The rules adopted under this chapter by the environmental rules board.

(b) A penalty included in the schedule of civil penalties adopted under subsection (a) may not exceed one thousand dollars ($1,000) per violation per day.

(c) The state department may issue an order of compliance, impose a civil penalty included in the schedule of civil penalties adopted under subsection (a), or both, against a person who:

(1) fails to comply with this chapter or a rule adopted under this chapter; or
(2) interferes with or obstructs the state department or the state department's designated agent in the performance of duties under this chapter.

(d) An order of compliance may be issued under IC 4-21.5-3-6, IC 4-21.5-3-8, or IC 4-21.5-4. A civil penalty may be imposed only in a proceeding under IC 4-21.5-3-8.

(e) A proceeding to impose a civil penalty may be consolidated with any other proceedings to enforce any of the following:

(1) This chapter.
(2) The rules of the state department.
(3) The rules adopted under this chapter by the environmental rules board.

As added by P.L.2-1993, SEC.24. Amended by P.L.113-2014, SEC.109.

IC 16-41-27-26
Notice of adverse actions on licenses; enforcement proceedings

Sec. 26. (a) The state department shall provide a written notice to a mobile home community operator of the following:

(1) The revocation of the operator's license.
(2) The denial of the operator's application for a license.
(3) The denial of the approval of the construction or alteration of a mobile home community.

(b) The notice under subsection (a) must contain the following:

(1) A statement of the manner in which the operator has failed to comply with the law or rules of the state department.
(2) The length of time available to correct the violation.

(c) The state department may order an operator to comply with this chapter or rules adopted under this chapter. If an operator fails to comply within the time specified by the order, the state department

may initiate proceedings to force compliance in the circuit court, superior court, or probate court in the county of the operator's residence or in the county where the mobile home community is located. The court may grant appropriate relief to ensure compliance with this chapter and rules adopted under this chapter.
As added by P.L.2-1993, SEC.24. Amended by P.L.87-2005, SEC.23; P.L.84-2016, SEC.93.

IC 16-41-27-27
Inspections

Sec. 27. The state department or a person designated by the state department may at any reasonable time inspect the premises and take necessary and reasonable steps in a mobile home community to determine whether or not a mobile home community is in compliance with this chapter and rules adopted under section 8 of this chapter.
As added by P.L.2-1993, SEC.24. Amended by P.L.144-1996, SEC.6; P.L.87-2005, SEC.24.

IC 16-41-27-28
Compliance with administrative adjudication procedures

Sec. 28. The state department shall comply with IC 4-21.5-3 in a hearing upon the revocation of a license or the refusal to grant a license.
As added by P.L.2-1993, SEC.24.

IC 16-41-27-29
Liens

Sec. 29. (a) Subject to subsection (b), the owner, operator, or caretaker of a mobile home community has a lien upon the property of a guest in the same manner, for the same purposes, and subject to the same restrictions as an innkeeper's lien or a hotel keeper's lien.

(b) With regard to a lienholder:

(1) if the property has a properly perfected secured interest; and
(2) the lienholder has notified the owner, operator, or caretaker of the mobile home community of the lienholder's lien by certified mail;

the maximum amount of the innkeeper's lien may not exceed the actual late rent owed for not more than a maximum of sixty (60) days immediately preceding notification by certified mail to the lienholder that the owner of the property has vacated the property or is delinquent in the owner's rent.

(c) If the notification to the lienholder under subsection (b) informs the lienholder that the lienholder will be responsible to the owner, operator, or caretaker of the mobile home community for payment of rent from the time the notice is received until the mobile home or manufactured home is removed from the mobile home community, the lienholder is liable for the payment of rent that accrues after the notification.

As added by P.L.2-1993, SEC.24. Amended by P.L.182-1993, SEC.1; P.L.87-2005, SEC.25; P.L.198-2016, SEC.648.

IC 16-41-27-30
Ejections from mobile home communities

Sec. 30. The owner, operator, or caretaker of a mobile home community may eject a person from the premises for any of the following reasons:

(1) Nonpayment of charges or fees for accommodations.

(2) Violation of law or disorderly conduct.

(3) Violation of a rule of the state department relating to mobile home communities.

(4) Violation of a rule of the mobile home community that is publicly posted within the mobile home community.

As added by P.L.2-1993, SEC.24. Amended by P.L.87-2005, SEC.26.

IC 16-41-27-31
Mobile home community register

Sec. 31. Each mobile home community operator shall maintain a register open for inspection by the township assessor or county assessor responsible for assessing mobile homes and manufactured homes located in the mobile home community under IC 6-1.1-7 and by the state department or the state department's representatives. The register must contain the following for each mobile home and manufactured home in a mobile home community:

(1) The names and ages of all occupants.

(2) The name of the owner of the mobile home or manufactured home.

As added by P.L.2-1993, SEC.24. Amended by P.L.144-1996, SEC.7; P.L.87-2005, SEC.27; P.L.203-2013, SEC.18.

IC 16-41-27-32
Licensing and regulation by local authorities prohibited

Sec. 32. (a) A governmental body other than the state department of health may not license or regulate mobile home communities, except for the following:

(1) Local boards may enforce the standards of health and sanitation prescribed for mobile homes, manufactured homes, and mobile home communities by the state department.

(2) County and municipal authorities within their respective jurisdictions have jurisdiction regarding zoning and building codes and ordinances pertaining to mobile home communities.

(3) Local boards may regulate the construction and operation of groups of a combined total of not more than four (4) mobile homes and manufactured homes, in accordance with standards that are compatible with standards set by the state department for mobile home communities.

(b) A governmental body other than the state department of health

may not regulate mobile homes or manufactured homes regarding habitability or minimum housing conditions unless the regulation is applicable in the same manner to other forms of residential housing in the jurisdiction.

(c) A governmental body may not regulate or restrict the use, occupancy, movement, or relocation of a mobile home or manufactured home based upon the age of the mobile home or manufactured home.

As added by P.L.2-1993, SEC.24. Amended by P.L.87-2005, SEC.28.

IC 16-41-27-33

Transfer of licenses

Sec. 33. A license to engage in the operation of a mobile home community is transferable only with the consent of the state department. The state department may, upon application, cancel a license issued for the operation of a mobile home community and issue a new license to the transferee for the balance of the license period.

As added by P.L.2-1993, SEC.24. Amended by P.L.87-2005, SEC.29.

IC 16-41-27-34

Unlicensed operation penalty

Sec. 34. A person who maintains or operates a mobile home community:

(1) without a license; or

(2) after the revocation of a license;

commits a Class B misdemeanor.

As added by P.L.2-1993, SEC.24. Amended by P.L.87-2005, SEC.30.

IC 16-41-28
Repealed

(Repealed by P.L.87-1994, SEC.16.)

IC 16-41-29

Chapter 29. Regulation of Lodging Facilities and Bedding Materials: Registration of Guests

IC 16-41-29-1

Registration requirement

Sec. 1. The owner, operator, manager, superintendent, or person in charge of the following establishments shall keep a register, entry book, or card filing system containing the names and addresses, including street number, city or town, and state, of every individual occupying any part of the premises and containing the dates and times occupied:

(1) Hotel.
(2) Furnished apartment house.
(3) Boarding house.
(4) Rooming house.
(5) Tourist home.
(6) Tourist camp.
(7) Motel.
(8) Bed and breakfast establishment.
(9) Similar establishment to those listed in subdivisions (1) through (8).

As added by P.L.2-1993, SEC.24.

IC 16-41-29-2

Inspections and investigations

Sec. 2. The register, entry book, or card filing system shall be kept open for inspection and investigation by the state department, an officer of the state department, or a law enforcement officer.

As added by P.L.2-1993, SEC.24.

IC 16-41-29-3

Annual registration records

Sec. 3. The register, entry book, or card filing system shall be maintained for each calendar year.

As added by P.L.2-1993, SEC.24.

IC 16-41-29-4

Discarding or destruction of registration records

Sec. 4. The register, entry book, or card filing system may not be discarded or destroyed until the expiration of one (1) year after the calendar year for which it was maintained.

As added by P.L.2-1993, SEC.24.

IC 16-41-29-5

Violations

Sec. 5. A person who recklessly violates this chapter commits a Class A misdemeanor.

As added by P.L.2-1993, SEC.24.

IC 16-41-30

Chapter 30. Regulation of Lodging Facilities and Bedding Materials: Fresh Bedding for Hotel Guests

IC 16-41-30-1

Application of chapter

Sec. 1. This chapter applies to the following:

(1) Hotels.

(2) Bed and breakfast establishments.

(3) Rooming houses.

(4) Lodging houses.

(5) Apartment houses.

(6) Places of entertainment or lodging for transient or permanent guests or lodgers in the establishments listed in subdivisions (1) through (5).

As added by P.L.2-1993, SEC.24.

IC 16-41-30-2

Bedding requirements

Sec. 2. The owner, lessee, superintendent, or manager of an establishment subject to this chapter who furnishes beds and bedding for guests or lodgers shall provide each bed with bedding that includes the following:

(1) Undersheets sufficiently large to cover completely the mattress on each bed.

(2) Top sheets that may be folded over the blankets or other bed covering.

As added by P.L.2-1993, SEC.24. Amended by P.L.144-1996, SEC.8.

IC 16-41-30-3

Provision of fresh bedding

Sec. 3. The sheets described under section 2 of this chapter must be removed from beds and replaced by freshly laundered sheets after the departure of each guest or lodger. Clean and freshly laundered pillowcases must be furnished after the departure of each transient guest.

As added by P.L.2-1993, SEC.24.

IC 16-41-30-4

Violations

Sec. 4. A person who violates this chapter commits a Class C infraction.

As added by P.L.2-1993, SEC.24.

IC 16-41-31

Chapter 31. Regulation of Lodging Facilities and Bedding Materials: Bed and Breakfast Establishments

IC 16-41-31-1

Bed and breakfast establishment

Sec. 1. (a) As used in this chapter, "bed and breakfast establishment" means an operator occupied residence that meets the following conditions:

(1) Provides sleeping accommodations to the public for a fee.

(2) Has not more than fourteen (14) guest rooms.

(3) Provides breakfast to the guests as part of the fee.

(4) Provides sleeping accommodations for not more than thirty (30) consecutive days to a particular guest.

(b) The term does not include hotels, motels, boarding houses, or food service establishments.

As added by P.L.2-1993, SEC.24.

IC 16-41-31-2

Guest

Sec. 2. As used in this chapter, "guest" means an individual who rents a guest room in a bed and breakfast establishment.

As added by P.L.2-1993, SEC.24.

IC 16-41-31-3

Guest room

Sec. 3. As used in this chapter, "guest room" means a sleeping room intended to accommodate not more than four (4) guests each night.

As added by P.L.2-1993, SEC.24.

IC 16-41-31-4

Operator

Sec. 4. As used in this chapter, "operator" means an owner or the owner's agent of a bed and breakfast establishment who resides within the establishment or on contiguous property.

As added by P.L.2-1993, SEC.24.

IC 16-41-31-5

Food preparation and handling and sanitation rules

Sec. 5. The state department shall adopt rules under IC 4-22-2 to establish standards for food preparation and handling and sanitation in bed and breakfast establishments.

As added by P.L.2-1993, SEC.24.

IC 16-41-31-6

Fire safety rules

Sec. 6. The fire prevention and building safety commission shall

adopt rules under IC 4-22-2 to establish fire safety standards for bed and breakfast establishments.
As added by P.L.2-1993, SEC.24.

IC 16-41-31-7
Liability for guests' personal property losses

Sec. 7. (a) Except as provided in subsection (b), the liability of a bed and breakfast establishment for the loss of a guest's personal property may not exceed two hundred fifty dollars ($250) for each guest as follows:

(1) The loss of a trunk or chest and the contents, liability of not more than one hundred fifty dollars ($150).

(2) The loss of a traveling bag or suitcase and the contents, liability of not more than fifty dollars ($50).

(3) The loss of a box, bundle, or package and the contents, liability of not more than ten dollars ($10).

(b) An operator of a bed and breakfast establishment may assume liability in excess of two hundred fifty dollars ($250) for each guest for loss of personal property if the guest and operator do the following:

(1) Itemize the personal property and the personal property's value.

(2) Agree in writing to the kind and extent of the liability.

As added by P.L.2-1993, SEC.24.

IC 16-41-32

Chapter 32. Regulation of Lodging Facilities and Bedding Materials: Materials Used in Mattresses and Bedding

IC 16-41-32-1

Regulation and inspection

Sec. 1. The regulation and inspection of the use of unsanitary material in the manufacture, renovation, or repair of bedding and the sale of articles of bedding containing unsanitary material is necessary for the protection of the health and welfare of the people of Indiana and is declared to be a proper exercise of the police powers of the state.

As added by P.L.2-1993, SEC.24.

IC 16-41-32-2

Sales of bedding by householders; application of chapter

Sec. 2. This chapter does not apply to the sale by a householder of bedding that meets the following conditions:

(1) Was owned and used by the householder and the householder's family.

(2) Was not acquired for resale.

However, the sale of the bedding by a householder through an agent must be within the provisions of this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-32-3

Manufacture and renovation of bedding by owners; application of chapter

Sec. 3. This chapter does not apply to the making, remaking, or renovating of any article of bedding by or for the owner, for the owner's own use, and for the purpose of sale:

(1) if the same or new material is used; or

(2) if sterilized material is used and that fact is indicated on a label prescribed by the state department.

As added by P.L.2-1993, SEC.24.

IC 16-41-32-4

Bedding sold by court order; application of chapter

Sec. 4. This chapter does not apply to any articles of bedding sold under court order.

As added by P.L.2-1993, SEC.24.

IC 16-41-32-5

Bedding

Sec. 5. As used in this chapter, "bedding" means any mattress, mattress pad, mattress protector pad, box spring, upholstered spring, upholstered sofa bed, quilted pad, comforter, bolster, cushion, pillow, featherbed, sleeping bag, or any other bag, case, or covering that

meets the following conditions:

(1) Is made of leather, textile, or other material.

(2) Is stuffed or filled with any soft material or substance.

(3) Is designed or made for sleeping or reclining purposes or that is an integral part of a bed or couch or other device used for sleeping or reclining purposes.

As added by P.L.2-1993, SEC.24.

IC 16-41-32-6
Filling material

Sec. 6. As used in this chapter, "filling material" means the following:

(1) Hair.

(2) Down.

(3) Feathers.

(4) Wool.

(5) Cotton.

(6) Kapok.

(7) Plant fibers.

(8) Any other soft material used in the manufacture of and the filling or stuffing of articles of bedding.

As added by P.L.2-1993, SEC.24.

IC 16-41-32-7
Manufacture

Sec. 7. (a) As used in this chapter, "manufacture" means making, remaking, or renovating.

(b) The term includes altering, repairing, finishing, refinishing, or preparing articles of bedding for sale or resale made of either new or secondhand material.

As added by P.L.2-1993, SEC.24.

IC 16-41-32-8
New

Sec. 8. As used in this chapter, "new" means an article of bedding or filling material that has not been previously used for any purpose. Manufacturing processes may not be considered a prior use.

As added by P.L.2-1993, SEC.24.

IC 16-41-32-9
Renovate

Sec. 9. As used in this chapter, "renovate" means to restore to former condition or to place in a good state of repair.

As added by P.L.2-1993, SEC.24.

IC 16-41-32-10
Secondhand

Sec. 10. As used in this chapter, "secondhand" means any article

of bedding or material or part of bedding or material of which prior use of any kind has been made. An article of bedding must be considered secondhand if the article contains any secondhand material in whole or in part.
As added by P.L.2-1993, SEC.24.

IC 16-41-32-11
Sell

Sec. 11. As used in this chapter, "sell", or a variation of "sell", includes any of the following, or any combination of the following:

(1) Sell.
(2) Offer.
(3) Expose for sale.
(4) Barter.
(5) Trade.
(6) Lend.
(7) Deliver.
(8) Give away.
(9) Rent.
(10) Consign.
(11) Lease.
(12) Possess with intent to sell.
(13) Dispose of in any other commercial manner.

As added by P.L.2-1993, SEC.24.

IC 16-41-32-12
Supply dealer

Sec. 12. As used in this chapter, "supply dealer" means any person manufacturing, processing, or selling at wholesale any felt batting, pads, or loose material in bags or containers, concealed or not concealed, to be used in articles of bedding.
As added by P.L.2-1993, SEC.24.

IC 16-41-32-13
Wholesaler

Sec. 13. (a) As used in this chapter, "wholesaler" means a person located outside Indiana who, on the person's own account, sells or distributes an article of bedding or filling material to another for the purpose of resale.

(b) The term does not include an affiliate or a subsidiary:

(1) if the ownership and name are identical; and
(2) that is the exclusive sales outlet of a manufacturer.

As added by P.L.2-1993, SEC.24.

IC 16-41-32-14
Administration of chapter

Sec. 14. (a) The state department shall administer this chapter. The state department may:

(1) adopt rules under IC 4-22-2 to administer this chapter;
(2) employ persons as necessary under IC 4-15-2.2;
(3) make expenditures;
(4) require reports and records;
(5) make investigations; and
(6) take other action;

as the state department considers necessary or suitable for the proper administration of this chapter.

(b) The state department may authorize persons to do any act that may be done by the state department.

As added by P.L.2-1993, SEC.24. Amended by P.L.6-2012, SEC.122.

IC 16-41-32-15
Inspections of articles and records

Sec. 15. (a) The state department may take possession of an article of bedding or filling material made or offered for sale for inspection and may open the article of bedding to examine the contents.

(b) The state department may also inspect the purchase records of the owner of the articles of bedding to determine the kinds of materials used.

As added by P.L.2-1993, SEC.24.

IC 16-41-32-16
Prohibitions of sale; labels

Sec. 16. (a) If an article of bedding does not meet the requirements of this chapter, the state department shall do the following:

(1) Prohibit the sale of the article.
(2) Affix to each article of bedding a label designed and prescribed by the state department.

(b) The article of bedding may not be sold without the written consent of the state department. The label may not be removed except by an agent of the state department.

As added by P.L.2-1993, SEC.24.

IC 16-41-32-17
Inspections of sites

Sec. 17. A location where:

(1) an article of bedding covered by this chapter is made, remade, or renovated;
(2) material for the article of bedding is manufactured, prepared, or stored;
(3) the article of bedding is offered for sale or is possessed with intention to sell; or
(4) sterilization or disinfection is performed;

is subject to periodic inspection by the state department for the purpose of administering or enforcing this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-32-18
Interference with inspections

Sec. 18. It is unlawful for any person to interfere with any inspection under this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-32-19
Sterilization and disinfection of materials

Sec. 19. A person engaged in:

(1) the manufacturing, remaking, or renovating of an article of bedding; or

(2) processing or selling felt, batting, pads, or loose material to be used in articles of bedding covered by this chapter;

may not use any secondhand material, new or secondhand feathers, down, or any material that comes from an animal unless the secondhand material, feathers, down, or other material has been thoroughly sterilized or disinfected by a process approved by the state department.

As added by P.L.2-1993, SEC.24.

IC 16-41-32-20
Prohibited sales

Sec. 20. A person may not sell:

(1) an article of bedding covered by this chapter that is made, remade, or renovated in violation of this chapter; or

(2) a secondhand article of bedding or filling material covered by this chapter unless, since the article's last use, the article has been sterilized or disinfected by a process approved by the state department.

As added by P.L.2-1993, SEC.24.

IC 16-41-32-21
Sterilization and disinfection permits

Sec. 21. (a) A person desiring to secure approval of the process by which the articles of bedding or filling materials are sterilized or disinfected, in accordance with sections 19 and 20 of this chapter, shall submit to the state department a plan of the apparatus and the process intended to be used for such sterilization or disinfection.

(b) After the state department inspects and approves the process and equipment to be used, the state department shall issue a numbered permit for use.

(c) A sterilization or disinfection permit issued under subsection (b) must be conspicuously posted on the premises near the sterilizer.

(d) A person holding a sterilization or disinfection permit shall keep an accurate written record of all articles of materials that are sterilized or disinfected, including the following:

(1) The date the sterilization or disinfection was performed.

(2) In the case of articles of bedding, the name and address of

the buyer or owner of the articles.

This record shall be available for examination at any time by the state department.

(e) An application for a permit for the approval of a sterilization or disinfection process and equipment located outside Indiana may be approved only after the state department conducts a personal inspection of that process and equipment, unless the other state has an inspection service that is acceptable to the state department. The applicant shall pay the expenses for an inspection outside Indiana.

(f) The state department shall revoke the sterilization or disinfection permit of a person who, after fair hearing or opportunity to be heard by the state department, is found to be in noncompliance with the sterilization or disinfection provisions of this chapter. The state department may not issue a new permit to the person until the person does the following:

(1) Satisfies the state department that the person will comply with this chapter and the rules adopted under this chapter.

(2) Posts a five hundred dollar ($500) bond in favor of the state department to guarantee compliance.

(g) This chapter does not prevent a person engaged in the making, remaking, renovation, or sale of an article of bedding or material that requires sterilization or disinfection under this chapter from having the sterilization or disinfecting performed by a person who has a valid permit for the purposes if the number of the permit appears on the tag attached to each article of bedding or filling material as described in section 22 of this chapter.

As added by P.L.2-1993, SEC.24. Amended by P.L.142-1995, SEC.27.

IC 16-41-32-22

Information tags

Sec. 22. (a) Each new article of bedding governed by this chapter must have securely attached to the article a substantial white cloth tag that meets the following conditions:

(1) Is visible on the outside covering, with the visible part being not less than six (6) square inches in size.

(2) Will not flake when abraded.

(3) Upon which is indelibly stamped or printed in the English language a statement of the following:

(A) Describing the kind of materials used in filling the article of bedding.

(B) Stating that the materials are new.

(C) Disclosing the name and address of the manufacturer, distributor, or vendor.

(D) For articles of bedding made of feather, down, or material that comes from an animal, the number of the permit issued to the processor who sterilized or disinfected the materials.

(E) For articles of bedding containing mixtures of material from animal or fowl, the percentage by weight of each kind of material contained in the article of bedding.

(b) Each article of bedding containing secondhand material, in whole or in part, must have securely attached to the article a similar tag of yellow cloth upon which is stamped or printed in the same manner as required in subsection (a) a statement of the following:

(1) Describing the kind of materials used in filling the article of bedding.

(2) Stating that the article of bedding or materials in the bedding are secondhand.

(3) Disclosing the number of the permit issued to the processor who sterilized or disinfected the article of bedding or materials in the bedding.

(c) A shipment or delivery, however contained, of material used for filling articles of bedding must have conspicuously attached to the material a tag upon which is stamped or printed, as required in this section, a statement of the following:

(1) Describing the kind of material.

(2) Stating whether the material is new or secondhand.

(3) Disclosing the name and address of the manufacturer, distributor, or vendor.

(4) For secondhand material or material from animal or fowl, disclosing the permit number of the processor who sterilized or disinfected the material.

(d) The terms used on the tag to describe filling materials must be restricted to those defined in the rules adopted under this chapter. A trade or substitute term may not be used, and no additional information may be contained in the statement. The description of the filling material and the statement of whether new or secondhand must be in plain type not less than one-eighth (1/8) inch in height.

As added by P.L.2-1993, SEC.24. Amended by P.L.142-1995, SEC.28.

IC 16-41-32-23

Bedding labels; false or misleading statements; removal, defacing, or alteration

Sec. 23. A person may not:

(1) use a false or misleading statement, term, or designation on a bedding label; or

(2) remove, deface, or alter or attempt to remove, deface, or alter the label or the statement of filling materials that appears on the label.

As added by P.L.2-1993, SEC.24.

IC 16-41-32-24

Repealed

(Repealed by P.L.142-1995, SEC.32.)

IC 16-41-32-25
Intent to sell; presumptive evidence

Sec. 25. The possession of an article of bedding or filling material by a maker, remaker, or dealer in the course of business is presumptive evidence of intent to sell.

As added by P.L.2-1993, SEC.24.

IC 16-41-32-26
Repealed

(Repealed by P.L.142-1995, SEC.32.)

IC 16-41-32-27
Renovation tags

Sec. 27. A person who receives an article of bedding governed by this chapter for renovation shall attach, at the time received, a red tag on which the date of receipt and the name and address of the owner are legibly written.

As added by P.L.2-1993, SEC.24.

IC 16-41-32-28
Clean materials

Sec. 28. Filling material that is used in the manufacture of bedding governed by this chapter must be free from extraneous foreign matter, dirt, or trash.

As added by P.L.2-1993, SEC.24.

IC 16-41-32-29
Clean premises and equipment

Sec. 29. The premises, delivery equipment, machinery, appliances, and devices of:

(1) bedding manufacturers;
(2) supply dealers;
(3) renovators;
(4) sterilizers or disinfectors; and
(5) retailers;

must at all times be kept free from refuse, dirt contaminations, insects, and vermin.

As added by P.L.2-1993, SEC.24.

IC 16-41-32-30
Violations

Sec. 30. (a) A person who:

(1) knowingly makes a false statement, misrepresentation, or report to the state department; or
(2) knowingly fails to disclose a material fact to avoid liability under this chapter;

commits a Class B misdemeanor.

(b) A person who knowingly violates or fails to comply with this chapter commits a Class B misdemeanor.
As added by P.L.2-1993, SEC.24.

IC 16-41-32-31
Enforcement

Sec. 31. All proceedings for the enforcement of this chapter or to restrain violations of this chapter shall be in the name of the state.
As added by P.L.2-1993, SEC.24.

IC 16-41-33

Chapter 33. Pest Control: Local and State Programs for Vector Abatement

IC 16-41-33-1

Pest

Sec. 1. As used in this chapter, "pest" means an arthropod, a vertebrate, or a microorganism of health significance to humans.

As added by P.L.2-1993, SEC.24.

IC 16-41-33-2

Vector

Sec. 2. As used in this chapter, "vector" means an arthropod or a feral animal responsible for the transmission of pathogens from a host to another animal or human.

As added by P.L.2-1993, SEC.24.

IC 16-41-33-3

Authorization of local programs

Sec. 3. The:

(1) executive of a county that has formed a county health department;

(2) fiscal body of a city that has formed a city health department; and

(3) executive of the county and the fiscal body of a city that have formed a joint county-city health department;

may, as an alternative, on their own initiative or after a petition by five percent (5%) of the registered voters within the jurisdiction of the health department, by ordinance establish and maintain a vector abatement program in that health department.

As added by P.L.2-1993, SEC.24.

IC 16-41-33-4

Appropriations; tax levies

Sec. 4. The county fiscal body or the governing board of a health and hospital corporation may, on the fiscal body's or board of trustees' own initiative or after a petition signed by five percent (5%) of the registered voters within the jurisdiction of the health department, make an annual appropriation specifically for the purpose of vector control to be used by the health department solely for that purpose and levy a tax of not more than sixty-seven hundredths of one cent ($0.0067) on each one hundred dollars ($100) of assessed value of taxable property in the county.

As added by P.L.2-1993, SEC.24. Amended by P.L.6-1997, SEC.179.

IC 16-41-33-5

Direction of local programs

Sec. 5. The vector abatement program must be under the direction

of the local health officer.
As added by P.L.2-1993, SEC.24.

IC 16-41-33-6
Duties of local health officers

Sec. 6. (a) The:

(1) county fiscal body for the county health department;

(2) city fiscal body for a city health department; and

(3) county fiscal body and city fiscal body for a joint city-county health department;

may, by ordinance, determine the duties with respect to vector control of the local health officer.

(b) The duties under subsection (a) may include the following:

(1) Taking all necessary and proper steps to control vectors that have adverse health significance to humans or domestic animals and livestock.

(2) Entering upon any land, public or private, at any reasonable time to inspect for or to abate all pest and vector breeding grounds that have adverse health significance to humans or domestic animals and livestock.

(3) Purchasing supplies, material, and equipment.

(4) Recommending to the county commissioners or other appropriate authority the building, construction, maintenance, or repair of necessary levees, cuts, canals, channels, or other structures upon any land within the jurisdiction of the local health department after obtaining the necessary local and department of natural resources approvals.

(5) Executing contracts.

(6) Conducting control in a manner consistent with recommendations of the Purdue University cooperative extension service, the pesticide review board, and the state department.

(7) Entering into cooperative agreements with appropriate organizations for the purpose of assuring technical assistance in developing and carrying out specific duties.

(8) Identifying problems determined to be of importance to the public welfare and developing control programs appropriate to each situation.

As added by P.L.2-1993, SEC.24. Amended by P.L.40-1993, SEC.53.

IC 16-41-33-7
State funding

Sec. 7. (a) Local departments of health, including the department of a health and hospital corporation, are eligible to receive state funds appropriated by the general assembly only if, after allocation by the state agency and before receipt of those state funds, a local appropriation for vector control is made by the appropriate local health agency.

(b) The state department shall adopt rules under IC 4-22-2 to govern the application for and the distribution of any state funds appropriated for this purpose, according to the need and proper utilization.
As added by P.L.2-1993, SEC.24.

IC 16-41-33-8
Support programs

Sec. 8. An action program in vector abatement requires significant support in monitoring and research to assure the program's continued success. State agencies, including the state department and the office of agricultural research programs, are encouraged to pursue strong programs in support of abatement. Where appropriate and feasible, state agencies may draw on the resources and expertise of other institutions and the private sector in this effort.
As added by P.L.2-1993, SEC.24. Amended by P.L.40-1993, SEC.54.

IC 16-41-33-9
Violations

Sec. 9. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.
As added by P.L.2-1993, SEC.24.

IC 16-41-34

Chapter 34. Pest Control: Specific Provisions for Eradication of Rats

IC 16-41-34-1

Repealed

(Repealed by P.L.142-1995, SEC.32.)

IC 16-41-34-2

Education programs

Sec. 2. The township trustees and the boards of school trustees of the cities and towns shall make provisions in the public schools under their jurisdiction for the illustrative teaching of the following:

(1) The dissemination of diseases by rats, flies, and mosquitoes.

(2) The effects of the dissemination.

(3) The prevention of diseases by the proper selection and consumption of food.

As added by P.L.2-1993, SEC.24.

IC 16-41-34-3

Inspections

Sec. 3. The state department and inspectors appointed by the state department and local health officers and inspectors appointed for the purpose, as provided in this section, may enter into and on all lands, places, buildings, structures, vessels, or watercraft for the purpose of ascertaining whether the places are infested with rats and whether the requirements of this article as to extermination and destruction of the rats are being complied with. A building occupied as a dwelling, hotel, or rooming house may not be entered for that purpose, except between 9 a.m. and 5 p.m. of any day.

As added by P.L.2-1993, SEC.24.

IC 16-41-34-4

Extermination and destruction

Sec. 4. (a) The:

(1) executive of a county, with the consent of the fiscal body of the county; and

(2) legislative body of a town or city;

whenever the executive or legislative body determines by resolution that it is necessary for the preservation of the public health or to prevent the spread of contagious or infectious disease communicable to humans, or when the executive or legislative body determines that it is necessary to prevent great damage to crops, grain, food, or other property, may appropriate money for the purchase of and may purchase poison, traps, and other materials for the purpose of eliminating and destroying rats in the county, town, or city.

(b) The county, town, or city may employ inspectors who shall prosecute the work of extermination and destruction under the

direction of the executive or legislative body or the local health officer or board of health on both private and public property in the county, town, or city.

(c) The inspectors may when necessary to carry out this article do the following:

(1) Dig into the ground.

(2) Remove parts of floors, walls, or other parts of buildings or structures.

(3) Remove from one (1) place to another on the premises any other property when reasonably necessary to do so.

(d) The inspectors, after taking the necessary steps for the discovery and destruction of rats on any premises, shall restore the premises, as far as may be reasonably practicable, to the condition in which the premises were found.

As added by P.L.2-1993, SEC.24.

IC 16-41-34-5

Nuisance abatement; extermination and destruction of rats

Sec. 5. (a) This section applies to a person who owns, leases, occupies, possesses, or has charge of any:

(1) land;

(2) place;

(3) building;

(4) structure;

(5) stacks or quantities of:

(A) wood;

(B) hay;

(C) corn;

(D) wheat; or

(E) other grains or materials; or

(6) vessel or watercraft;

that is infested with rats.

(b) If a person fails, neglects, or refuses to proceed to exterminate and destroy the rats, as required by this chapter, the state department or the state department's inspectors, and the local health officer or local board of health and the local board's inspectors shall at once cause the nuisance to be abated by exterminating and destroying the rats.

(c) The expense is a charge against the county, town, or city that has, by the county's, town's, or city's legislative body, ordered the destruction or extermination of rats, and the legislative body shall pay the expense.

(d) When the destruction of rats is ordered by the town or city legislative body, the clerk of the town or city shall at once file with the county auditor a certified statement of the expense of the extermination and the county auditor shall charge the amount expended for destroying rats against the property on which the nuisance was abated. The amount shall be collected as other taxes are

collected. When collected the amount shall be paid to the county, town, or city to reimburse the county, city, or town for the amount paid out for the destruction of rats.
As added by P.L.2-1993, SEC.24.

IC 16-41-34-6
Inspectors' right of entry; penalty for obstruction

Sec. 6. (a) A health officer or an inspector appointed under this article may, without a warrant, enter on or into any land, place, building, structure, or premises suspected of being rat infested for the discovery or destruction of rats.

(b) A person who obstructs a health officer or an inspector in the performance of the health officer's or inspector's duties commits a Class C infraction.
As added by P.L.2-1993, SEC.24.

IC 16-41-34-7
Allowing infestation; penalties

Sec. 7. (a) A person who:
(1) owns, leases, occupies, possesses, or has charge of any:
(A) land;
(B) place;
(C) building;
(D) structure;
(E) stacks or quantities of:
(i) wood;
(ii) hay;
(iii) corn;
(iv) wheat; or
(v) other grains or materials; or
(F) vessel or water craft; and
(2) permits the areas listed in subdivision (1) to become rat infested;
commits a Class C infraction.

(b) A person who:
(1) permits an area listed in subsection (a) to become rat infested; and
(2) upon any knowledge or notice, fails to endeavor in good faith to exterminate the rats by poisoning, trapping, or other appropriate means such as that suggested by the state department or local health officers;
commits a Class C infraction.
As added by P.L.2-1993, SEC.24.

IC 16-41-34-8
Violations

Sec. 8. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B

misdemeanor.

(b) Each day a violation continues constitutes a separate offense.

As added by P.L.2-1993, SEC.24.

IC 16-41-35
Chapter 35. Radiation: Radiation Control

IC 16-41-35-1
Public policy

Sec. 1. Whereas radiation may improve the health, welfare, and productivity of the public if properly utilized but may impair the health of the public if improperly utilized, it is declared to be the public policy of Indiana to encourage the constructive medical uses of radiation and to control harmful effects of radiation.

As added by P.L.2-1993, SEC.24. Amended by P.L.29-2014, SEC.11.

IC 16-41-35-2
Repealed

(As added by P.L.2-1993, SEC.24. Repealed by P.L.113-2010, SEC.170.)

IC 16-41-35-3
Repealed

(As added by P.L.2-1993, SEC.24. Repealed by P.L.29-2014, SEC.12.)

IC 16-41-35-4
Repealed

(As added by P.L.2-1993, SEC.24. Repealed by P.L.29-2014, SEC.13.)

IC 16-41-35-5
Electronic products

Sec. 5. As used in the chapter, "electronic products" means a manufactured product or device or a component part of a product or device that has an electronic circuit that can generate or emit a physical field of radiation.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-6
Repealed

(As added by P.L.2-1993, SEC.24. Repealed by P.L.29-2014, SEC.14.)

IC 16-41-35-7
Repealed

(As added by P.L.2-1993, SEC.24. Repealed by P.L.29-2014, SEC.15.)

IC 16-41-35-8
Radiation

Sec. 8. As used in this chapter, "radiation" means the following:

(1) Ionizing radiation, including gamma rays, x-rays, alpha particles, beta particles, and other atomic or nuclear particles or rays.
(2) Electromagnetic radiation generated during the operation of electronic products.
(3) Sonic, ultrasonic, or infrasonic waves that are emitted from an electronic product as a result of the operation of an electronic circuit in that product that may produce a hazard to health.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-9
Radiation machine

Sec. 9. As used in this chapter, "radiation machine" is any equipment or device that produces ionizing radiation when the associated control devices are operated.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-10
Radioactive material

Sec. 10. As used in this chapter, "radioactive material" is any solid, liquid, or gas material that emits radiation spontaneously.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-11
Repealed

(As added by P.L.2-1993, SEC.24. Amended by P.L.144-1996, SEC.9. Repealed by P.L.29-2014, SEC.16.)

IC 16-41-35-12
Repealed

(As added by P.L.2-1993, SEC.24. Amended by P.L.144-1996, SEC.10. Repealed by P.L.29-2014, SEC.17.)

IC 16-41-35-13
Repealed

(As added by P.L.2-1993, SEC.24. Repealed by P.L.29-2014, SEC.18.)

IC 16-41-35-14
Unnecessary radiation

Sec. 14. As used in this chapter, "unnecessary radiation" means the use of radiation in a manner that is injurious or dangerous to health, life, or property.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-15
Repealed

(As added by P.L.2-1993, SEC.24. Repealed by P.L.29-2014, SEC.19.)

IC 16-41-35-16
Repealed
(As added by P.L.2-1993, SEC.24. Repealed by P.L.113-2010, SEC.170.)

IC 16-41-35-17
Repealed
(As added by P.L.2-1993, SEC.24. Repealed by P.L.113-2010, SEC.170.)

IC 16-41-35-18
Repealed
(As added by P.L.2-1993, SEC.24. Repealed by P.L.113-2010, SEC.170.)

IC 16-41-35-19
Repealed
(As added by P.L.2-1993, SEC.24. Repealed by P.L.113-2010, SEC.170.)

IC 16-41-35-20
Repealed
(As added by P.L.2-1993, SEC.24. Repealed by P.L.113-2010, SEC.170.)

IC 16-41-35-21
Repealed
(As added by P.L.2-1993, SEC.24. Repealed by P.L.113-2010, SEC.170.)

IC 16-41-35-22
Repealed
(As added by P.L.2-1993, SEC.24. Repealed by P.L.113-2010, SEC.170.)

IC 16-41-35-23
Repealed
(As added by P.L.2-1993, SEC.24. Repealed by P.L.113-2010, SEC.170.)

IC 16-41-35-24
Repealed
(As added by P.L.2-1993, SEC.24. Repealed by P.L.113-2010, SEC.170.)

IC 16-41-35-25
Inspections and investigations; assistance

Sec. 25. The state department or the state department's agent may enter at all reasonable times any private or public property for the purpose of inspecting and investigating conditions relating to radiation control. The state department may call upon any state officer, employee, board, department, school, university, or other state institution to receive any assistance considered necessary to carry out this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-26
Registration of person that produces radiation or uses or disposes of radiation machines

Sec. 26. A person may not produce radiation or produce, use, store, sell, or otherwise dispose of radiation machines or electronic products, unless the person registers in writing with the state department, giving the pertinent information the state department requires, in accordance with the procedures prescribed by the state department.

As added by P.L.2-1993, SEC.24. Amended by P.L.144-1996, SEC.11; P.L.29-2014, SEC.20.

IC 16-41-35-27
Repealed

(As added by P.L.2-1993, SEC.24. Amended by P.L.172-2011, SEC.119. Repealed by P.L.29-2014, SEC.21.)

IC 16-41-35-28
Production, transportation, use, and disposition rules

Sec. 28. (a) The state department shall adopt rules under IC 4-22-2 concerning the production, transportation, use, storage, sale, or other disposition of radioactive material, radiation machines, or electronic products used for medical purposes on human beings to do the following:

(1) Prohibit and prevent unnecessary radiation.
(2) Carry out this chapter.

(b) Standards relative to unnecessary radiation included in the rules must be in general conformance with the recommendations of the National Council on Radiation Protection and Measurements (NCRP) and performance standards promulgated by appropriate federal agencies.

As added by P.L.2-1993, SEC.24. Amended by P.L.29-2014, SEC.22.

IC 16-41-35-29
Radiation machines; operation; licenses; inspection; penalty

Sec. 29. (a) The state department shall adopt rules under IC 4-22-2 to regulate who may operate a radiation machine and what level of

training and experience the operator must have. Rules adopted by the state department must exempt from testing to establish initial qualifications an individual who:

(1) holds a valid certificate issued by; and

(2) is currently registered with;

the American Registry of Radiologic Technologists.

(b) The state department may by rule exempt an individual who:

(1) is currently licensed in another state as a radiologic technologist; or

(2) performs the function of a radiologic technologist in another state that does not require the licensure of a radiologic technologist;

from testing to establish initial qualifications.

(c) The state department shall issue a license to an individual meeting the requirements of the rules adopted under subsection (a) for a radiologic technologist upon the payment to the state department of a sixty dollar ($60) fee and the cost of testing to establish initial qualifications. The license is valid for twenty-four (24) months. The state department shall establish a fee for the renewal or duplication of a license issued under this section not to exceed sixty dollars ($60). In addition to the renewal fee, a penalty fee of sixty dollars ($60) shall be imposed by the state department for processing an application for license renewal received after the expiration of the previous license. The state department may waive the penalty fee for a showing of good cause.

(d) An individual who applies for a license issued under subsection (c) or who holds a license issued under subsection (c) shall provide the individual's Social Security number to the state department.

(e) The state department shall collect and release the applicant's or licensee's Social Security number as provided in state or federal law.

(f) Notwithstanding IC 4-1-10-3, the state department may allow access to the Social Security number of each person who is licensed under this section or has applied for a license under this section to:

(1) a testing service that provides the examination for licensure as a radiologic technologist to the state department; or

(2) an individual state regulatory board of radiologic technology or an organization composed of state regulatory boards of radiologic technology for the purpose of coordinating licensure and disciplinary activities among the individual states.

(g) Every owner of a radiation machine, including an industrial radiation machine, shall have the machine inspected in accordance with procedures and standards established by the state department. The state department shall adopt rules under IC 4-22-2 establishing the procedures and standards applicable to inspections of radiation machines.

As added by P.L.2-1993, SEC.24. Amended by P.L.104-2003, SEC.6;

P.L.168-2003, SEC.3; P.L.157-2006, SEC.5.

IC 16-41-35-30
Mammography rules

Sec. 30. The state department shall adopt rules under IC 4-22-2 concerning screening mammographies.
As added by P.L.2-1993, SEC.24. Amended by P.L.87-1994, SEC.11.

IC 16-41-35-31
Design and shielding plans and specifications

Sec. 31. The state department may require the submission of plans and specifications on the design and shielding for radiation sources for the purpose of determining possible radiation hazards.
As added by P.L.2-1993, SEC.24.

IC 16-41-35-32
Radiation hazard and protection knowledge acquisition and dissemination

Sec. 32. The state department shall provide facilities and personnel for inspection, investigation, and dissemination of knowledge concerning radiation hazards and protection.
As added by P.L.2-1993, SEC.24.

IC 16-41-35-33
Prohibition against nonconforming production, use, storage, sale, or disposal

Sec. 33. A person may not produce radiation or produce, use, store, sell, or otherwise dispose of radioactive materials, radiation machines, or electronic products, except in accordance with this chapter and rules adopted under this chapter or IC 10-19.
As added by P.L.2-1993, SEC.24. Amended by P.L.29-2014, SEC.23.

IC 16-41-35-34
Footwear fitting devices using radiation prohibited

Sec. 34. A person may not operate or maintain in Indiana a fitting device or machine that uses fluoroscopic, x-ray, or radiation principles for the purpose of fitting or selling footwear through commercial outlets.
As added by P.L.2-1993, SEC.24.

IC 16-41-35-35
Authorized exposure to radiation

Sec. 35. This chapter does not limit intentional exposure of persons to radiation for the purpose of diagnosis, therapy, and medical or dental research as authorized by law.
As added by P.L.2-1993, SEC.24.

IC 16-41-35-36

Cooperation of state health department with other entities; acceptance and administration of funds

Sec. 36. The state department shall advise, consult, and cooperate with other state agencies, the federal government, other states, interstate agencies, and affected groups, political subdivisions, and industries in furtherance of the purposes of this chapter. The state department may accept and administer grants or other funds or gifts from the federal government and from other sources, public or private, for carrying out functions under this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-37

Approval of local ordinances and resolutions

Sec. 37. An ordinance or a resolution concerning unnecessary radiation adopted by a municipality, county, or local board of health is not effective until a certified copy of the ordinance or a resolution has been submitted to the state department and approved by the state health commissioner. An ordinance or a resolution may not be approved unless the ordinance or resolution is consistent with this chapter or a rule adopted under this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-38

Application of laws

Sec. 38. The powers, duties, and functions of the state department under this chapter do not affect the powers, duties, and functions of the state department or the environmental rules board under any other law.

As added by P.L.2-1993, SEC.24. Amended by P.L.113-2014, SEC.110.

IC 16-41-35-39

Repealed

(As added by P.L.2-1993, SEC.24. Repealed by P.L.29-2014, SEC.24.)

IC 16-41-35-40

Violations

Sec. 40. A person who:

(1) produces radiation; or

(2) produces, uses, stores, sells, or otherwise disposes of radiation machines or electronic products;

in violation of this chapter commits a Class B misdemeanor. Each day a violation continues, after notification in writing of the offense by the state department, constitutes a separate offense.

As added by P.L.2-1993, SEC.24. Amended by P.L.29-2014, SEC.25.

IC 16-41-35-41

Enforcement

Sec. 41. The state department may bring an action at law or in equity to enforce this chapter, and the court in the action has jurisdiction to compel or enforce this chapter by injunction. The action shall be brought in the name of the state.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-42

Civil penalties and orders of compliance

Sec. 42. (a) In addition to other penalties provided under this chapter, the state department shall adopt rules under IC 4-22-2 that establish a schedule of civil penalties that may be levied upon a person for the violation of this chapter.

(b) A penalty included in the schedule of civil penalties adopted under this chapter may not exceed one thousand dollars ($1,000) for each violation per day.

(c) The state department may issue an order of compliance, impose a civil penalty included in the schedule of civil penalties adopted under subsection (a), or both, against a person who:

(1) fails to comply with this chapter or a rule adopted under this chapter; or

(2) interferes with or obstructs the state department or the department's designated agent in the performance of duties under this chapter.

(d) An order of compliance may be issued under IC 4-21.5-3-6, IC 4-21.5-3-8, or IC 4-21.5-4. A civil penalty may be imposed only in a proceeding under IC 4-21.5-3-8.

(e) A proceeding commenced to impose a civil penalty may be consolidated with any other proceeding commenced to enforce this chapter or a rule adopted under this chapter.

As added by P.L.2-1993, SEC.24. Amended by P.L.29-2014, SEC.26.

IC 16-41-36
Repealed
(Repealed by P.L.142-1995, SEC.32.)

IC 16-41-37
Repealed
(Repealed by P.L.141-2012, SEC.9.)

IC 16-41-37.5
Chapter 37.5. Indoor Air Quality in Schools

IC 16-41-37.5-0.3
"Nonpublic school"
Sec. 0.3. As used in this chapter, "nonpublic school" has the meaning set forth in IC 20-18-2-12.
As added by P.L.79-2008, SEC.7.

IC 16-41-37.5-0.5
"Public school"
Sec. 0.5. As used in this chapter, "public school" has the meaning set forth in IC 20-18-2-15(1).
As added by P.L.79-2008, SEC.8.

IC 16-41-37.5-1
"School"
Sec. 1. As used in this chapter, "school" refers to a:
(1) public school; or
(2) nonpublic school that is not located in a private home.
As added by P.L.1-2005, SEC.33.

IC 16-41-37.5-1.3
"State agency"
Sec. 1.3. As used in this chapter, "state agency" has the meaning set forth in IC 4-13-1-1(b).
As added by P.L.79-2008, SEC.9.

IC 16-41-37.5-2
Indoor air quality inspection and evaluation program; functions of state department
Sec. 2. (a) The state department shall before July 1, 2010:
(1) adopt rules under IC 4-22-2 to establish an indoor air quality inspection, evaluation, and employee notification program to assist state agencies in improving indoor air quality; and
(2) amend 410 IAC 6-5.1 or adopt new rules under IC 4-22-2 to do the following:
(A) Establish an indoor air quality inspection, evaluation, and parent and employee notification program to assist schools in improving indoor air quality.
(B) Establish best practices to assure healthful indoor air quality in schools.
(b) Subject to subsection (c), the state department shall:
(1) inspect a school or state agency if the state department receives a complaint about the quality of air in the school or state agency;
(2) prepare a report, which may be in letter form, that:
(A) describes the state department's inspection findings;

(B) identifies any conditions that are contributing or could contribute to poor indoor air quality at the school or state agency, including:
(i) carbon dioxide levels;
(ii) humidity;
(iii) evidence of mold or water damage; and
(iv) excess dust;
(C) provides guidance on steps the school or state agency should take to address any issues; and
(D) requests a response from the school or state agency not later than sixty (60) days after the date of the report;
(3) report the results of the inspection to:
(A) the person who complained about the quality of air;
(B) the school's principal or the state agency head;
(C) the superintendent of the school corporation, if the school is part of a school corporation;
(D) the Indiana state board of education, if the school is a public school or an accredited nonpublic school;
(E) the Indiana department of administration, if the inspected entity is a state agency; and
(F) the appropriate local or county board of health; and
(4) assist the school or state agency in developing a reasonable plan to improve air quality conditions found in the inspection.
(c) A complaint referred to in subsection (b)(1):
(1) must be in writing; and
(2) may be made by electronic mail.
(d) The state department may release the name of a person who files a complaint referred to in subsection (b)(1) only if the person has authorized the release in writing.
As added by P.L.1-2005, SEC.33. Amended by P.L.79-2008, SEC.10; P.L.132-2009, SEC.1; P.L.168-2009, SEC.4.

IC 16-41-37.5-2.5
Manual of best practices for indoor air quality at schools
Sec. 2.5. (a) Before July 1, 2010, the state department shall distribute a manual of best practices for managing indoor air quality at schools as described in this section. The state department may use a manual on indoor air quality in schools developed by a federal health or environmental agency or another state and make additions or revisions to the manual to make the manual most useful to Indiana schools. The state department shall provide the manual:
(1) to:
(A) the legislative council; and
(B) the department of education;
in an electronic format under IC 5-14-6; and
(2) to the facilities manager and superintendent of each school corporation.
(b) The department shall review and revise the manual developed

under subsection (a) at least once every three (3) years to assure that the manual continues to represent best practices available to schools.
As added by P.L.132-2009, SEC.2; P.L.168-2009, SEC.5. Amended by P.L.133-2012, SEC.183.

IC 16-41-37.5-3
Repealed
(As added by P.L.1-2005, SEC.33. Amended by P.L.79-2008, SEC.11; P.L.132-2009, SEC.3; P.L.168-2009, SEC.6. Repealed by P.L.133-2012, SEC.184.)

IC 16-41-37.5-4
Qualifications of individual conducting indoor air quality test; certification of test
Sec. 4. (a) An individual conducting an indoor air quality test under this chapter must be:
(1) a professional engineer (as defined in IC 25-31-1-2);
(2) an industrial hygienist; or
(3) a supervisor or technician certified by a national organization that:
(A) writes and adheres to standards for:
(i) testing, adjusting, and balancing of heating, ventilation, and air conditioning equipment or exhaust systems; and
(ii) indoor air quality testing procedures and requirements; and
(B) certifies supervisors and technicians to perform:
(i) testing, adjusting, and balancing of heating, ventilation, and air conditioning equipment or exhaust systems; and
(ii) indoor air quality testing procedures and requirements.
(b) The report of a test conducted under this chapter must be certified by the person conducting the test. If the person uses a professional seal on documents, the certification must include the person's seal.
As added by P.L.79-2008, SEC.12.

IC 16-41-37.5-5
State department considerations in amending school building and site rules
Sec. 5. After June 30, 2009, if the department amends 410 IAC 6-5.1 concerning school buildings and school sites, the department shall consider the effects of outdoor air quality when establishing criteria for school siting.
As added by P.L.132-2009, SEC.4; P.L.168-2009, SEC.7.

IC 16-41-38
Chapter 38. Radon Gas

IC 16-41-38-1
"Radon gas" defined
Sec. 1. As used in this chapter, "radon gas" means the radioactive gas and related decay products produced by the disintegration of the element radium.
As added by P.L.1-1996, SEC.76.

IC 16-41-38-2
Rules
Sec. 2. The state department shall adopt rules under IC 4-22-2 to establish and operate programs for the certification of a person engaged in:
(1) testing for radon gas in buildings or on areas of land; or
(2) abatement of radon gas in buildings.
As added by P.L.1-1996, SEC.76.

IC 16-41-38-3
Duties of state department
Sec. 3. The state department shall, in the rules adopted under this chapter:
(1) require training and education as a precondition to certification;
(2) require continuing education and biennial reexamination to maintain certification;
(3) establish fees that are not more than necessary to recover the cost of administering this chapter;
(4) collect and disseminate information relating to radon gas; and
(5) conduct research on radon gas testing and mitigation.
As added by P.L.1-1996, SEC.76.

IC 16-41-38-4
Use of relevant standards and requirements
Sec. 4. In establishing standards and requirements under this chapter, the state department shall use any relevant standards or requirements concerning radon gas established by the United States Environmental Protection Agency.
As added by P.L.1-1996, SEC.76.

IC 16-41-38-5
Exempted individuals; certification requirement
Sec. 5. (a) This section does not apply to an individual who is testing for radon gas or engaged in the abatement of radon gas if the individual is:
(1) performing the testing or abatement in a building the

individual owns;

(2) performing the testing on an area of land the individual owns; or

(3) conducting scientific research on radon gas testing or abatement in a building or on an area of land and the owner of the building or area of land is not charged for the testing or abatement.

(b) An individual may not engage or profess to engage in:

(1) testing for radon gas; or

(2) abatement of radon gas;

unless the individual is certified under this chapter.

As added by P.L.1-1996, SEC.76.

IC 16-41-38-6

Denial, suspension, or revocation of certificate

Sec. 6. The state department may under IC 4-21.5:

(1) deny;

(2) suspend; or

(3) revoke;

a certificate issued under this chapter or IC 13-1-14 (before its repeal).

As added by P.L.1-1996, SEC.76.

IC 16-41-38-7

Certification without examination

Sec. 7. An individual accredited in another state to perform testing for or abatement of radon gas may be certified under this chapter without passing an examination if:

(1) the state in which the individual is accredited maintains an accreditation program substantially similar to the certification program under this chapter; and

(2) the individual pays a fee.

As added by P.L.1-1996, SEC.76.

IC 16-41-38-8

Radon gas trust fund

Sec. 8. (a) The radon gas trust fund is established to provide a source of money for the purposes described in this chapter.

(b) The expenses of administering this chapter shall be paid from money in the fund.

(c) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(d) The sources of money for the fund are the following:

(1) Fees collected under this chapter.

(2) Appropriations made by the general assembly.

(3) Gifts and donations intended for deposit in the fund.

As added by P.L.1-1996, SEC.76.

IC 16-41-38-9
Violations; civil penalty

Sec. 9. In addition to the penalties set out in this chapter, the state department may commence an action under IC 4-21.5-3-6 or IC 4-21.5-4 for issuance of a compliance order to impose a civil penalty not to exceed one thousand dollars ($1,000) for each violation, each day, against a person who:

(1) fails to comply with this chapter or a rule adopted under this chapter; or

(2) interferes with or obstructs the state department or a designated agent of the state department in the performance of official duties under this chapter.

As added by P.L.1-1996, SEC.76.

IC 16-41-38-10
Violations; offense

Sec. 10. An individual who violates:

(1) this chapter; or

(2) a rule adopted under this chapter;

commits a Class A misdemeanor.

As added by P.L.1-1996, SEC.76.

IC 16-41-39

Chapter 39. Tobacco Sale Regulation

IC 16-41-39-1

General assembly having exclusive regulatory power

Sec. 1. Regulation of the sale, distribution, or display of tobacco products may only be authorized by the general assembly.

As added by P.L.256-1996, SEC.9.

IC 16-41-39-2

Local ordinances, bylaws, and rules void

Sec. 2. An ordinance, a bylaw, or a rule of:

(1) a county;

(2) a city;

(3) a township;

(4) a department, a board, or an agency of a:

(A) county;

(B) city; or

(C) township; or

(5) any other political subdivision or agency of the state;

concerning matters listed in section 1 of this chapter is void, regardless of when enacted.

As added by P.L.256-1996, SEC.9.

IC 16-41-39-3

Local restrictions on transient merchants

Sec. 3. Notwithstanding section 1 of this chapter, this chapter does not prohibit a political subdivision from adopting limitations on the locations at which a transient merchant licensed under IC 25-37-1-3 may conduct business within the jurisdiction of the political subdivision.

As added by P.L.256-1996, SEC.9.

IC 16-41-39.4

Chapter 39.4. Childhood Lead Poisoning

IC 16-41-39.4-1

Rules

Sec. 1. (a) The state department may adopt rules under IC 4-22-2 to implement this chapter.

(b) The state department shall adopt rules under IC 4-22-2 for the case management of a child with lead poisoning.

As added by P.L.123-1997, SEC.12. Amended by P.L.99-2002, SEC.8; P.L.135-2005, SEC.3.

IC 16-41-39.4-2

Powers of state department

Sec. 2. (a) The state department may do the following:

(1) Determine the magnitude of lead poisoning in Indiana's residents.

(2) Provide consultation and education to a medical provider network that screens for lead poisoning throughout Indiana.

(3) Receive and analyze blood samples or assist regional lab sites to receive and analyze blood samples for lead poisoning.

(4) Develop and maintain a data base of unduplicated children with lead poisoning.

(5) Provide consultation to local health departments regarding medical case follow-up and environmental inspections connected to reducing the incidence of lead poisoning.

(6) Coordinate lead exposure detection activities with local health departments.

(7) Coordinate with social service organizations for outreach programs regarding lead poisoning.

(8) Notify and update pediatricians and family practice physicians of lead hazards in a timely fashion.

(9) Provide consumer alerts and consumer education regarding lead hazards.

(b) The state department shall establish reporting, monitoring, and preventive procedures to protect from lead poisoning.

As added by P.L.123-1997, SEC.12. Amended by P.L.59-2003, SEC.1; P.L.135-2005, SEC.4.

IC 16-41-39.4-3

Blood examinations; reports; penalties

Sec. 3. (a) A person that examines the blood of an individual described in section 2 of this chapter for the presence of lead must report to the state department the results of the examination not later than one (1) week after completing the examination. The report must include at least the following:

(1) With respect to the individual whose blood is examined:

(A) the name;

(B) the date of birth;
(C) the gender;
(D) the race; and
(E) any other information that is required to be included to qualify to receive federal funding.

(2) With respect to the examination:
(A) the date;
(B) the type of blood test performed;
(C) the person's normal limits for the test;
(D) the results of the test; and
(E) the person's interpretation of the results of the test.

(3) The names, addresses, and telephone numbers of:
(A) the person; and
(B) the attending physician, hospital, clinic, or other specimen submitter.

(b) If a person required to report under subsection (a) has submitted more than fifty (50) results in the previous calendar year, the person must submit subsequent reports in an electronic format determined by the state department.

(c) Except as provided in subsection (d), if a person required to report under subsection (a) fails to provide complete information within ten (10) days after notification by the state department, the state department may, in accordance with IC 4-21.5, assess a civil penalty against the person in an amount equal to one thousand five hundred dollars ($1,500) for each incomplete report that is submitted after receipt of the notification. Money received by the state department under this subsection shall be deposited in the fund.

(d) Subsection (c) does not apply to a person who acts in good faith to provide a complete report required under subsection (a), but who:

(1) is unable to collect all of the information required for a complete report; or
(2) provides incorrect information on a completed report.

As added by P.L.99-2002, SEC.9. Amended by P.L.59-2003, SEC.2; P.L.135-2005, SEC.5; P.L.102-2008, SEC.11.

IC 16-41-39.4-3.1
Childhood lead poisoning prevention fund

Sec. 3.1. (a) The childhood lead poisoning prevention fund is established for the purpose of funding childhood lead poisoning outreach and prevention activities. The fund shall be administered by the state department.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The fund consists of:

(1) civil penalties assessed under section 3 of this chapter;
(2) gifts; and
(3) appropriations from the general assembly.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.102-2008, SEC.12.

IC 16-41-39.4-4
Distribution of information

Sec. 4. (a) The state department, the office of the secretary of family and social services, and local health departments shall share among themselves and with the United States Department of Health and Human Services and the United States Department of Housing and Urban Development information, including a child's name, address, and demographic information, that is gathered after January 1, 1990, concerning the concentration of lead in the blood of a child less than seven (7) years of age to the extent necessary to determine the prevalence and distribution of lead poisoning in children less than seven (7) years of age.

(b) The state department, the office of the secretary of family and social services, and local health departments shall share information described in subsection (a) that is gathered after July 1, 2002, among themselves and with organizations that administer federal, state, and local programs covered by the United States Department of Housing and Urban Development regulations concerning lead-based paint poisoning prevention in certain residential structures under 24 CFR Subpart A, Part 35 to the extent necessary to ensure that children potentially affected by lead-based paint and lead hazards are adequately protected from lead poisoning.

(c) A person who shares data under this section is not liable for any damages caused by compliance with this section.

As added by P.L.99-2002, SEC.10. Amended by P.L.1-2003, SEC.63; P.L.135-2005, SEC.6.

IC 16-41-39.4-5
Annual report

Sec. 5. (a) The state department shall, in cooperation with other state agencies, collect data under this chapter and, before March 15 of each year, report the results to the general assembly for the previous calender year. A copy of the report shall be transmitted in an electronic format under IC 5-14-6 to the executive director of the legislative services agency for distribution to the members of the general assembly.

(b) The report transmitted under subsection (a) must include for each county the following information concerning children who are less than seven (7) years of age:

(1) The number of children who received a blood lead test.

(2) The number of children who had a blood test result of at least ten (10) micrograms of lead per deciliter of blood.
(3) The number of children identified under subdivision (2) who received a blood test to confirm that they had lead poisoning.
(4) The number of children identified under subdivision (3) who had lead poisoning.
(5) The number of children identified under subdivision (4) who had a blood test result of less than ten (10) micrograms of lead per deciliter of blood.
(6) The average number of days taken to confirm a blood lead test.
(7) The number of risk assessments performed for children identified under subdivision (4) and the average number of days taken to perform the risk assessment.
(8) The number of housing units in which risk assessments performed under subdivision (7) documented lead hazards as defined by 40 CFR 745.
(9) The number of housing units identified under subdivision (8) that were covered by orders issued under IC 13-14-10-2 or by another governmental authority to eliminate lead hazards.
(10) The number of housing units identified under subdivision (9) for which lead hazards have been eliminated within thirty (30) days, three (3) months, and six (6) months.

As added by P.L.135-2005, SEC.7.

IC 16-41-39.4-6
Expired

(As added by P.L.102-2008, SEC.13. Amended by P.L.57-2009, SEC.15. Expired 7-1-2011 by P.L.57-2009, SEC.15.)

IC 16-41-39.4-7
Sales of consumer and other products

Sec. 7. (a) A retail establishment that sells paint or paint products shall do all of the following:
(1) Offer for sale a lead test kit that is capable of determining the presence of a lead-based paint hazard.
(2) Provide to customers the federal Environmental Protection Agency pamphlet "Protect Your Family from Lead in Your Home" or a similar source of information approved by the state department.
(3) Ensure that at least one (1) employee who provides advice to customers concerning paint and paint products:
(A) attends a training program concerning lead hazards; and
(B) provides training to other employees who provide advice to customers concerning paint and paint products.

This subsection does not apply to a paint or paint product that is used solely for a craft or hobby.

(b) A person that sells, offers for sale, or distributes a consumer

product shall not remove, erase, or obscure the visibility of a statement that:

(1) the manufacturer or wholesaler of the consumer product has placed on the consumer product or the container or wrapper in which the consumer product is contained; and

(2) specifies that the consumer product contains or may contain lead.

(c) A person shall not sell or offer for sale at wholesale or retail or distribute a consumer product, surface coating material, a food product, or food packaging that:

(1) is a banned hazardous substance under the federal Hazardous Substances Act (15 U.S.C. 1261(q)(1)); or

(2) has been determined by the state department to:

(A) have a lead content that is greater than the lesser of the lead content specifications for lead paint in 16 CFR 1303.2 or state law; and

(B) pose a danger of childhood lead poisoning because the product, material, or packaging is reasonably expected to be accessible to, chewed by, or ingested by a child who is less than seven (7) years of age.

(d) If the state department, based on:

(1) test results performed by a certified laboratory at the state department's request;

(2) information received from a federal agency; or

(3) other reliable information;

has reason to believe that a person has violated this section, the state department may, with or without a prior hearing, issue to the person a cease and desist order if the commissioner determines a cease and desist order is in the public interest. In addition to all other remedies, the commissioner may bring an action in the name and on behalf of the state against the person to enjoin the person from violating this section.

(e) The state department or a local health department may at any time during regular business hours inspect any premises where consumer products are sold, offered for sale, or distributed to establish compliance with this section.

(f) The state department may seize an item that is sold, offered for sale, or distributed in violation of this section.

(g) The state department shall, not later than May 1, 2009, adopt rules under IC 4-22-2 to implement this section. The rules adopted under this subsection:

(1) may:

(A) establish exceptions under which items described in subsection (c) may be sold, offered for sale, or distributed upon the state department's determination that the risk posed to children by the items is minimal; or

(B) require labeling of an item or signage to reflect that the item contains lead; and

(2) must be consistent with federal law.

As added by P.L.102-2008, SEC.14. Amended by P.L.57-2009, SEC.16.

IC 16-41-39.4-9

Lead-safe work practices training program

Sec. 9. (a) The state department shall, not later than July 1, 2009, adopt rules under IC 4-22-2 to establish a lead-safe work practices training program for contractors, renovators, and remodelers who:

(1) perform work on housing units that were built before 1978; and

(2) disturb lead-based paint in the housing units.

(b) The rules adopted under subsection (a) must:

(1) be consistent with the federal Department of Housing and Urban Development Lead Safe Housing Rule requirements for lead safe work practices training (24 CFR 35.1330(a)(4)); and

(2) provide for training courses taught in English and Spanish.

As added by P.L.102-2008, SEC.15. Amended by P.L.7-2015, SEC.44.

IC 16-41-39.6

Chapter 39.6. Osteoporosis Education

IC 16-41-39.6-1

Osteoporosis prevention and treatment education program

Sec. 1. (a) The state department may establish an osteoporosis prevention and treatment education program.

(b) If the state department establishes a program under subsection (a) the state department shall do the following:

(1) Design and implement strategies for raising public awareness concerning the causes and nature of osteoporosis, personal risk factors, the value of prevention and early detection, and options for diagnosing and treating osteoporosis.

(2) Develop and work with other state and local governmental agencies in presenting osteoporosis educational programs for physicians and other health professionals with the most current and accurate scientific and medical information on:

(A) prevention, diagnosis, and treatment;

(B) therapeutic decision making, including guidelines for detecting and treating the disease in special populations;

(C) risks and benefits of medications; and

(D) research advances.

(3) Conduct a statewide needs assessment to identify one (1) or more of the following concerning osteoporosis:

(A) Indiana specific data that analyzes the extent of osteoporosis in the state.

(B) Available technical assistance and educational materials and programs nationwide.

(C) The level of public awareness about osteoporosis.

(D) The needs of osteoporosis patients and their families and caregivers.

(E) The needs of health care providers.

(F) The services available to osteoporosis patients.

(G) The existence of osteoporosis treatment programs.

(H) The existence of osteoporosis support groups.

(I) The existence of osteoporosis rehabilitative services.

(J) The number and location of bone density testing equipment.

(c) Based on the results of the needs assessment conducted under subsection (b), the state department shall develop, maintain, and make available a list of osteoporosis services and osteoporosis health care providers who have a specialization in services to prevent, diagnose, and treat osteoporosis.

As added by P.L.147-1997, SEC.4.

IC 16-41-39.6-2

State department powers; improvement and coordination of services

Sec. 2. The state department may do the following:

(1) Work to improve the capacity of community based services available to osteoporosis patients.

(2) Work with other state and local governmental agencies, community and business leaders, community organizations, health care and human service providers, and national osteoporosis organizations to coordinate efforts and maximize state resources in the areas of prevention, education, and treatment of osteoporosis.

(3) Identify and, when appropriate, replicate or use successful osteoporosis programs and procure related materials and services from organizations with appropriate experience and knowledge of osteoporosis.

As added by P.L.147-1997, SEC.4.

IC 16-41-39.6-3
Osteoporosis education fund

Sec. 3. (a) The osteoporosis education fund is established for the purpose of carrying out the duties under this chapter. The fund shall be administered by the state department.

(b) The treasurer of state may invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be administered.

(c) Money in the fund at the end of a fiscal year does not revert to the state general fund.

(d) The fund consists of money accepted by the department from grants and donations from private entities.

As added by P.L.147-1997, SEC.4.

IC 16-41-39.8

Chapter 39.8. Lead-Based Paint Activities

IC 16-41-39.8-1

Applicability

Sec. 1. (a) This chapter does not apply to the following:

(1) A person making an inspection under the authority of IC 22-8-1.1.

(2) A person who performs lead-based paint activities within a residential dwelling that the person owns, unless the residential dwelling is occupied by:

(A) a person, other than the owner or the owner's immediate family, while these activities are being performed; or

(B) a child who:

(i) is not more than six (6) years of age or an age specified in rules adopted under section 6 of this chapter; and

(ii) resides in the building and has been identified as having an elevated blood lead level.

(b) This chapter may not be construed as requiring the abatement of lead-based paint hazards in a child occupied facility or target housing.

As added by P.L.57-2009, SEC.17.

IC 16-41-39.8-2

Establishment of lead-based paint activities program; investigation

Sec. 2. (a) The lead-based paint activities program is established. The purpose of the program is to ensure that a person conducting lead-based paint activities in target housing, child occupied facilities, and any other type of building specified in rules adopted under section 6 of this chapter does so in a manner that safeguards the environment and protects the health of the building's occupants, especially children who are not more than six (6) years of age.

(b) The state department may investigate lead-based paint abatement activities in target housing and child-occupied facilities under the following circumstances:

(1) The state department has received a written complaint about abatement activities.

(2) The state department has been informed of a child who:

(A) is:

(i) not more than six (6) years of age; or

(ii) an age specified in rules adopted under section 6 of this chapter;

(B) has been identified as having an elevated blood lead level; and

(C) has visited the site to be investigated.

(3) The state department is ensuring regulatory compliance with licensure and abatement activities.

As added by P.L.57-2009, SEC.17.

IC 16-41-39.8-3

License for engaging in lead-based paint activities; clearance examiner license; contractor's license; training; examination; issuance

Sec. 3. (a) A person who engages in lead-based paint activities must obtain a license under this chapter and under rules adopted under section 6 of this chapter. Lead-based paint activities licenses issued under IC 13-17-14 (before its repeal) or under this chapter expire as follows:

(1) On June 30, 2004, if issued before July 1, 2002.

(2) Three (3) years after the date of issuance, if issued after June 30, 2002.

(b) A person may receive a lead-based paint activities license under this chapter for the following disciplines:

(1) Inspector.

(2) Risk assessor.

(3) Project designer.

(4) Supervisor.

(5) Abatement worker.

(6) Contractor.

(c) A person may receive a clearance examiner license under this chapter. A person who engages in the clearance of nonabatement activities under 24 CFR 35.1340(b)(1)(iv), as in effect July 1, 2002, must obtain a clearance examiner license under this chapter and under rules adopted under section 6 of this chapter. A clearance examiner license expires three (3) years after the date of issuance.

(d) A person who enters into a contract requiring the person to execute for compensation lead-based paint activities must hold a lead-based paint activities contractor's license.

(e) A person must:

(1) take required training and pass an examination provided in a lead-based paint training course or clearance examiner training course, as appropriate, approved by the state department;

(2) for a license in the discipline of:

(A) inspector;

(B) risk assessor;

(C) project designer; or

(D) supervisor;

pass an examination provided by the state department or a third party as required by rules adopted under section 6 of this chapter; and

(3) meet any requirements established by rules adopted under section 6 of this chapter;

before the person may receive a lead-based paint activities license or clearance examiner license.

(f) The state department may issue a license for a position listed under subsection (b) or (c) if the applicant submits proof to the state

department that the applicant satisfies the training, examination, and other requirements for the license under this chapter.

(g) A:

(1) lead-based paint activities license; or

(2) clearance examiner license;

issued under IC 13-17-14 (before its repeal) or this chapter may be renewed for a period of three (3) years. To renew a license, a person who holds a license for a position listed in subsection (b) or (c) must complete refresher training and pass any reexamination required by rules adopted under section 6 of this chapter.

(h) A lead-based paint activities contractor licensed under this chapter may not allow an agent or employee of the contractor to:

(1) exercise control over a lead-based paint activities project;

(2) come into contact with lead-based paint; or

(3) engage in lead-based paint activities;

unless the agent or employee is licensed under this chapter.

(i) A person engaging in lead-based paint activities shall comply with the work practice standards established in rules adopted under section 6 of this chapter and the applicable work practice standards established in section 13 of this chapter for performing the appropriate lead-based paint activities.

As added by P.L.57-2009, SEC.17.

IC 16-41-39.8-4

Lead-based paint activities training program requirements

Sec. 4. (a) A lead-based paint activities training program must meet requirements specified in rules adopted under section 6 of this chapter before providing initial or refresher training to a person seeking a license listed in section 3(b) of this chapter.

(b) The state department may approve a lead-based paint activities training course offered by a person who satisfies the requirements of subsection (a).

(c) A lead-based paint activities training course must be conducted by an instructor approved by the state department as provided in the rules adopted under section 6 of this chapter.

As added by P.L.57-2009, SEC.17.

IC 16-41-39.8-5

Clearance examiner training program requirements

Sec. 5. (a) A clearance examiner training program must meet requirements specified in rules adopted under section 6 of this chapter before providing initial or refresher training to a person seeking a license under section 3(c) of this chapter.

(b) The state department may approve a clearance examiner training course offered as part of a program that satisfies the requirements of subsection (a).

(c) A clearance examiner training course must be conducted by an instructor approved by the state department as provided in the rules

adopted under section 6 of this chapter.
As added by P.L.57-2009, SEC.17.

IC 16-41-39.8-6
Rules; establishment of fees

Sec. 6. (a) Rules adopted by the air pollution control board before July 1, 2009, under IC 13-17-14-5 (repealed) are considered rules of the state department after December 31, 2009.

(b) The state department shall adopt rules under IC 4-22-2 to replace the rules of the air pollution control board described in subsection (a) and to implement this chapter. The rules adopted by the state department must contain at least the elements required to receive program authorization under 40 CFR 745, Subpart L, as in effect July 1, 2002, and must do the following:

(1) Establish minimum requirements for the issuance of a license for:
(A) lead-based paint activities inspectors, risk assessors, project designers, supervisors, abatement workers, and contractors; and
(B) clearance examiners.

(2) Establish minimum requirements for approval of the providers of:
(A) lead-based paint activities training courses; and
(B) clearance examiner training courses.

(3) Establish minimum qualifications for:
(A) lead-based paint activities training course instructors; and
(B) clearance examiner training course instructors.

(4) Extend the applicability of the licensing requirements to other facilities as determined necessary by the board.

(5) Establish work practice standards.

(6) Establish a state department or third party examination process.

(7) Identify activities, if any, that are exempted from licensing requirements.

(8) Establish a reasonable fee based on current market value per person, per license, for the period the license is in effect for a person seeking a license under section 3 of this chapter. However, the following may not be required to pay a fee established under this subdivision:
(A) A state.
(B) A municipal corporation (as defined in IC 36-1-2-10).
(C) A unit (as defined in IC 36-1-2-23).

(9) Establish a reasonable fee based on current market value per course, per year, for a lead-based paint activities training program seeking approval of a lead-based paint activities training course under section 4 of this chapter. However, the following may not be required to pay a fee established under

this subdivision:

(A) A state.

(B) A municipal corporation (as defined in IC 36-1-2-10).

(C) A unit (as defined in IC 36-1-2-23).

(D) An organization exempt from income taxation under 26 U.S.C. 501(a).

(10) Establish a reasonable fee based on current market value per course, per year, for a clearance examiner training program seeking approval of a clearance examiner training course under section 5 of this chapter. However, the following may not be required to pay a fee established under this subdivision:

(A) A state.

(B) A municipal corporation (as defined in IC 36-1-2-10).

(C) A unit (as defined in IC 36-1-2-23).

(D) An organization exempt from income taxation under 26 U.S.C. 501(a).

(c) The amount of the fees under subsection (b) may not be more than is necessary to recover the cost of administering this chapter.

(d) The proceeds of the fees under subsection (b) must be deposited in the lead trust fund established by section 7 of this chapter.

(e) The minimum requirements established under subsection (b)(1) must be sufficient to allow the clearance examiner to perform clearance examinations without the approval of a certified risk assessor or inspector as provided in 24 CFR 35.1340(b)(1)(iv), as in effect July 1, 2002.

As added by P.L.57-2009, SEC.17. Amended by P.L.1-2010, SEC.73.

IC 16-41-39.8-7

Lead trust fund; use of money in fund

Sec. 7. (a) The lead trust fund established by IC 13-17-14-6 (repealed) is reestablished to provide a source of money for the purposes set forth in subsection (f).

(b) The expenses of administering the fund shall be paid from the money in the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(e) The sources of money for the fund are the following:

(1) License fees established under section 6 of this chapter.

(2) Appropriations made by the general assembly, gifts, and donations intended for deposit in the fund.

(3) Penalties imposed under sections 14 and 15 of this chapter for violations of this chapter and rules adopted under this chapter concerning lead-based paint activities.

(4) Any gifts and grants to the fund.

(f) The state department may use money in the fund to do the following:

(1) Pay the expenses of administering this chapter.

(2) Cover other costs related to implementation of 40 CFR 745 for lead-based paint activities in target housing and child occupied facilities.

As added by P.L.57-2009, SEC.17. Amended by P.L.156-2011, SEC.38.

IC 16-41-39.8-8

Record keeping by lead-based paint activities contractor

Sec. 8. (a) A lead-based paint activities contractor licensed under this chapter shall compile records concerning each lead-based paint activities project performed by the lead-based paint activities contractor. The records must include the following information on each lead-based paint activities project:

(1) The name, address, and proof of license of the following:

(A) The person who supervised the lead-based paint activities project for the lead-based paint activities contractor.

(B) Each employee or agent of the lead-based paint activities contractor that worked on the project.

(2) The name, address, and signature of each certified risk assessor or inspector conducting clearance sampling and the date of clearance testing.

(3) The site of the lead-based paint activities project.

(4) A description of the lead-based paint activities project.

(5) The date on which the lead-based paint activities project was started and the date on which the lead-based paint activities project was completed.

(6) A summary of procedures that were used in the lead-based paint activities project to comply with applicable federal and state standards for lead-based paint activities projects.

(7) A detailed written description of the lead-based paint activities, including methods used, locations of rooms or components where lead-based paint activities occurred, reasons for selecting particular lead-based paint activities methods for each component, and any suggested monitoring of encapsulants or enclosures.

(8) The occupant protection plan.

(9) The results of clearance testing and all soil analysis (if applicable) and the name of each federally approved laboratory that conducted the analysis.

(10) The amount of material containing lead-based paint that was removed from the site of the project.

(11) The name and address of each disposal site used for the disposal of lead-based paint containing material that was

disposed of as a result of the lead-based paint activities project.

(b) A copy of each receipt issued by a disposal site identified under subsection (a)(11) must be included in the records concerning the lead-based paint activities project that are compiled under this section.

(c) A lead-based paint activities contractor shall retain the records compiled under this section concerning a particular lead-based paint activities project for at least three (3) years after the lead-based paint activities project is concluded.

(d) A lead-based paint activities contractor shall make records kept under this section available to the state department upon request.

As added by P.L.57-2009, SEC.17.

IC 16-41-39.8-9

Bidding for political subdivision or state agency for lead-based paint activities project

Sec. 9. A political subdivision or a state agency may not accept a bid for a lead-based paint activities project from a person who does not hold a lead-based paint activities license.

As added by P.L.57-2009, SEC.17.

IC 16-41-39.8-10

Authority of state department to inspect and investigate

Sec. 10. Without limiting the authority to inspect under IC 16-41-5-1, the state department may do the following:

(1) Inspect the site of a lead-based paint activities project:

(A) during the project; or

(B) after the project is completed.

(2) Conduct an investigation of a lead-based paint activities project upon:

(A) the state department's own initiation; or

(B) the receipt of a complaint by a person.

(3) Conduct an investigation of the provider of a lead-based paint activities training course upon:

(A) the state department's own initiation; or

(B) the receipt of a complaint by a person.

As added by P.L.57-2009, SEC.17.

IC 16-41-39.8-11

Enjoinment and notice; determination and review

Sec. 11. (a) If the state department finds that a lead-based paint activities project is not being performed in accordance with applicable laws or rules, the state department may enjoin further work on the lead-based paint activities project without prior notice or hearing by delivering a notice to:

(1) the lead-based paint activities contractor engaged in the lead-based paint activities project; or

(2) an agent or representative of the lead-based paint activities contractor.

(b) A notice issued under this section must:

(1) specify the violations of laws or rules that are occurring on the lead-based paint activities project; and

(2) prohibit further work on the lead-based paint activities project until the violations specified under subdivision (1) cease and the notice is rescinded by the state department.

(c) Not later than ten (10) days after receiving written notification from a contractor that violations specified in a notice issued under this section have been corrected, the state department shall issue a determination regarding recission of the notice.

(d) A lead-based paint activities contractor or any other person aggrieved or adversely affected by the issuance of a notice under subsection (a) may obtain a review of the state department's action under IC 4-21.5.

As added by P.L.57-2009, SEC.17.

IC 16-41-39.8-12

Reprimand, suspension, or revocation of license

Sec. 12. (a) The state department may under IC 4-21.5 reprimand, or suspend or revoke the license of, a clearance examiner or a lead-based paint activities inspector, risk assessor, project designer, supervisor, worker, or contractor for any of the following reasons:

(1) Violating any requirements of this chapter or rules adopted under section 6 of this chapter.

(2) Fraudulently or deceptively obtaining or attempting to obtain a license under this chapter.

(3) Failing to meet the qualifications for a license or failing to comply with the requirements of applicable laws or rules.

(4) Failing to meet an applicable federal or state standard for lead-based paint activities.

(b) The state department may under IC 4-21.5 reprimand a lead-based paint activities contractor or suspend or revoke the license of a lead-based paint activities contractor that employs a person who is not licensed under this chapter for a purpose that requires the person to hold a license issued under this chapter.

(c) The state department may under IC 4-21.5 revoke the approval of a clearance examiner training course or a lead-based paint activities training course for any of the following reasons:

(1) Violating any requirement of this chapter.

(2) Falsifying information on an application for approval.

(3) Misrepresenting the extent of a training course's approval.

(4) Failing to submit required information or notifications in a timely manner.

(5) Failing to maintain required records.

(6) Falsifying approval records, instructor qualifications, or other approval information.

As added by P.L.57-2009, SEC.17.

IC 16-41-39.8-13
Applicability of section; methods for removal of lead-based paint and prohibition

Sec. 13. (a) This section applies to:

(1) remodeling, renovation, and maintenance activities at target housing and child occupied facilities built before 1960; and

(2) lead-based paint activities.

(b) This section does not apply to an individual who performs remodeling, renovation, or maintenance activities within a residential dwelling that the individual owns, unless the residential dwelling is occupied:

(1) while the activities are being performed, by an individual other than the owner or a member of the owner's immediate family; or

(2) by a child who:

(A) is less than seven (7) years of age or an age specified in rules adopted under section 6 of this chapter; and

(B) resides in the building and has been identified as having an elevated blood lead level.

(c) A person not exempted under subsection (b) from the application of this section who performs an activity under subsection (a) that disturbs:

(1) exterior painted surfaces of more than twenty (20) square feet;

(2) interior painted surfaces of more than two (2) square feet in any one (1) room or space; or

(3) more than ten percent (10%) of the combined interior and exterior painted surface area of components of the building;

shall meet the requirements of subsections (e), (f), and (g).

(d) For purposes of this section, paint is considered to be lead-based paint unless the absence of lead in the paint has been determined by a lead-based paint inspection conducted under this chapter.

(e) A person may not use any of the following methods to remove lead-based paint:

(1) Open flame burning or torching.

(2) Machine sanding or grinding without high efficiency particulate air local exhaust control.

(3) Abrasive blasting or sandblasting without high efficiency particulate air local exhaust control.

(4) A heat gun that:

(A) operates above one thousand one hundred (1,100) degrees Fahrenheit; or

(B) chars the paint.

(5) Dry scraping, except:

(A) in conjunction with a heat gun; or

(B) within one (1) foot of an electrical outlet.

(6) Dry sanding, except within one (1) foot of an electrical outlet.

(f) In a space that is not ventilated by the circulation of outside air, a person may not strip lead-based paint using a volatile stripper that is a hazardous chemical under 29 CFR 1910.1200, as in effect July 1, 2002.

(g) A person conducting activities under subsection (a) on painted exterior surfaces may not allow visible paint chips or painted debris that contains lead-based paint to remain on the soil, pavement, or other exterior horizontal surface for more than forty-eight (48) hours after the surface activities are complete.

As added by P.L.57-2009, SEC.17.

IC 16-41-39.8-14

Violation penalty; recovery and enjoinment

Sec. 14. (a) A person who violates:

(1) any provision of this chapter; or

(2) a rule or standard adopted by the state department under section 6 of this chapter;

is liable for a civil penalty not to exceed twenty-five thousand dollars ($25,000) per day for any violation.

(b) The state department may:

(1) recover the civil penalty described in subsection (a) in a civil action commenced in any court with jurisdiction; and

(2) request in the action that the person be enjoined from continuing the violation.

As added by P.L.57-2009, SEC.17.

IC 16-41-39.8-15

Class C infraction for obstruction, delay, resistance, prevention, or interference with an inspection or investigation

Sec. 15. A person who obstructs, delays, resists, prevents, or interferes with:

(1) the state department; or

(2) the state department's personnel or designated agent;

in the performance of an inspection or investigation performed under IC 16-41-5-1 commits a Class C infraction. Each day of violation of this section constitutes a separate infraction.

As added by P.L.57-2009, SEC.17.

IC 16-41-40
Chapter 40. Shaken Baby Syndrome Education

IC 16-41-40-1
Repealed
(As added by P.L.51-1998, SEC.3. Repealed by P.L.145-2006, SEC.376.)

IC 16-41-40-1.5
"Childhood hazards" defined
Sec. 1.5. As used in this chapter, "childhood hazards" means the following preventable causes of death to children:
(1) Shaken baby syndrome.
(2) Abuse and neglect, and accidents caused by fire, water, and agricultural equipment.
As added by P.L.101-1999, SEC.2.

IC 16-41-40-2
"Shaken baby syndrome" defined
Sec. 2. As used in this chapter, "shaken baby syndrome" refers to the vigorous shaking of an infant or a young child that may:
(1) result in bleeding inside the head; and
(2) cause one (1) or more of the following conditions:
(A) Irreversible brain damage.
(B) Blindness, retinal hemorrhage, or eye damage.
(C) Cerebral palsy.
(D) Hearing loss.
(E) Spinal cord injury, including paralysis.
(F) Seizures.
(G) Learning disability.
(H) Death.
(I) Central nervous system injury as evidenced by central nervous system hemorrhaging.
(J) Closed head injury.
(K) Rib fracture.
(L) Subdural hematoma.
As added by P.L.51-1998, SEC.3.

IC 16-41-40-3
Awareness and prevention program
Sec. 3. (a) The state department, with the assistance of the department of child services shall establish a program focusing on awareness and prevention of childhood hazards.
(b) If a program is established under subsection (a), the state department or the department of child services may contract with a statewide nonprofit organization with experience and knowledge in childhood hazards to implement all or part of the program.
As added by P.L.51-1998, SEC.3. Amended by P.L.101-1999, SEC.3;

P.L.145-2006, SEC.143.

IC 16-41-40-4
Strategies for raising public awareness

Sec. 4. If the state department and the department of child services establish a program under section 3 of this chapter, the state department, with the assistance of the department of child services, shall design and implement strategies for raising public awareness concerning the causes and nature of childhood hazards, including the following concerning shaken baby syndrome:

(1) Factors placing parents, guardians, and other caregivers at risk for shaking an infant.

(2) The risks associated with shaking an infant.

(3) Suggestions for preventing shaken baby syndrome.

As added by P.L.51-1998, SEC.3. Amended by P.L.101-1999, SEC.4; P.L.145-2006, SEC.144.

IC 16-41-40-5
Distribution of information and instructional materials

Sec. 5. (a) A program established under this chapter must include the distribution of readily understandable information and instructional materials regarding childhood hazards. Information concerning shaken baby syndrome, must explain its medical effects on infants and children and emphasize preventive measures.

(b) The information and instructional materials described in subsection (a) concerning shaken baby syndrome must be provided without cost by the following:

(1) Each hospital licensed under IC 16-21, to a parent or guardian of each newborn upon discharge from the hospital.

(2) The department of child services to each provider (as defined in IC 12-7-2-149.1 or IC 31-9-2-99.3) when:

(A) the provider applies for a license from the division or the department of child services under IC 12-17.2 or IC 31-27; or

(B) the division or the department of child services inspects a facility operated by a provider.

As added by P.L.51-1998, SEC.3. Amended by P.L.101-1999, SEC.5; P.L.273-1999, SEC.178; P.L.145-2006, SEC.145.

IC 16-41-40-6
Powers of state department

Sec. 6. The state department, with the assistance of the department of child services may do the following:

(1) Work to improve the capacity of community based services available to victims of childhood hazards.

(2) Work with:

(A) other state and local governmental agencies;

(B) community and business leaders;

(C) community organizations;
(D) health care and human service providers;
(E) national organizations; and
(F) university safety programs;

to coordinate efforts and maximize state and private resources in the areas of prevention of and education about childhood hazards.

(3) Identify and, when appropriate, replicate or use successful childhood hazard programs and procure related materials and services from organizations with appropriate experience and knowledge of childhood hazards.

As added by P.L.51-1998, SEC.3. Amended by P.L.101-1999, SEC.6; P.L.145-2006, SEC.146.

IC 16-41-40-7
Childhood hazards education and prevention account

Sec. 7. (a) The childhood hazards education and prevention account is established within the state general fund to carry out this chapter. The account shall be administered by the state department.

(b) Expenses of administering the account shall be paid from money in the account.

(c) The treasurer of state shall invest the money in the account not currently needed to meet the obligations of the account in the same manner as other public money may be invested. Money in the account at the end of a fiscal year does not revert to the state general fund.

(d) The account consists of money accepted by the state department from grants and donations from private entities.

(e) Money in the account is continuously appropriated for the purposes provided under this chapter.

As added by P.L.51-1998, SEC.3. Amended by P.L.101-1999, SEC.7.

IC 16-41-41
Expired

(Expired 7-1-2012 by P.L.59-2008, SEC.6.)

IC 16-41-42
Repealed
(Repealed by P.L.3-2008, SEC.269.)

IC 16-41-42.1

Chapter 42.1. Registration of Out-of-State Mobile Health Care Entities

IC 16-41-42.1-1

"Health care entity"

Sec. 1. As used in this chapter, "health care entity" means an entity that:

(1) is registered or licensed as a health care entity under the laws of another state, a foreign country, or a province in a foreign country; and

(2) provides health care services, including the performance of health care tests, in a mobile facility or temporary location for a short period of time.

As added by P.L.3-2008, SEC.112.

IC 16-41-42.1-2

Registry maintained

Sec. 2. The state department shall maintain a registry of health care entities that apply for and meet the registration requirements of this chapter.

As added by P.L.3-2008, SEC.112.

IC 16-41-42.1-3

Required registry information

Sec. 3. The registry maintained under section 2 of this chapter must include:

(1) the information required under section 5(6) of this chapter for each registered health care entity; and

(2) the date that the health care entity registered with the state department under this chapter.

As added by P.L.3-2008, SEC.112.

IC 16-41-42.1-4

Certificate of registration

Sec. 4. The state department shall issue a certificate of registration to a health care entity that applies for registration and meets the requirements of this chapter.

As added by P.L.3-2008, SEC.112.

IC 16-41-42.1-5

Application information

Sec. 5. A health care entity applying for registration under this chapter must disclose the following:

(1) The types of health care services that the health care entity will provide in Indiana.

(2) The names of any employees who are currently in good standing licensed, certified, or registered in a health care

profession in:
(A) Indiana; or
(B) any other state;
and a copy of each employee's license, certification, or registration.
(3) Any health care services that are to be provided under a contract between the health care entity and a person that is licensed, certified, or registered in Indiana to provide health care services.
(4) The types of:
(A) health care services that the health care entity will perform;
(B) health care tests that the health care entity will perform; and
(C) equipment that the health care entity will use.
(5) The manner in which test results and recommendations for health care based on the test results will be disclosed to patients.
(6) The health care entity's name, address, and telephone number and the name of any company that is affiliated with the health care entity.
As added by P.L.3-2008, SEC.112.

IC 16-41-42.1-6
Display of certificate
Sec. 6. A registered health care entity that is issued a certificate of registration under this chapter shall display the certificate of registration in a conspicuous place in sight of a consumer of the health care entity.
As added by P.L.3-2008, SEC.112.

IC 16-41-42.1-7
Expiration of certificate
Sec. 7. A certificate of registration issued under this chapter expires one (1) calendar year after its issuance.
As added by P.L.3-2008, SEC.112.

IC 16-41-42.1-8
Required registration
Sec. 8. A health care entity may not provide services in Indiana until the health care entity is registered with the state department under this chapter.
As added by P.L.3-2008, SEC.112.

IC 16-41-42.1-9
Requirements
Sec. 9. The registration of a health care entity under this chapter does not exempt:

(1) a health care professional from the licensure, certification, and registration requirements of IC 25; or

(2) a health care service from the regulation requirements of IC 16 or IC 25.

As added by P.L.3-2008, SEC.112.

IC 16-41-42.1-10

Rules

Sec. 10. The state department shall adopt rules under IC 4-22-2 necessary to implement this chapter, including rules specifying registration renewal procedures.

As added by P.L.3-2008, SEC.112.

IC 16-41-42.2

Chapter 42.2. Spinal Cord and Brain Injury Research

IC 16-41-42.2-0.5

"Activity based therapy services"

Sec. 0.5. As used in this chapter, "activity based therapy services" refers to specialized interventions that activate the neuromuscular system below the level of the lesion, involving intense, repetitive physical activity performed with the goal of retraining the nervous system to recover specific motor tasks.

As added by P.L.200-2015, SEC.1.

IC 16-41-42.2-1

"Board"

Sec. 1. As used in this chapter, "board" refers to the spinal cord and brain injury research board established by section 5 of this chapter.

As added by P.L.3-2008, SEC.113.

IC 16-41-42.2-2

"Fund"

Sec. 2. As used in this chapter, "fund" refers to the spinal cord and brain injury fund established by section 3 of this chapter.

As added by P.L.3-2008, SEC.113.

IC 16-41-42.2-3

Spinal cord and brain injury fund; establishment

Sec. 3. (a) The spinal cord and brain injury fund is established to fund research on spinal cord and brain injuries.

(b) The fund shall be administered by the state department.

(c) The fund consists of:

(1) appropriations;

(2) gifts and bequests;

(3) fees deposited in the fund by law; and

(4) grants received from the federal government or private sources.

(d) The expenses of administering the fund shall be paid from money in the fund.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(g) The money in the fund is continually appropriated to the state department to fund the purposes specified in section 4 of this chapter.

As added by P.L.3-2008, SEC.113. Amended by P.L.97-2008, SEC.5; P.L.200-2015, SEC.2.

IC 16-41-42.2-4
Spinal cord and brain injury fund; use of fund

Sec. 4. The fund is to be used for the following purposes:

(1) Establishing and maintaining a state medical surveillance registry for traumatic spinal cord and brain injuries.

(2) Fulfilling the duties of the board established by section 5 of this chapter.

(3) Funding research related to the treatment and cure of spinal cord and brain injuries, including acute management, medical complications, rehabilitative techniques, and neuronal recovery. Research must be conducted in compliance with all state and federal laws.

(4) Concerning spinal cord injuries, funding of at least ten percent (10%) and not more than fifteen percent (15%) of money in the fund for:

(A) post acute extended treatment and services for an individual with a spinal cord injury; or

(B) facilities that offer long term activity based therapy services at affordable rates to an individual with a spinal cord injury that requires extended post acute care.

(5) Concerning brain injuries, funding of at least ten percent (10%) and not more than fifteen percent (15%) of money in the fund for:

(A) post acute extended treatment and services for an individual with a brain injury; or

(B) facilities that offer long term activity based therapy services at affordable rates to an individual with a brain injury that requires extended post acute care.

(6) Develop a statewide trauma system. However, not more than fifty percent (50%) of money in the fund may be used for purposes of developing a statewide trauma system.

As added by P.L.3-2008, SEC.113. Amended by P.L.141-2014, SEC.22; P.L.200-2015, SEC.3.

IC 16-41-42.2-5
Spinal cord and brain injury research board; composition; term; members; staffing; duties; annual financial statement

Sec. 5. (a) The spinal cord and brain injury research board is established for the purpose of administering the fund. The board is composed of eleven (11) members.

(b) The following six (6) members of the board shall be appointed by the governor:

(1) One (1) member who has a spinal cord or head injury or who has a family member with a spinal cord or head injury.

(2) One (1) member who is a physician licensed under IC 25-22.5 who has specialty training in neuroscience and surgery.

(3) One (1) member who is a physiatrist holding a board

certification from the American Board of Physical Medicine and Rehabilitation.

(4) One (1) member representing the technical life sciences industry.

(5) One (1) member who is a physical therapist licensed under IC 25-27 who treats individuals with traumatic spinal cord injuries or brain injuries.

(6) One (1) member who owns or operates a facility that provides long term activity based therapy services at affordable rates to individuals with traumatic spinal cord injuries or brain injuries.

(c) Five (5) members of the board shall be appointed as follows:

(1) One (1) member representing Indiana University to be appointed by Indiana University.

(2) One (1) member representing Purdue University to be appointed by Purdue University.

(3) One (1) member representing the National Spinal Cord Injury Association to be appointed by the National Spinal Cord Injury Association.

(4) One (1) member representing the largest freestanding rehabilitation hospital for brain and spinal cord injuries in Indiana to be appointed by the Rehabilitation Hospital of Indiana located in Indianapolis.

(5) One (1) member representing the Brain Injury Association of America to be appointed by the Brain Injury Association of Indiana.

(d) The term of a member is four (4) years. A member serves until a successor is appointed and qualified. If a vacancy occurs on the board before the end of a member's term, the appointing authority appointing the vacating member shall appoint an individual to serve the remainder of the vacating member's term.

(e) A majority of the members appointed to the board constitutes a quorum. The affirmative votes of a majority of the members are required for the board to take action on any measure.

(f) Each member of the board is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(g) The board shall annually elect a chairperson who shall be the presiding officer of the board. The board may establish other officers and procedures as the board determines necessary.

(h) The board shall meet at least two (2) times each year. The chairperson may call additional meetings.

(i) The state department shall provide staff for the board. The state department shall maintain a registry of the members of the

board. An appointing authority shall provide written confirmation of an appointment to the board to the state department in the form and manner specified by the state department.

(j) The board shall do the following:

(1) Consider policy matters relating to spinal cord and brain injury research projects and programs under this chapter.

(2) Consider research applications and make grants for approved research projects under this chapter.

(3) Consider applications and make grants to health care clinics that:

(A) are exempt from federal income taxation under Section 501 of the Internal Revenue Code;

(B) employ physical therapists licensed under IC 25-27; and

(C) provide in Indiana long term activity based therapy services at affordable rates to individuals with spinal cord injuries or brain injuries that require extended post acute care.

(4) Consider the application's efficacy in providing significant and sustained improvement to individuals with spinal cord injuries or brain injuries.

(5) Formulate policies and procedures concerning the operation of the board.

(6) Review and authorize spinal cord and brain injury research projects and programs to be financed under this chapter. For purposes of this subdivision, the board may establish an independent scientific advisory panel composed of scientists and clinicians who are not members of the board to review proposals submitted to the board and make recommendations to the board. Collaborations are encouraged with other Indiana-based researchers as well as researchers located outside Indiana, including researchers in other countries.

(7) Review and approve progress and final research reports on projects authorized under this chapter, including any other information the board has required to be submitted as a condition of receiving a grant.

(8) Review and make recommendations concerning the expenditure of money from the fund.

(9) Take other action necessary for the purpose stated in subsection (a).

(10) Provide to the governor, the general assembly, and the legislative council an annual report not later than January 30 of each year showing the status of funds appropriated under this chapter. The report to the general assembly and the legislative council must be in an electronic format under IC 5-14-6.

(k) A member of the board is exempt from civil liability arising or thought to arise from an action taken in good faith as a member of the board.

(l) The department shall annually present to the board a financial

statement that includes the following information for the current and previous fiscal year:

(1) The amount of money deposited into the fund.

(2) The amount of money expended from the fund.

(3) The amount of money, including any reserves, available for grants from the fund.

As added by P.L.3-2008, SEC.113. Amended by P.L.200-2015, SEC.4; P.L.29-2016, SEC.4.

IC 16-41-42.2-6

Rules

Sec. 6. The state department shall adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.3-2008, SEC.113.

IC 16-41-43

Chapter 43. Auto-Injectable Epinephrine

IC 16-41-43-1

Application of chapter

Sec. 1. This chapter does not apply to the use of auto-injectable epinephrine at a school or school district governed by IC 20-34-4.5.

As added by P.L.59-2015, SEC.2.

IC 16-41-43-2

"Entity"

Sec. 2. As used in this chapter, "entity" means any business, association, or governmental entity. The term includes any branch location of the entity.

As added by P.L.59-2015, SEC.2.

IC 16-41-43-3

Prescription for auto-injectable epinephrine; storage

Sec. 3. (a) An entity may fill a prescription for auto-injectable epinephrine and store the auto-injectable epinephrine on the premises of the entity if a health care provider who is licensed in Indiana and whose scope of practice includes the prescribing of medication writes the prescription for auto-injectable epinephrine for the entity.

(b) The entity shall store the auto-injectable epinephrine in a safe location in which only the entity's personnel or agents have access.

As added by P.L.59-2015, SEC.2.

IC 16-41-43-4

Administration of auto-injectable epinephrine; employees and agents; training

Sec. 4. (a) A nurse employed by an entity may administer auto-injectable epinephrine obtained under section 3 of this chapter to any of the following individuals if the individual is demonstrating signs or symptoms of life threatening anaphylaxis and the individual does not have epinephrine at the entity or the individual's prescription is not available:

(1) Employees or agents of the entity.

(2) Visitors at the entity.

(b) An entity's employees and agents may administer auto-injectable epinephrine obtained under section 3 of this chapter if the following are met:

(1) The entity employee or agent has voluntarily received training in:

(A) recognizing anaphylaxis; and

(B) the proper administration of auto-injectable epinephrine;

by a health care provider who is licensed or certified in Indiana, for whom the administration of auto-injectable epinephrine is within the health care provider's scope of practice, who has

received training in the administration of auto-injectable epinephrine, and who is knowledgeable in recognizing the symptoms of anaphylaxis and the administration of auto-injectable epinephrine.

(2) The individual to whom the epinephrine is being administered is:

(A) an employee or agent of the entity; or

(B) a visitor at the entity.

As added by P.L.59-2015, SEC.2.

IC 16-41-43-5

Prescribing of auto-injectable epinephrine; dispensing

Sec. 5. (a) A health care provider who is licensed in Indiana and whose scope of practice includes the prescribing of medication may write a prescription, drug order, or protocol for auto-injectable epinephrine for the entity.

(b) A pharmacist licensed under IC 25-26 may dispense a valid prescription, drug order, or protocol for auto-injectable epinephrine issued in the name of an entity.

As added by P.L.59-2015, SEC.2.

IC 16-41-43-6

Civil immunity

Sec. 6. (a) A nurse employed by an entity or an employee of the entity who administers auto-injectable epinephrine in accordance with the manufacturer's guidelines and with this chapter is not liable for civil damages resulting from the administration of auto-injectable epinephrine under this chapter unless the act or omission constitutes gross negligence or willful or wanton misconduct.

(b) A licensed health care provider who:

(1) writes a prescription, drug order, or protocol under this chapter; or

(2) provides training to an entity's personnel under this chapter;

is not liable for civil damages resulting from the administration of auto-injectable epinephrine under this chapter.

As added by P.L.59-2015, SEC.2.

IC 16-42

ARTICLE 42. REGULATION OF FOOD, DRUGS, AND COSMETICS

IC 16-42-1

Chapter 1. Uniform Food, Drug, and Cosmetic Act: General Provisions

IC 16-42-1-1

Purpose of act

Sec. 1. (a) IC 16-42-1 through IC 16-42-4 are intended to safeguard the public health and promote the public welfare by protecting the:

(1) consuming public from injury by product use; and

(2) purchasing public from injury by merchandising deceit;

flowing from intrastate commerce in food, drugs, devices, and cosmetics.

(b) IC 16-42-1 through IC 16-42-4 are intended to be uniform with the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) and with the Federal Trade Commission Act (15 U.S.C. 41 et seq.) to the extent they expressly outlaw the false advertisement of food, drugs, devices, and cosmetics.

(c) IC 16-42-1 through IC 16-42-4 thus promote uniformity of such statutes and their administration and enforcement throughout the United States.

As added by P.L.2-1993, SEC.25.

IC 16-42-1-1.1

Duties of state veterinarian and state board of animal health

Sec. 1.1. (a) The state veterinarian shall act in place of the state health commissioner under this chapter when impounding or disposing of adulterated or misbranded products under IC 15-17-5 or IC 15-18-1.

(b) The Indiana state board of animal health shall act in place of the state department of health under this chapter when impounding or disposing of adulterated or misbranded products under IC 15-17-5 or IC 15-18-1.

As added by P.L.137-1996, SEC.68. Amended by P.L.2-2008, SEC.41.

IC 16-42-1-2

Authority to adopt certain federal regulations

Sec. 2. The purpose of IC 16-42-1 through IC 16-42-4 being to promote uniformity with the Federal Act, in safeguarding the public health and in promoting public welfare, the state department may adopt, insofar as applicable, the regulations promulgated under the Federal Act and the Fair Packaging and Labeling Act (15 U.S.C. 1451 et seq.).

As added by P.L.2-1993, SEC.25.

IC 16-42-1-3
Adoption of regulations; notice and hearing

Sec. 3. Except to the extent that the state department adopts the applicable regulations promulgated by the federal security administrator under the Federal Act (21 U.S.C. 301 et seq.), the state department, before adopting a rule contemplated by section 6 or 9 of this chapter, IC 16-42-2-1, IC 16-42-2-3(11), IC 16-42-3-4(4), IC 16-42-3-4(6), IC 16-42-3-4(7), or IC 16-42-3-4(8) shall give appropriate notice of the proposal and of the time and place for a public hearing to be held as provided by law.
As added by P.L.2-1993, SEC.25.

IC 16-42-1-4
Construction of act and rules

Sec. 4. IC 16-42-1 through IC 16-42-4 and rules adopted under those provisions shall, insofar as applicable, be interpreted and construed to effectuate the general purpose to enact state legislation uniform with the Federal Act (21 U.S.C. 301 et seq.).
As added by P.L.2-1993, SEC.25.

IC 16-42-1-5
Federal agency references; successor agency

Sec. 5. Whenever this chapter refers to a department or an agency of the federal government, the term includes a department or an agency of the federal government to which the duties, powers, or functions are transferred or given.
As added by P.L.2-1993, SEC.25.

IC 16-42-1-6
Registration of manufacturer, processor, repackager, or wholesale distributor; maintaining place of business in state

Sec. 6. (a) A manufacturer, processor, repackager, or wholesale distributor of food, drugs, or cosmetics who maintains a place of business in Indiana shall file with the state department, upon forms to be furnished by the state department, a written statement of the name and address of the owner, the character of the business, and the business address of each place of business in Indiana.

(b) A new place of business for the manufacture, processing, repacking, or wholesale distribution of food, drugs, or cosmetics may not be established in Indiana until the place of business has been registered as provided in this chapter.

(c) If ownership of a registered place of business changes, the new owner shall reregister the place of business before operating the same.
As added by P.L.2-1993, SEC.25.

IC 16-42-1-7
Misleading advertising or labeling; evaluation of representations

Sec. 7. If:

(1) an article is alleged to be misbranded because the labeling is misleading; or

(2) an advertisement is alleged to be false because the advertisement is misleading;

in determining whether the labeling or advertisement is misleading, there shall be taken into account among other items not only representations made or suggested by statement, word, design, device, sound, or any combination of those methods, but also the extent to which the labeling or advertisement fails to reveal facts that are material in the light of representations or that are material with respect to consequences that may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement or under conditions of use that are customary or usual.

As added by P.L.2-1993, SEC.25.

IC 16-42-1-8
Labeling requirements; visibility

Sec. 8. A labeling requirement under IC 16-42-1 through IC 16-42-4 is not considered to be complied with unless:

(1) the word, statement, or other information appearing on the label also appears on the outside container or wrapper, if any, of the retail package of the article; or

(2) the word, statement, or other information appearing on the label is easily seen through the outside container or wrapper.

As added by P.L.2-1993, SEC.25.

IC 16-42-1-9
Advertisements; curative or therapeutic effect for certain diseases

Sec. 9. (a) This section does not apply to an advertisement that:

(1) is disseminated only to members of the medical, dental, pharmaceutical, and other legally recognized professions dealing with the healing arts;

(2) appears only in the scientific periodicals of those professions; or

(3) is disseminated only for the purpose of public health education by persons not commercially interested in the sale of such drugs or devices.

(b) The advertisement of a drug or device that represents that the drug or device has any effect in:

albuminuria
appendicitis
arteriosclerosis
blood poison
bone disease

Bright's disease
carbuncles
cancer
cholecystitis
diabetes
diphtheria
dropsy
erysipelas
gallstones
heart and vascular diseases
high blood pressure
mastoiditis
measles
mumps
nephritis
otitis media
paralysis
pneumonia
poliomyelitis (infantile paralysis)
prostate gland disorders
pyelitis
scarlet fever
sexual impotence
sinus infection
smallpox
tuberculosis
tumors
typhoid
uremia
venereal disease
meningitis
is considered false for purposes of IC 35-43-5-3.

(c) Whenever the state department determines that an advance in medical science has made a type of self medication safe as to any of the diseases listed in this section, the state department shall adopt rules to authorize the advertisement of drugs having curative or therapeutic effect for the disease, subject to conditions and restrictions the state department considers necessary in the interests of public health.

As added by P.L.2-1993, SEC.25.

IC 16-42-1-10

Samples or specimen; investigation and examination

Sec. 10. The state department shall cause the investigation and examination of food, drugs, devices, and cosmetics subject to IC 16-42-1 through IC 16-42-4. The state health commissioner or the commissioner's authorized representative may do the following:

(1) Take a sample or specimen of any such merchandise, for

examination under IC 16-42-1 through IC 16-42-4, upon tendering the market price to the person having the merchandise in custody.

(2) Enter any place, establishment, or vehicle in Indiana at reasonable times for the purpose of taking a sample or specimen of merchandise for examination.

As added by P.L.2-1993, SEC.25.

IC 16-42-1-11

Inspection of records

Sec. 11. For the purpose of enforcing IC 16-42-1 through IC 16-42-4, pertinent records of an administrative agency of the state are open to inspection by the state health commissioner or the commissioner's authorized representative.

As added by P.L.2-1993, SEC.25.

IC 16-42-1-12

Access to and copying of records; use of evidence

Sec. 12. (a) For the purpose of enforcing IC 16-42-1 through IC 16-42-4, carriers engaged in commerce, and persons receiving food, drugs, devices, or cosmetics in commerce or holding such articles so received shall, upon the request of an officer or employee designated by the state department, permit the officer or employee, at reasonable times, to have access to and to copy all records showing the movement in commerce of any food, drug, device, or cosmetic, or the holding of a food, drug, device, or cosmetic during or after the movement, and the quantity, shipper, and consignee of the food, drug, device, or cosmetic.

(b) It is unlawful for a carrier or person described in subsection (a) to fail to permit access to and copying of such records upon request if the request is accompanied by a statement in writing specifying the nature or kind of food, drug, device, or cosmetic to which the request relates.

(c) Evidence obtained under this section may not be used in a criminal prosecution of the person from whom the evidence is obtained.

As added by P.L.2-1993, SEC.25.

IC 16-42-1-13

Inspection of factories, warehouses, and vehicles

Sec. 13. For the purpose of enforcing IC 16-42-1 through IC 16-42-4, the state health commissioner or the commissioner's authorized representative may do the following:

(1) Enter, at reasonable times any factory, warehouse, place of production, or establishment subject to IC 16-42-1 through IC 16-42-4 or enter any vehicle being used to transport or hold food, drugs, devices, or cosmetics.

(2) Inspect at reasonable times, the factory, warehouse, place of

production, establishment, or vehicle and all pertinent equipment, finished and unfinished materials, containers, labeling, and advertisements.

As added by P.L.2-1993, SEC.25.

IC 16-42-1-14

Report of judgments, orders, and decrees

Sec. 14. The state health commissioner or the commissioner's legally authorized agent may periodically publish reports summarizing all judgments, decrees, and court orders given under IC 16-42-1 through IC 16-42-4, including the nature of the charge and the disposition of the charge.

As added by P.L.2-1993, SEC.25.

IC 16-42-1-15

Dissemination of information

Sec. 15. (a) The state health commissioner or the commissioner's legally authorized agent may cause to be disseminated information regarding food, drugs, devices, or cosmetics in situations involving, in the opinion of the state health commissioner or the commissioner's legally authorized agent, imminent danger to health or gross deception of, or fraud upon, the consumer.

(b) This section does not prohibit the state health commissioner or the commissioner's legally authorized agent from collecting, reporting, and illustrating the results of the commissioner's examinations and investigations under IC 16-42-1 through IC 16-42-4.

As added by P.L.2-1993, SEC.25.

IC 16-42-1-16

Prohibited acts; defenses; injunctions

Sec. 16. (a) A person may not engage in any of the following acts:

(1) The sale in intrastate commerce of a food, drug, device, or cosmetic that is adulterated or misbranded.

(2) The adulteration or misbranding of a food, drug, device, or cosmetic in intrastate commerce.

(3) The receipt in intrastate commerce of a food, drug, device, or cosmetic that is adulterated or misbranded, and the sale of those items in intrastate commerce for pay or otherwise.

(4) The sale of any article in violation of section 6 of this chapter, IC 16-42-3-7, IC 16-42-3-8, IC 16-42-3-9, or IC 16-42-3-10.

(5) The refusal to permit access to or copying of any record as required by section 12 of this chapter.

(6) The refusal to permit entry or inspection and collecting of samples as authorized by section 10 or 13 of this chapter.

(7) The use, without proper authority, of any mark, stamp, tag, label, or other identification device authorized or required by

rules adopted under this chapter or IC 16-42-2 through IC 16-42-4.

(8) The use by any person to the person's own advantage, or the revelation, other than to the state health commissioner or the state health commissioner's authorized representative or to the courts when relevant in any judicial proceeding, any information acquired under authority of section 13 of this chapter or IC 16-42-3-7 through IC 16-42-3-10 concerning any method or process that as a trade secret is entitled to protection.

(9) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to a food, drug, device, or cosmetic if the act is done while the article is held for sale and results in the article being misbranded.

(10) The use on the labeling of any drug or in any advertising relating to the drug of any representation or suggestion that an application with respect to the drug is effective under IC 16-42-3-7 and IC 16-42-3-8 unless the drug complies with those sections.

(11) The removal or disposal of a detained or embargoed article in violation of this chapter.

(12) The giving of a guaranty or undertaking in intrastate commerce referred to in subsection (c) that is false.

(b) A person who violates subsection (a) commits a Class A misdemeanor. However, the offense is a Level 6 felony if the offense is committed with intent to defraud or mislead.

(c) It is a defense for a person accused of violating subsection (a)(1) or subsection (a)(3) if the person establishes a guaranty or undertaking signed by and containing the name and address of the person residing in the United States from whom the accused person received in good faith the article to the effect that the article is not adulterated or misbranded within the meaning of this article or the Federal Act.

(d) In addition to the remedies provided in this article, the state health commissioner or the commissioner's legally authorized agent may apply to the circuit or superior court for a temporary or permanent injunction restraining any person from violating any provision of this section.

As added by P.L.2-1993, SEC.25. Amended by P.L.158-2013, SEC.247.

IC 16-42-1-17

Schedule of civil penalties; order of compliance; consolidation of proceedings

Sec. 17. (a) In addition to the other remedies provided in this article, the state department shall adopt a schedule of civil penalties that may be levied to enforce the following:

(1) This chapter, IC 16-42-2-6, IC 16-42-2-7, and IC 16-42-18.

(2) The rules adopted under this chapter, IC 16-42-2-6, IC 16-42-2-7, and IC 16-42-18 by the state department.

(b) A penalty included in the schedule of civil penalties adopted under subsection (a) may not exceed one thousand dollars ($1,000) for each violation per day.

(c) The state department may issue an order of compliance, impose a civil penalty included in the schedule of civil penalties adopted under subsection (a), or both, against a person who does any of the following:

(1) Fails to comply with this chapter, IC 16-42-2-6, IC 16-42-2-7, or IC 16-42-18 or a rule adopted under this chapter, IC 16-42-2-6, IC 16-42-2-7, or IC 16-42-18.

(2) Interferes with or obstructs the state department in the performance of duties under this chapter, IC 16-42-2-6, IC 16-42-2-7, or IC 16-42-18.

(d) An order of compliance may be issued under IC 4-21.5-3-6, IC 4-21.5-3-8, or IC 4-21.5-4. A civil penalty may be imposed only in a proceeding under IC 4-21.5-3-8.

(e) A proceeding commenced to impose a civil penalty may be consolidated with any other proceeding commenced to enforce any of the following:

(1) This chapter, IC 16-42-2-6, IC 16-42-2-7, or IC 16-42-18.

(2) A rule adopted under this chapter, IC 16-42-2-6, IC 16-42-2-7, or IC 16-42-18.

As added by P.L.2-1993, SEC.25.

IC 16-42-1-18

Embargo or detention of adulterated or misbranded merchandise; tagging or marking

Sec. 18. (a) Whenever a duly authorized agent of the state department finds or has probable cause to believe that any food, drug, device, or cosmetic is:

(1) adulterated; or

(2) so misbranded as to be dangerous or fraudulent;

within the meaning of IC 16-42-1 through IC 16-42-4, the state health commissioner or the commissioner's legally authorized agent shall affix to the merchandise a tag or other appropriate marking as described in subsection (b).

(b) The tag or marking required in subsection (a) must do the following:

(1) Give notice that the merchandise is or is suspected of being adulterated or misbranded.

(2) Give notice that the merchandise has been detained or embargoed as follows:

(A) Five (5) days in the case of food.

(B) Ten (10) days in the case of drugs and cosmetics.

(3) Contain a warning to all persons not to remove or dispose of the merchandise by sale or otherwise until permission for

removal or disposal is given by the state department or the court.

(c) A person may not remove or dispose of detained or embargoed merchandise by sale or otherwise without permission of the state department or the court.

(d) The claimant may, under the supervision of the state department, destroy the detained merchandise.

(e) If the state department finds that merchandise that has been detained or embargoed is not adulterated or misbranded, the state department shall remove the tag or marking.

As added by P.L.2-1993, SEC.25.

IC 16-42-1-19

Condemnation of detained or embargoed merchandise; petition

Sec. 19. (a) When merchandise detained or embargoed under section 18 of this chapter has been found by the state department to be adulterated or misbranded, the state department shall within five (5) days cause to be filed a petition in any circuit or superior court in whose jurisdiction the merchandise is detained or embargoed for condemnation of the merchandise as provided in this chapter.

(b) The proceedings shall be brought in the name of the state by the prosecuting attorney of the county in which a violation occurs against the merchandise, and the petition shall be verified by the state department. The petition must do the following:

(1) Describe the merchandise.

(2) State the location of the merchandise.

(3) State the name of the person, firm, limited liability company, or corporation in actual possession.

(4) State the name of the owner, if known, to the state department.

(5) Allege the particular violation that is claimed to exist.

(6) Otherwise conform to the requirements of a petition for condemnation of an adulterated or misbranded food, drug, device, or cosmetic in the United States courts.

As added by P.L.2-1993, SEC.25. Amended by P.L.8-1993, SEC.252.

IC 16-42-1-20

Seizure and destruction of embargoed or detained merchandise

Sec. 20. (a) Upon the filing of a petition for condemnation of an adulterated or misbranded food, drug, device, or cosmetic, the court shall promptly cause process to issue to the appropriate law enforcement agency commanding the law enforcement agency to seize the merchandise described in the court order and to hold the goods for further order of the court.

(b) The appropriate law enforcement agency shall, at the time of seizure of goods under this section, serve a copy of the process upon the owner of the merchandise.

(c) At the expiration of thirty (30) days after the seizure of merchandise under this section, if no claimant has appeared to

defend against the petition, the court shall order the appropriate law enforcement agency to destroy the seized merchandise.
As added by P.L.2-1993, SEC.25.

IC 16-42-1-21
Filing of answer or demurrer

Sec. 21. A person:

(1) having an interest in the alleged adulterated or misbranded foods, drugs, devices, or cosmetics; or

(2) against whom a civil or criminal liability would exist if the merchandise is adulterated or misbranded;

may, at any time before destruction of the merchandise, appear and file answer or demurrer to the petition. Such appearance and answer or demurrer shall be filed in open court, or if in vacation, with the clerk or judge of the court. The answer or demurrer must allege the interest or liability of the party filing it. In all other respects, the issues shall be raised as in other civil actions.
As added by P.L.2-1993, SEC.25.

IC 16-42-1-22
Rights of litigants

Sec. 22. The right of change of venue from the county, the right of change of judge, and the right of trial by jury are the same as in civil cases.
As added by P.L.2-1993, SEC.25.

IC 16-42-1-23
Election to divide libeled merchandise into lots; dismissal as to particular lots; consent to destruction of particular lots

Sec. 23. (a) At any time before trial, the defense may file with the court a written election to divide into lots the merchandise that is alleged to be adulterated or misbranded. Each of the lots must be described in the written election in such a way as to enable them to be distinguished.

(b) If different parties are defending as to separate lots, the court shall proceed to docket as many separate actions as there are separate defendants.

(c) The state department may dismiss as to any lot without prejudice to the proceeding against all other lots in the same seizure. Those defending may consent to the destruction of any lot without prejudice to their right to defend against the condemnation of all other lots in the same seizure.
As added by P.L.2-1993, SEC.25.

IC 16-42-1-24
Judgment

Sec. 24. The court or jury trying the cause shall determine and the judgment shall specify whether the contents of each separate lot are

adulterated or misbranded. The court shall order the destruction by the appropriate law enforcement agency of all lots found to be adulterated or misbranded and the return by the appropriate law enforcement agency of all lots not found to be adulterated or misbranded.
As added by P.L.2-1993, SEC.25.

IC 16-42-1-25
Judgment for costs

Sec. 25. (a) A personal judgment may not be given against a defendant, except as provided in subsection (b).

(b) When merchandise is ordered destroyed, the court may give judgment against the defendant for that part of the costs occasioned by the defendant.
As added by P.L.2-1993, SEC.25.

IC 16-42-1-26
Return of libeled merchandise; liability for damages

Sec. 26. (a) Whenever the court orders the return of merchandise, the appropriate law enforcement agency shall immediately return the merchandise to the place of seizure. The appropriate law enforcement agency and the appropriate law enforcement agency's bondsmen are liable for any damage to the merchandise while in the custody of the appropriate law enforcement agency if the damage was due to negligence, willfulness, or carelessness upon the part of the appropriate law enforcement agency or the appropriate law enforcement agency's agents.

(b) No subsequent proceeding in the cause or new trial may in any way involve any returned merchandise.
As added by P.L.2-1993, SEC.25.

IC 16-42-1-27
New trial; appeal; appeal bond

Sec. 27. (a) A defendant may move for a new trial and may appeal to the supreme court or the court of appeals in the manner provided by law for appeals in civil actions.

(b) An appeal bond shall be fixed in an amount that covers the reasonable costs of preserving the condemned merchandise for the probable time of appeal and the court costs.

(c) If an appeal is not prosecuted to determination or if the judgment of the trial court is affirmed, the defendant bringing the appeal is liable for the following:

(1) The costs adjudged against the defendant or defendants in the trial court.

(2) The costs of appeal.

(3) The actual reasonable cost of preserving the condemned merchandise during the appeal period.

(d) The court of appeals and the supreme court shall dispose of

appeals brought under this chapter as speedily as possible with due regard to the rights of the parties involved.
As added by P.L.2-1993, SEC.25.

IC 16-42-1-28
Judgment as evidence
Sec. 28. A judgment in a condemnation proceeding under this chapter is not admissible as evidence in any other legal proceeding.
As added by P.L.2-1993, SEC.25.

IC 16-42-1-29
Costs not adjudicated against defendants
Sec. 29. All costs not adjudicated against the defendants in accordance with this chapter are to be determined and collected in the manner provided by law for the determination and collection of costs in unsuccessful criminal prosecutions.
As added by P.L.2-1993, SEC.25.

IC 16-42-1-30
Libel for condemnation; procedure
Sec. 30. Except as otherwise provided in this chapter, the procedure for condemnation proceedings under this chapter must conform, as nearly as possible, to the procedure for civil actions.
As added by P.L.2-1993, SEC.25.

IC 16-42-1-31
Destruction of adulterated or misbranded products; expenses
Sec. 31. (a) If the court finds that detained or embargoed merchandise is adulterated or misbranded, the merchandise must, after entry of the judgment or decree, be destroyed at the expense of the claimant, under the supervision of the state department.
(b) All:
(1) court costs and fees; and
(2) storage and other proper expenses;
shall be taxed against the claimant of the merchandise or the claimant's agent.
(c) If the adulteration or misbranding of merchandise can be corrected by proper labeling or processing of the merchandise, the court may order the merchandise to be delivered to the claimant for labeling or processing under the supervision of the state department under the following conditions:
(1) After entry of the decree or judgment.
(2) After costs, fees, and expenses have been paid.
(3) After sufficient bond, conditioned that the merchandise be so labeled or processed, is executed.
The expense of the supervision of labeling and processing shall be paid by the claimant. The bond shall be returned to the claimant of the merchandise on representation to the court by the state health

commissioner or the commissioner's legally authorized agent that the merchandise no longer violates IC 16-42-1 through IC 16-42-4 and that the expenses of supervision by the state department have been paid.
As added by P.L.2-1993, SEC.25.

IC 16-42-1-32
Notice and opportunity for hearing preceding criminal prosecution
Sec. 32. Before any violation of IC 16-42-1 through IC 16-42-4 is reported by the state health commissioner or the commissioner's authorized agent to a prosecuting attorney for the institution of a criminal proceeding, the person against whom the proceeding is contemplated shall be given appropriate notice and an opportunity to present the person's views to the state health commissioner or the commissioner's authorized agent, either orally or in writing, with regard to the contemplated proceeding.
As added by P.L.2-1993, SEC.25.

IC 16-42-1-33
Minor violations
Sec. 33. IC 16-42-1 through IC 16-42-4 does not require the state health commissioner or the commissioner's authorized agent to report, for the institution of proceedings under those provisions, minor violations of those provisions whenever the state health commissioner or the commissioner's legally authorized agent believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning.
As added by P.L.2-1993, SEC.25.

IC 16-42-1-34
Chapter violations; offenses
Sec. 34. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.
(b) Each day a violation continues constitutes a separate offense.
As added by P.L.2-1993, SEC.25.

IC 16-42-2

Chapter 2. Uniform Food, Drug, and Cosmetic Act: Adulteration or Misbranding of Foods

IC 16-42-2-1

Conformity to federal standards and definitions; promotion of honesty and fair dealing; optional ingredients

Sec. 1. (a) Whenever any definitions or standard of identity, quality, or fill of container for any food or class of food are promulgated under authority of the Federal Act or the Federal Meat Inspection Act of 1907, as amended, the state department shall adopt definitions and standards for Indiana.

(b) Whenever, with regard to any other food or class of food, the state department finds that such action will promote honesty and fair dealing in the interest of consumers, the state department shall adopt rules establishing for any food or class of food:

(1) a reasonable definition and standard of identity; and

(2) a reasonable standard of quality and fill of container.

(c) In prescribing a definition and standard of identity for any food or class of food in which optional ingredients are permitted, the state department shall, for the purpose of promoting honesty and fair dealing in the interest of consumers, designate the optional ingredients required to be named on the label.

As added by P.L.2-1993, SEC.25.

IC 16-42-2-1.1

Duties of state veterinarian and state board of animal health

Sec. 1.1. (a) The state veterinarian shall act in place of the state health commissioner under this chapter when impounding or disposing of adulterated or misbranded products under IC 15-17-5 or IC 15-18-1.

(b) The Indiana state board of animal health shall act in place of the state department of health under this chapter when impounding or disposing of adulterated or misbranded products under IC 15-17-5 or IC 15-18-1.

As added by P.L.137-1996, SEC.69. Amended by P.L.2-2008, SEC.42.

IC 16-42-2-2

Adulterated foods

Sec. 2. (a) A food is considered adulterated under any of the following conditions:

(1) If the food bears or contains any poisonous or deleterious substance that may make the food injurious to health. However, if the substance is not an added substance, the food is not to be considered adulterated under this subdivision if the quantity of the substance in the food does not ordinarily make the food injurious to health.

(2) If:

(A) the food bears or contains any added poison or added deleterious substance (other than a poison or a deleterious substance that is a pesticide chemical in or on a raw agricultural commodity, a food additive, or a color additive) that is unsafe within the meaning of section 5 of this chapter;

(B) the food is a raw agricultural commodity and the food bears or contains a pesticide chemical that is unsafe under section 5 of this chapter; or

(C) the food is or contains a food additive that is unsafe under section 5 of this chapter.

However, when a pesticide chemical is used in or on a raw agricultural commodity in conformity with an exemption granted or tolerance prescribed under section 5 of this chapter and the raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of the pesticide chemical remaining in or on the processed food, notwithstanding section 5 of this chapter and clause (C) is not considered unsafe if the residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice, and the concentration of the residues in the processed food, when ready to eat, is not greater than the tolerance prescribed for the raw agricultural commodity.

(3) If the food consists in whole or in part of a diseased, contaminated, filthy, putrid, or decomposed substance or if the food is otherwise unfit for food.

(4) If the food has been produced, transported, handled, prepared, packed, or held under unsanitary conditions or in unsanitary containers as the result of which the food may have become contaminated with filth or made diseased, unwholesome, or injurious to health.

(5) If the food is, in whole or in part, the product of:

(A) a diseased animal;

(B) an animal that has died otherwise than by slaughter; or

(C) an animal that has been fed upon the uncooked offal from a slaughterhouse.

(6) If the food's container is composed in whole or in part of any poisonous or deleterious substance that may make the contents injurious to health.

(7) If the food has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a rule or an exemption in effect under section 5 of this chapter.

(8) If any valuable constituent has been in whole or in part omitted or abstracted from the food.

(9) If any substance has been substituted wholly or in part.

(10) If damage or inferiority has been concealed in any manner.

(11) If any substance has been added to the food or mixed or

packed with the food to:

(A) increase the food's bulk or weight;

(B) reduce the food's quality or strength;

(C) make the food appear better or of greater value than the food is; or

(D) create a deceptive appearance.

(12) If the food bears or contains a coal-tar color other than one from a batch that has been certified by the federal Food and Drug Administrator, as provided by regulations promulgated under authority of the Federal Act.

(13) If the food is a confectionery and has partially or completely imbedded in the food any nonnutritive object. However, this subdivision does not apply in the case of any nonnutritive object if, in the judgment of the state department as provided by rules, the nonnutritive object is of practical, functional value to the confectionery product and would not make the product injurious or hazardous to health.

(14) If the food is a confectionery and bears or contains any alcohol other than alcohol not in excess of one-half of one percent (0.5%) by volume derived solely from the use of flavoring extracts.

(15) If the food is a confectionery and bears or contains any nonnutritive substance. However, this subdivision does not apply to a safe, nonnutritive substance if:

(A) the nonnutritive substance is in or on a confectionery for a practical, functional purpose in the manufacture, packaging, or storing of the confectionery; and

(B) the use of the substance does not promote deception of the consumer or otherwise result in adulteration or misbranding in violation of any provision of IC 16-42-1 through IC 16-42-4. In addition, the state department may, for the purpose of avoiding or resolving uncertainty as to the application of this subdivision, adopt rules allowing or prohibiting the use of particular nonnutritive substances.

(16) If the food falls below the standard of purity, quality, or strength that the food purports or is represented to possess.

(17) If the food is or bears or contains any color additive that is unsafe under section 5 of this chapter.

(b) Subsection (a)(8) and (a)(9) do not prohibit:

(1) the removal of butterfat from; or

(2) the addition of skim milk to;

dairy products that comply with the definitions and standards for dairy products adopted by the state department.

As added by P.L.2-1993, SEC.25.

IC 16-42-2-3

Misbranded foods

Sec. 3. A food is considered to be misbranded under any of the

following conditions:

(1) If the food's labeling is false or misleading in any way.

(2) If the food's labeling or packaging fails to conform with the rules adopted under IC 16-42-1-2.

(3) If the food is offered for sale under the name of another food.

(4) If the food is an imitation of another food, unless the food's label bears, in type of uniform size and prominence, the word "imitation" and, immediately following that term, the name of the food imitated.

(5) If the food's container is so made, formed, or filled as to be misleading.

(6) If the food is in package form, unless the food bears a label containing the following:

(A) The name and place of business of the manufacturer, packer, or distributor.

(B) An accurate statement of the quantity of the contents in terms of weight, measure, or numerical count. However, reasonable variations shall be permitted under this clause and exemptions for small packages shall be established by rules adopted by the state department.

(7) If any word, statement, or other information required under IC 16-42-1 through IC 16-42-4 to appear on the label or labeling is not prominently placed on the food with the conspicuousness (as compared with other words, statements, designs, or devices in the labeling) and in such terms that make the information likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(8) If the food purports to be or is represented as a food for which a definition and standard of identity has been prescribed by rules under section 1 of this chapter, unless:

(A) the food conforms to that definition and standard; and

(B) the food's label bears the name of the food specified in the definition and standard, and, insofar as may be required by those rules, the common names of optional ingredients (other than spices, flavoring, and coloring) present in the food.

This subdivision with respect to artificial coloring does not apply to butter, cheese, or ice cream.

(9) If the food purports to be or is represented as:

(A) a food for which a standard of quality has been prescribed by rules as provided by section 1 of this chapter and the food's quality falls below that standard, unless the label bears, in the manner and form as the rules specify, a statement that the food falls below that standard; or

(B) a food for which a standard or standards of fill of container have been prescribed by rule under section 1 of this chapter and the food falls below the applicable standard

of fill of container unless the food's label bears, in such manner and form as the rules specify, a statement that the food falls below that standard.

(10) If the food is not subject to subdivision (8), unless the food's label bears:

(A) the common or usual name of the food, if any; and

(B) if the food is fabricated from at least two (2) ingredients, the common or usual name of each ingredient. However, spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings without naming each. In addition, to the extent that compliance with this clause is impracticable or results in deception or unfair competition, the state department shall establish exemptions by rule.

This subdivision with respect to artificial coloring does not apply to butter, cheese, or ice cream.

(11) If the food purports to be or is represented to be for special dietary uses, unless the food's label bears information concerning the food's vitamin, mineral, and other dietary properties that the state department determines to be, and by rules prescribes as necessary to fully inform purchasers as to the food's value for such uses.

(12) If the food bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless the food bears labeling stating that fact. However, to the extent that compliance with the requirements of this subdivision is impracticable, the state department shall establish exemptions by rule. This subdivision:

(A) with respect to artificial coloring, does not apply to butter, cheese, or ice cream; and

(B) with respect to chemical preservatives, does not apply to a pesticide chemical when used in or on a raw agricultural commodity that is the product of the soil.

As added by P.L.2-1993, SEC.25.

IC 16-42-2-4

Food in transit for repackaging or relabeling

Sec. 4. Food that, in accordance with the practice of the trade, is to be processed, labeled, or repacked in substantial quantities at an establishment other than the establishment where the food was originally processed or packed, is exempt from the affirmative labeling requirements of IC 16-42-1 through IC 16-42-4 while the food is in transit in intrastate commerce from one (1) establishment to the other, if such transit is made in good faith for completion purposes only. However, the food is otherwise subject to all the applicable provisions of IC 16-42-1 through IC 16-42-4.

As added by P.L.2-1993, SEC.25.

IC 16-42-2-5

Poisonous or deleterious substances; regulations

Sec. 5. (a) Any added poisonous or deleterious substance, any food additive, any pesticide chemical in or on a raw agricultural commodity or any color additive, with respect to any particular use or intended use, are considered unsafe for the purpose of application of:

(1) section 2(a)(2) of this chapter with respect to any food;

(2) IC 16-42-3-3(1) through IC 16-42-3-3(5) with respect to any drug or device; or

(3) IC 16-42-4-2(1) with respect to any cosmetic;

unless there is in effect a rule under IC 16-42-1-2 or this section limiting the quantity of the substance and unless the use or intended use of the substance conforms to the terms prescribed by rule. While the rules regarding the substance are in effect, a food, drug, or cosmetic is not, by reason of bearing or containing the substance in accordance with the rules, to be considered adulterated within the meaning of section 2(a)(1) of this chapter, IC 16-42-3-3(1) through IC 16-42-3-3(5), or IC 16-42-4-2(1).

(b) The state department may, whenever public health or other considerations in Indiana require and upon the state department's own motion or upon the petition of an interested party, adopt, amend, or repeal rules (whether or not in accordance with regulations promulgated under the Federal Act) that do the following:

(1) Prescribe tolerances for any of the following:

(A) Any added, poisonous, or deleterious substances.

(B) Food additives.

(C) Pesticide chemicals in or on raw agricultural commodities.

(D) Color additives.

This includes zero tolerances and exemptions from tolerances in the case of pesticide chemicals in or on raw agricultural commodities.

(2) Prescribe the conditions under which a food additive or a color additive may be safely used and exemptions where the food additive or color additive is to be used solely for investigational or experimental purposes.

(c) It is incumbent upon an interested party who petitions that a rule be adopted under subsection (b) to establish, by data submitted to the state health commissioner or the commissioner's legally authorized agent, that:

(1) a necessity exists for the rule; and

(2) the rule's effect will not be detrimental to the public health.

(d) If the data furnished by an interested party who petitions that a rule be adopted under subsection (b) is not sufficient to allow the state department to determine whether the rule should be adopted, the state department may require additional data to be submitted. Failure to comply with such a request is sufficient grounds to deny

the request.

(e) In adopting, amending, or repealing rules regarding such substances, the state department shall consider, among other relevant factors, the following items that are required to be furnished by the interested party who petitions for the adoption of a rule, if any:

(1) The name and all pertinent information concerning the substance, including if available the following:

(A) The chemical identity and composition of the substance.

(B) A statement of the conditions of the proposed use, including directions, recommendations, and suggestions, and specimens of proposed labeling.

(C) All relevant data bearing on the physical or other technical effect and the quantity required to produce that effect.

(2) The probable composition of any substance formed in or on a food, drug, or cosmetic resulting from the use of that substance.

(3) The probable consumption of the substance in the diet of man and animals, taking into account any chemically or pharmacologically related substance in the diet.

(4) Safety factors that, in the opinion of experts qualified by scientific training and experience to evaluate the safety of the substances for the use for which the substances are proposed to be used, are generally recognized as appropriate for the use of animal experimentation data.

(5) The availability of any needed practicable methods of analysis for determining the identity and quantity of the following:

(A) The substance in or on an article.

(B) Any substance formed in or on such article because of the use of that substance.

(C) The pure substance and all intermediates and impurities.

(6) Facts supporting a contention that the proposed use of the substance will serve a useful purpose.

As added by P.L.2-1993, SEC.25.

IC 16-42-2-6

Unfit perishable articles; condemnation or destruction

Sec. 6. (a) Any dairy product, meat, meat product, seafood, poultry, confectionery, bakery product, vegetable, fruit, or other perishable article:

(1) that is unsound;

(2) that contains any filthy, decomposed, or putrid substance; or

(3) that may be poisonous or deleterious to health or otherwise unsafe;

constitutes a nuisance.

(b) Whenever the state health commissioner or the commissioner's authorized agent finds:

(1) in any room, building, vehicle of transportation, or other structure; or

(2) on any premises;

perishable food or a food product which constitutes a nuisance under this section, the state health commissioner or the commissioner's authorized agent shall condemn or destroy the food or food product or in any other manner make the food or food product unsaleable as human food.

As added by P.L.2-1993, SEC.25.

IC 16-42-2-7

PCB contaminated livestock and poultry; indemnification

Sec. 7. (a) The state department shall indemnify livestock and poultry producers who, as a result of the direction of a state agency, are required after January 1, 1976, to remove livestock, livestock products, poultry, or poultry products of the producers from commercial markets because of contamination by polychlorinated biphenyls (PCB's).

(b) Indemnity may not be paid for any contamination that is the result of an intentional act of the livestock or poultry producer or that results from the continuous use of a known contaminated feed or water supply.

(c) Indemnity compensation shall be paid for losses incurred in the preceding calendar year and may not exceed eighty percent (80%) of the average commercial market value of the livestock, livestock product, poultry, or poultry product, less any indemnity received from another state or federal agency, for the period the producer is unable to sell the products. However, the aggregate indemnity compensation paid may not exceed the appropriation for any fiscal year.

(d) For purposes of this section, the commercial market value of livestock subject to indemnity compensation shall be determined as of the time of condemnation.

(e) The state department may adopt rules under IC 4-22-2 for the administration of this section.

(f) The state has the power of subrogation against any third party for indemnity amounts paid.

As added by P.L.2-1993, SEC.25.

IC 16-42-2-8

Recipe or teaching adulteration or imitation of foods; offense

Sec. 8. A person who:

(1) knowingly sells, offers for sale, trades, or gives away a recipe or formula for the adulteration or imitation of food; or

(2) knowingly teaches or offers to teach any method or means of adulterating any article of food or means of producing or manufacturing any imitation of any article of food;

commits a Class B misdemeanor.

As added by P.L.2-1993, SEC.25.

IC 16-42-2-9
Chapter violations; offenses

Sec. 9. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.
As added by P.L.2-1993, SEC.25.

IC 16-42-3

Chapter 3. Uniform Food, Drug, and Cosmetic Act: Adulteration and Misbranding of Drugs or Devices

IC 16-42-3-1

Antibiotic drug defined

Sec. 1. As used in this chapter, "antibiotic drug" means any drug intended for use by man containing any quantity of any chemical substance that is produced by microorganisms and that has the capacity to inhibit or destroy microorganisms in dilute solution, including the chemically synthesized equivalent of the substance.

As added by P.L.2-1993, SEC.25.

IC 16-42-3-2

Established name defined

Sec. 2. As used in this chapter, "established name", with respect to a drug or ingredient of a drug, means:

(1) the applicable official name designated under Section 508 of the Federal Act;

(2) if there is no official name and the drug or the ingredient is an article recognized in an official compendium, the official title of the drug or ingredient in the compendium; or

(3) if neither subdivision (1) nor (2) applies, the common or usual name, if any, of the drug or the ingredient.

However, when subdivision (2) applies to an article recognized in the United States Pharmacopoeia and in the Homeopathic Pharmacopoeia under different official titles, the official title used in the United States Pharmacopoeia applies unless the article is labeled and offered for sale as a homeopathic drug, in which case the official title used in the Homeopathic Pharmacopoeia applies.

As added by P.L.2-1993, SEC.25.

IC 16-42-3-2.5

Duties of state veterinarian and state board of animal health

Sec. 2.5. (a) The state veterinarian shall act in place of the state health commissioner under this chapter when impounding or disposing of adulterated or misbranded products under IC 15-17-5 or IC 15-18-1.

(b) The Indiana state board of animal health shall act in place of the state department of health under this chapter when impounding or disposing of adulterated or misbranded products under IC 15-17-5 or IC 15-18-1.

As added by P.L.137-1996, SEC.70. Amended by P.L.2-2008, SEC.43.

IC 16-42-3-3

Adulterated drug or device

Sec. 3. A drug or device is considered to be adulterated under the

following conditions:

(1) If the drug or device consists in whole or in part of any filthy, putrid, or decomposed substance.

(2) If the drug or device has been produced, prepared, packed, or held under unsanitary conditions under which the drug or device may have been contaminated with filth or made injurious to health.

(3) If the methods used in or the facilities or controls used for a drug's manufacture, processing, packing, or holding do not conform to or are not operated or administered in conformity with current good manufacturing practice to assure that:

(A) the drug meets the requirements of this article as to safety; and

(B) the drug:

(i) has the identity and strength; and

(ii) meets the quality and purity characteristics;

that the drug purports or is represented to possess.

(4) If a drug's container is composed in whole or in part of any poisonous or deleterious substance that may make the contents injurious to health.

(5) If:

(A) a drug bears or contains, for purposes of coloring only, a color additive that is unsafe within the meaning of IC 16-42-2-5; or

(B) a color additive, the intended use of which in or on drugs is for purposes of coloring only, is unsafe under IC 16-42-2-5.

(6) If:

(A) the drug or device purports to be or is represented as a drug, the name of which is recognized in an official compendium; and

(B) the strength of the drug differs from or the drug's quality or purity falls below the standard set forth in that compendium;

the determination as to strength, quality, or purity shall be made in accordance with the tests or methods of assay set forth in the compendium or, in the absence or inadequacy of such tests or methods of assay, those tests or methods prescribed by the federal security administrator in regulations promulgated under the Federal Act. A drug defined in an official compendium is not considered to be adulterated under this subdivision because the drug differs from the standard of strength, quality, or purity set forth in the compendium if the drug's difference in strength, quality, or purity from the standard is plainly stated on the drug's label. If a drug is recognized in both the United States Pharmacopoeia and the Homeopathic Pharmacopoeia of the United States, the drug is subject to the requirements of the United States Pharmacopoeia unless the drug is labeled and

offered for sale as a homeopathic drug. In the latter case, the drug is subject to the provisions of the Homeopathic Pharmacopoeia of the United States and not to those of the United States Pharmacopoeia.

(7) If:

(A) the drug or device is not subject to the provisions of subdivision (6); and

(B) the drug's or device's strength differs from or the drug's or device's purity or quality falls below that which the drug or device purports or is represented to possess.

(8) If the drug or device is a drug and any substance has been:

(A) mixed or packed with the drug or device so as to reduce the drug's or device's quality or strength; or

(B) substituted wholly or in part for the drug.

As added by P.L.2-1993, SEC.25.

IC 16-42-3-4

Misbranded drug or device

Sec. 4. A drug or device is considered to be misbranded under any of the following conditions:

(1) If the labeling of the drug or device is false or misleading in any way.

(2) If the drug or device is in package form unless the drug or device bears a label containing:

(A) the name and place of business of the manufacturer, packer, or distributor; and

(B) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count.

However, under clause (B) reasonable variations shall be permitted and exemptions as to small packages shall be established by rules adopted by the state department.

(3) If any word, statement, or other information required to appear on the label or labeling, under this chapter or a rule adopted under IC 16-42-1-2 is not prominently placed on the drug or device with conspicuousness (as compared with other words, statements, designs, or devices in the labeling) and in such terms that make the label likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(4) If the drug or device:

(A) is for use by humans; and

(B) contains any quantity of the narcotic or hypnotic substance alpha-eucaine, barbituric acid, beta-eucaine, bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, marijuana, morphine, opium, paraldehyde, peyote, methamphetamine, or sulphonmethane, or any chemical derivative of such substance, which derivative after investigation has been found to be and is designated as habit

forming, by rules adopted by the state department under IC 16-42-1 through IC 16-42-4 or by regulations issued under 21 U.S.C. 352(d);

unless the label on the drug or device bears the name and quantity or proportion of that substance or derivative and the statement "Warning – May Be Habit Forming".

(5) If a drug, unless the following conditions are met:

(A) The label on the drug bears, to the exclusion of any other nonproprietary name except the applicable systematic chemical name or the chemical formula, the following:

(i) The established name of the drug, if any.

(ii) If the drug is fabricated from at least two (2) ingredients, the established name and quantity of each active ingredient, including the kind and quantity or proportion of any alcohol and, whether active or not, the established name and quantity or proportion of any bromides, ether, chloroform, acetanilid, acetphenetidin, amidopyrine, antipyrine, atropine, hyoscine, hyoscyamine, arsenic, digitalis, digitalis glucosides, mercury, ouabain, strophanthin, strychnine, thyroid, or any derivative or preparation of those substances contained in the drug. However, the requirement for stating the quantity of the active ingredients, other than the quantity of those specifically named in this subdivision, applies only to prescription drugs.

(B) If a prescription drug, the established name of the drug or ingredient on the label (and on any labeling on which a name for the drug or ingredient is used) is printed prominently and in type at least half as large as that used for any proprietary name or designation for the drug or ingredient.

However, to the extent that compliance with the requirements of clause (A)(ii) or clause (B) is impracticable, exemptions shall be allowed under rules adopted by the state department or by regulations promulgated under the Federal Act.

(6) Unless the drug's or device's labeling bears:

(A) adequate directions for use; and

(B) adequate warnings against use in those pathological conditions or by children where the drug's or device's use may be dangerous to health or against unsafe dosage or methods or duration of administration or application in the manner and form that is necessary for the protection of users.

However, if any requirement of clause (A) as applied to any drug or device is not necessary for the protection of the public health, the state department shall adopt rules exempting the drug or device from that requirement.

(7) If a drug purports to be a drug the name of which is

recognized in an official compendium, unless the drug is packaged and labeled as prescribed in the compendium. However, the method of packing may be modified with the consent of the state department in accordance with regulations promulgated by the federal security administrator under the Federal Act. Whenever a drug is recognized in both the United States Pharmacopoeia and the Homeopathic Pharmacopoeia of the United States, the drug is subject to the requirements of the United States Pharmacopoeia with respect to packaging and labeling unless the drug is labeled and offered for sale as a homeopathic drug. In that case the drug is subject to the Homeopathic Pharmacopoeia of the United States and not to the United States Pharmacopoeia.

(8) If a drug or device has been found by the federal security administrator or the state department to be a drug liable to deterioration, unless the drug or device is packaged in a form and manner and the drug's or device's label bears a statement of such precautions as the federal security administrator or the state department requires by rule or regulation as necessary for the protection of the public health. A rule or regulation may not be established for any drug recognized in an official compendium until the federal security administrator or the state department informs the appropriate body charged with the revision of the compendium of the need for the packaging or labeling requirements and that body fails within a reasonable time to prescribe requirements.

(9) If a drug's container is made, formed, or filled as to be misleading.

(10) If a drug is an imitation of another drug.

(11) If a drug is offered for sale under the name of another drug.

(12) If a drug is or purports to be or is represented to be a drug composed wholly or partly of insulin, unless:

(A) the drug is from a batch with respect to which a certificate or release has been issued under Section 506 of the Federal Act; and

(B) the certificate or release is in effect with respect to the drug.

(13) If a drug is or purports to be or is represented to be a drug composed wholly or partly of any kind of penicillin, streptomycin, chloretetracycline, chloramphenicol, bacitracin, or any other antibiotic drug, or any derivative of those drugs, unless:

(A) the drug is from a batch with respect to which a certificate or release has been issued under Section 507 of the Federal Act; and

(B) the certificate or release is in effect with respect to that drug.

However, this subdivision does not apply to any drug or class

of drugs exempted by regulations promulgated under Section 507(c) or 507(d) of the Federal Act.

(14) If a drug or device is dangerous to health when used in the dosage, or with the frequency or duration prescribed, recommended, or suggested in the labeling of the drug or device.

(15) Under the conditions described in section 6 of this chapter.

As added by P.L.2-1993, SEC.25. Amended by P.L.17-2001, SEC.3.

IC 16-42-3-5

Exemption of drugs or devices in transit for further processing, labeling, or repackaging

Sec. 5. A drug or device that, in accordance with the practice of the trade, is to be processed, labeled, or repacked in substantial quantities at an establishment other than the establishment where the drug or device was originally processed or packed, is exempt from the labeling and packaging requirements of IC 16-42-1 through IC 16-42-4 while the drug or device is in transit in intrastate commerce from one (1) establishment to the other if the transit is made in good faith for completion purposes only. However, the drug or device is otherwise subject to the applicable provisions of IC 16-42-1 through IC 16-42-4.

As added by P.L.2-1993, SEC.25.

IC 16-42-3-6

Drugs dispensed on prescription

Sec. 6. (a) This section applies to a drug intended for use by humans that:

(1) is a habit forming drug to which section 4(4) of this chapter applies;

(2) because of:

(A) the drug's toxicity or other potential for harmful effect;

(B) the method of the drug's use; or

(C) the collateral measures necessary to the drug's use;

is not safe for use except under the supervision of a practitioner licensed by law to administer the drug; or

(3) is limited by an approved application under Section 505 of the Federal Act or section 7 or 8 of this chapter to use under the professional supervision of a practitioner licensed by law to administer the drug.

(b) A drug described in subsection (a) may be dispensed only:

(1) upon a written or an electronically transmitted prescription of a practitioner licensed by law to administer the drug;

(2) upon an oral prescription of the practitioner that is reduced promptly to writing and filed by the pharmacist or pharmacist intern (as defined in IC 25-26-13-2); or

(3) by refilling a prescription if the refilling is authorized by the prescriber either in the original prescription, by an

electronically transmitted order that is recorded in an electronic format, or by oral order that is reduced promptly to writing or is entered into an electronic format and filed by the pharmacist or pharmacist intern (as defined in IC 25-26-13-2).

(c) If a prescription for a drug described in subsection (a) does not indicate how many times the prescription may be refilled, if any, the prescription may not be refilled unless the pharmacist is subsequently authorized to do so by the practitioner.

(d) The act of dispensing a drug contrary to subsection (a), (b), or (c) is considered to be an act that results in a drug being misbranded while held for sale.

(e) A drug dispensed by filling or refilling a prescription of a practitioner licensed by law to administer the drug is exempt from the requirements of section 4(2), 4(3), 4(4), 4(5), 4(6), 4(7), 4(8), and 4(9) of this chapter if the drug bears a label containing the following:

(1) The name and address of the dispenser.

(2) The serial number and date of the prescription or of the prescription's filling.

(3) The name of the drug's prescriber and, if stated in the prescription, the name of the patient.

(4) The directions for use and cautionary statements, if any, contained in the prescription.

This exemption does not apply to any drugs dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail or to a drug dispensed in violation of subsection (a), (b), (c), or (d).

(f) The state department may adopt rules to remove drugs subject to section 4(4) of this chapter, section 7 of this chapter, or section 8 of this chapter from the requirements of subsections (a) through (d) when the requirements are not necessary for the protection of public health. Drugs removed from the prescription requirements of the Federal Act by regulations issued under the Federal Act may also, by rules adopted by the state department, be removed from the requirement of subsections (a) through (d).

(g) A drug that is subject to subsections (a) through (d) is considered to be misbranded if at any time before dispensing the drug's label fails to bear the statement "Caution: Federal Law Prohibits Dispensing Without Prescription" or "Caution: State Law Prohibits Dispensing Without Prescription". A drug to which subsections (a) through (d) do not apply is considered to be misbranded if, at any time before dispensing, the drug's label bears the caution statement described in this subsection.

(h) This section does not relieve a person from a requirement prescribed by or under authority of law with respect to drugs included within the classifications of narcotic drugs or marijuana as defined in the applicable federal and state laws relating to narcotic drugs and marijuana.

(i) A drug may be dispensed under subsection (b) upon an

electronically transmitted prescription only to the extent permitted by federal law.

As added by P.L.2-1993, SEC.25. Amended by P.L.144-1996, SEC.12; P.L.204-2005, SEC.4.

IC 16-42-3-7

New drugs; federal qualification; testing; application to introduce drug

Sec. 7. (a) This section does not apply under the circumstances described in section 9 of this chapter.

(b) A person may not sell, deliver, offer for sale, hold for sale, give away, or introduce into intrastate commerce any new drug unless:

(1) an application to sell, deliver, offer for sale, hold for sale, give away, or introduce into intrastate commerce a new drug has been approved and the approval has not been withdrawn under Section 505 of the Federal Act; or

(2) if not subject to the Federal Act the drug has been tested and has been found to be safe for use and effective in use under the conditions prescribed, recommended, or suggested in the labeling of the drug.

(c) Before selling or offering for sale the new drug, there must be filed with the state department an application setting forth the following:

(1) Full reports of investigations that have been made to show whether or not the drug is safe for use and whether the drug is effective in use.

(2) A full list of the articles used as components of the drug.

(3) A full statement of the composition of the drug.

(4) A full description of the methods used in and the facilities and controls used for the manufacture, processing, and packing of the drug.

(5) Such samples of the drug and of the articles used as components of the drug that the state department requires.

(6) Specimens of the labeling proposed to be used for the drug.

As added by P.L.2-1993, SEC.25.

IC 16-42-3-8

New drugs; time for application to take effect

Sec. 8. (a) This section does not apply under the circumstances described in section 9 of this chapter.

(b) An application provided for under section 7 of this chapter becomes effective on the one hundred eightieth day after the filing of the application. However, if the state department finds, after due notice to the applicant and giving the applicant an opportunity for a hearing that:

(1) the drug is not safe or not effective for use under the conditions prescribed, recommended, or suggested in the

proposed labeling of the drug;

(2) the methods used in and the facilities and controls used for the manufacture, processing, and packing of the drugs are inadequate to preserve the drug's identity, strength, quality, and purity; or

(3) based on a fair evaluation of all material facts, that the labeling is false or misleading in any particular;

the state department shall, before the effective date of the application, issue an order refusing to permit the application to become effective.

As added by P.L.2-1993, SEC.25.

IC 16-42-3-9

New drugs; exemption

Sec. 9. (a) Sections 7 and 8 of this chapter do not apply to the following:

(1) To a drug dispensed on a written or an electronically transmitted prescription signed by or with an electronic signature of a physician, dentist, or veterinarian (except a drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail) if the physician, dentist, or veterinarian is licensed by law to administer the drug, and the drug bears a label containing the name and place of business of the dispenser, the serial number and date of the prescription, and the name of the physician, dentist, or veterinarian.

(2) To a drug exempted by rule of the state department and that is intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety and effectiveness of drugs.

(3) To a drug sold in Indiana or introduced into intrastate commerce at any time before the enactment of the Federal Act, if the drug's labeling contained the same representations concerning the conditions of the drug's use.

(4) To any drug that is licensed under the Public Health Service Act of July 1, 1944 (58 Stat. 682, as amended; 42 U.S.C. 201 et seq.) or under the Animal Virus-Serum Toxin Act of March 4, 1913 (13 Stat. 832; 21 U.S.C. 151 et seq.).

(5) To a drug subject to section 4(10) of this chapter.

(b) Rules exempting drugs intended for investigational use under subsection (a)(2) may, within the discretion of the state department among other conditions relating to the protection of the public health, provide for conditioning the exemption upon the following:

(1) The submission to the state department, before any clinical testing of a new drug is undertaken, of reports by the manufacturer or the sponsor of the investigation of the drug or preclinical tests, including tests on animals, of the drug adequate to justify the proposed clinical testing.

(2) The manufacturer or the sponsor of the investigation of a new drug proposed to be distributed to investigators for clinical testing obtaining a signed agreement from each of the investigators that patients to whom the drug is administered will be under the manufacturer's or sponsor's personal supervision or under the supervision of investigators responsible to the manufacturer or sponsor and that the manufacturer or sponsor will not supply the drug to any other investigator or to clinics for administration to human beings.

(3) The establishment and maintenance of the records and the making of the reports to the state department by the manufacturer or the sponsor of the investigation of the drug of data (including analytical reports by investigators) obtained as the result of the investigational use of the drug that the state department finds will enable the state department to evaluate the safety and effectiveness of the drug if an application is filed under section 8 of this chapter.

(c) Rules exempting drugs intended for investigational use under subsection (a)(2) must provide that the exemption is conditioned upon the manufacturer or the sponsor of the investigation requiring that experts using the drugs for investigational purposes certify to the manufacturer or sponsor that the experts will inform any human beings to whom the drugs or any controls used in connection with the drugs are being administered that the drugs are being used for investigational purposes and will obtain the consent of the human beings or their representatives, except where they consider it not feasible or, in their professional judgment, contrary to the best interests of the human beings.

(d) This section does not require a clinical investigator to submit directly to the state department reports on the investigational use of drugs. The regulations adopted under Section 505(i) of the Federal Act are the rules in Indiana. The state may adopt rules, whether or not in accordance with regulations promulgated under the Federal Act.

As added by P.L.2-1993, SEC.25. Amended by P.L.204-2005, SEC.5.

IC 16-42-3-10

New drugs; revocation of order refusing application to take effect; revocation of approved application

Sec. 10. (a) An order refusing to permit an application under section 7 or 8 of this chapter to become effective may be revoked by the state department.

(b) The state department may, after affording an opportunity for public hearing and judicial appeal, revoke an application approved under section 7 or 8 of this chapter if the state department finds any of the following:

(1) That the drug, based on evidence acquired after approval, may not be safe or effective for the intended use.

(2) That the facilities or controls used in the manufacture, processing, or labeling of the drug may present a hazard to the public health.

As added by P.L.2-1993, SEC.25.

IC 16-42-3-11

Representation of antiseptic

Sec. 11. The representation of a drug in the labeling or advertisement as an antiseptic is considered to be a representation that the drug is a germicide, except if a drug purporting to be or represented as an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or other use involves prolonged contact with the body.

As added by P.L.2-1993, SEC.25.

IC 16-42-3-12

Violation of chapter; offenses

Sec. 12. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.

As added by P.L.2-1993, SEC.25.

IC 16-42-4

Chapter 4. Uniform Food, Drug, and Cosmetic Act: Adulteration or Misbranding of Cosmetics

IC 16-42-4-1

Hair dye defined

Sec. 1. As used in this chapter, "hair dye" does not include eyelash dyes or eyebrow dyes.

As added by P.L.2-1993, SEC.25.

IC 16-42-4-1.1

Duties of state veterinarian and state board of animal health

Sec. 1.1. (a) The state veterinarian shall act in place of the state health commissioner under this chapter when impounding or disposing of adulterated or misbranded products under IC 15-17-5 or IC 15-18-1.

(b) The Indiana state board of animal health shall act in place of the state department of health under this chapter when impounding or disposing of adulterated or misbranded products under IC 15-17-5 or IC 15-18-1.

As added by P.L.137-1996, SEC.71. Amended by P.L.2-2008, SEC.44.

IC 16-42-4-2

Adulterated cosmetics

Sec. 2. A cosmetic is considered to be adulterated under the following conditions:

(1) If the cosmetic bears or contains a poisonous or deleterious substance that may make the cosmetic injurious to users under the conditions of use prescribed in the labeling of the cosmetic or under the conditions of use that are customary or usual. However this subdivision does not apply to coal-tar hair dye if the following conditions are met:

(A) The label on the dye conspicuously displays the following message:

"Caution – This product contains ingredients that may cause skin irritation on certain individuals and a preliminary test according to accompanying directions should first be made. This product must not be used for dyeing the eyelashes or eyebrows; to do so may cause blindness.".

(B) The labeling contains adequate directions for preliminary testing.

(2) If the cosmetic consists in whole or in part of a filthy, putrid, or decomposed substance.

(3) If the cosmetic has been prepared, packed, or held under unsanitary conditions as the result of which the cosmetic may have become contaminated with filth or as the result of which the cosmetic may have been made injurious to health.

(4) If the container of the cosmetic is composed in whole or in part of a poisonous or deleterious substance that may make the contents injurious to health.

(5) If the cosmetic is not a hair dye and the cosmetic is, bears, or contains a color additive that is unsafe under IC 16-42-2-5.

As added by P.L.2-1993, SEC.25.

IC 16-42-4-3

Misbranded cosmetics

Sec. 3. A cosmetic is considered to be misbranded under the following conditions:

(1) If the cosmetic's labeling is false or misleading in any way.

(2) If the cosmetic is in package form unless the cosmetic bears a label containing the following:

(A) The name and place of business of the manufacturer, packer, or distributor.

(B) An accurate statement of the quantity of the contents in terms of weight, measure, or numerical count.

However, reasonable variations are permitted under clause (B) and exemptions for small packages shall be established by rules adopted by the state department.

(3) If a word, statement, or other information required by this chapter or a rule adopted under IC 16-42-1-2 to appear on the label or labeling is not prominently placed on the label with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) and in such terms as to make the label or labeling likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(4) If the container of the cosmetic is so made, formed, or filled as to be misleading.

As added by P.L.2-1993, SEC.25.

IC 16-42-4-4

Cosmetics in transit for processing, labeling, or repacking; exemption

Sec. 4. A cosmetic that, in accordance with the practice of the trade, is to be processed, labeled, or repacked in substantial quantities at an establishment other than the establishment where the cosmetic was originally processed or packed is exempt from the affirmative labeling requirements of IC 16-42-1 through IC 16-42-4 while the cosmetic is in transit in intrastate commerce from one (1) establishment to the other if the transit is made in good faith for completion purposes only, but the cosmetic is otherwise subject to all the applicable provisions of IC 16-42-1 through IC 16-42-4.

As added by P.L.2-1993, SEC.25.

IC 16-42-4-5

Chapter violations; offenses

Sec. 5. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.

As added by P.L.2-1993, SEC.25.

IC 16-42-5

Chapter 5. Food: Sanitary Requirements for Food Establishments

IC 16-42-5-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to section 28 of this chapter by P.L.266-2001 apply to violations that occur after June 30, 2001.

As added by P.L.220-2011, SEC.322.

IC 16-42-5-0.3

Initial schedule of civil penalties; rules; enforcement of previously adopted local penalties

Sec. 0.3. (a) The state department of health may adopt rules establishing the initial schedule of civil penalties required under section 28 of this chapter, as added by P.L.266-2001, at any time after May 11, 2001, in the manner provided for the adoption of emergency rules under IC 4-22-2-37.1. An emergency rule adopted under this section expires on the later of:

(1) the date permanent rules are adopted to replace the emergency rules; or

(2) July 1, 2003.

(b) A corporation or local health department that, before January 1, 2001, adopted monetary penalties for the violation of any state or local law or rule concerning food handling or food establishments may continue to enforce those locally prescribed monetary penalties (including the issuance of tickets or citations authorized by local law) and deposit the amounts collected as prescribed by local law until the later of:

(1) the date permanent rules are adopted establishing the schedule of civil penalties required under section 28 of this chapter, as added by P.L.266-2001; or

(2) July 1, 2003.

As added by P.L.220-2011, SEC.323.

IC 16-42-5-0.4

Enforcement of local standards for food handling or food establishments

Sec. 0.4. A corporation or local health department that, before January 1, 2001, adopted sanitary standards for food handling or food establishments that are different from the state rules concerning sanitary standards for food handling or food establishments may continue to enforce those locally prescribed sanitary standards until the later of:

(1) the date that the state department adopts rules to modify or replace the state department's rules that were in effect on January 1, 2001, concerning sanitary standards for food handling or food establishments; or

(2) July 1, 2003.
As added by P.L.220-2011, SEC.324.

IC 16-42-5-0.5
Local standards or penalties regarding food handling or food establishments precluded

Sec. 0.5. Except as provided in this chapter, a corporation or local health department may not impose any:

(1) sanitary standards on; or

(2) locally prescribed monetary penalties for the violation of any state law or rule concerning;

food handling or food establishments.
As added by P.L.266-2001, SEC.9.

IC 16-42-5-0.7
Local standards regarding food handling machinery precluded

Sec. 0.7. (a) Except as provided in this chapter, a corporation or local health department may not impose any requirements or standards on the installation of food handling machinery in a food establishment regulated by this chapter.

(b) The installation of food handling machinery includes all activities associated with the machinery's installation, including the wiring, plumbing, air handling, and all other processes.

(c) This section does not limit the authority of the state fire marshal or other state agencies to regulate food establishments.

(d) This section does not limit the authority of a corporation or local health department to enforce requirements or standards established by state law or the state department for the installation of food handling machinery.
As added by P.L.266-2001, SEC.10. Amended by P.L.1-2006, SEC.306.

IC 16-42-5-0.9
Petitions for changes in rules

Sec. 0.9. (a) A corporation or local health department may petition the state department requesting one (1) or more modifications or changes in the state department's rules concerning:

(1) food handling machinery;

(2) sanitary standards for food handling or food establishments; or

(3) civil penalties authorized under IC 16-42-5-28.

(b) Following the receipt of a petition described in subsection (a), the state department shall hold a public hearing concerning the corporation or local health department's requested modifications or changes and shall determine in writing whether to adopt rules under IC 4-22-2 to modify or change the state department's rules.
As added by P.L.266-2001, SEC.11.

IC 16-42-5-1
Repealed
(As added by P.L.2-1993, SEC.25. Repealed by P.L.266-2001, SEC.17.)

IC 16-42-5-2
Repealed
(As added by P.L.2-1993, SEC.25. Repealed by P.L.266-2001, SEC.17.)

IC 16-42-5-2.3
Food handling machinery defined
Sec. 2.3. As used in this chapter, "food handling machinery" means any of the following used for and in food handling:
(1) Equipment.
(2) Appliances.
(3) Tools.
(4) Plumbing and related fixtures.
(5) Refrigeration devices.
(6) Heating, ventilation, and cooling equipment.
(7) Any other piece of equipment used for and in food handling.
As added by P.L.266-2001, SEC.12.

IC 16-42-5-3
Repealed
(As added by P.L.2-1993, SEC.25. Repealed by P.L.266-2001, SEC.17.)

IC 16-42-5-4
Repealed
(As added by P.L.2-1993, SEC.25. Amended by P.L.192-2002(ss), SEC.159; P.L.138-2006, SEC.11. Repealed by P.L.100-2007, SEC.2.)

IC 16-42-5-5
Rules
Sec. 5. The state department may adopt rules under IC 4-22-2 for the efficient enforcement of this chapter and to establish minimum sanitary standards for the operation of all food establishments.
As added by P.L.2-1993, SEC.25.

IC 16-42-5-5.2
Variances from rules
Sec. 5.2. The state department may grant a variance from one (1) or more of the state rules concerning:
(1) food handling machinery; or
(2) sanitary standards for the operation of food establishments;
in accordance with IC 16-19-3-4.3.
As added by P.L.266-2001, SEC.13.

IC 16-42-5-6
Conditions of health and comfort

Sec. 6. A food establishment must meet the following conditions:

(1) Be adequately lighted, heated, drained, and ventilated.

(2) Be supplied with uncontaminated running water.

(3) Have adequate sanitary facilities.

As added by P.L.2-1993, SEC.25.

IC 16-42-5-7
Construction to facilitate cleanliness

Sec. 7. Each food establishment and the machinery used in each food establishment must be constructed so as to be easily and thoroughly cleaned.

As added by P.L.2-1993, SEC.25.

IC 16-42-5-8
Cleanliness and sanitation of premises and vehicles

Sec. 8. The floors, sidewalls, ceiling, furniture, receptacles, implements, and machinery of a food establishment and a vehicle used to transport food products must at all times be clean and sanitary.

As added by P.L.2-1993, SEC.25.

IC 16-42-5-9
Walls and ceilings; construction; washing

Sec. 9. (a) The sidewalls, woodwork, and ceiling of a food establishment must be made of an impervious material with a finish that is washable.

(b) The sidewalls, woodwork, and ceiling must be kept washed clean with detergent and water.

As added by P.L.2-1993, SEC.25.

IC 16-42-5-10
Floors; construction; washing

Sec. 10. (a) The floor of a food establishment must be made of nonabsorbent material that can be flushed with water.

(b) The floor of a food establishment must be kept washed clean with detergent and water.

As added by P.L.2-1993, SEC.25.

IC 16-42-5-11
Domestic animals; rodents; insects

Sec. 11. A food establishment must be protected by all reasonable means against the presence of and entrance of domestic animals, rodents, flies, and other insects.

As added by P.L.2-1993, SEC.25.

IC 16-42-5-12

Garbage removal

Sec. 12. Refuse, dirt, and waste products subject to decomposition and fermentation incident to food handling shall be removed daily from food establishments.

As added by P.L.2-1993, SEC.25.

IC 16-42-5-13

Toilet room

Sec. 13. (a) A food establishment must have a convenient toilet room separate and apart from and not opening directly into a room that is used for food handling.

(b) The floor of the toilet room must be made of a nonabsorbent material.

(c) The floor of the toilet room shall be washed and scoured daily.

(d) Each toilet fixture and each toilet room must be adequately ventilated.

As added by P.L.2-1993, SEC.25.

IC 16-42-5-14

Washrooms

Sec. 14. (a) A food establishment must have a washroom adjacent to each toilet room.

(b) The washroom shall be supplied with adequate lavatories, soap, hot and cold running water, and clean individual towels.

(c) The washroom shall be kept clean by washing with detergent and water.

As added by P.L.2-1993, SEC.25.

IC 16-42-5-15

Food handling rooms; exclusive use

Sec. 15. A room that is used for food handling or that is equipped for use for food handling may not be used for any other purpose.

As added by P.L.2-1993, SEC.25.

IC 16-42-5-16

Dressing rooms

Sec. 16. (a) Rooms separate and apart from rooms used for food handling must be provided for the changing and hanging of wearing apparel.

(b) The rooms for changing and hanging wearing apparel must be kept clean.

As added by P.L.2-1993, SEC.25.

IC 16-42-5-17

Expectorating

Sec. 17. A person may not expectorate in or on the machinery, equipment, floor, sidewalls, or other structure of a food establishment.

As added by P.L.2-1993, SEC.25.

IC 16-42-5-18
Sleeping in food handling rooms

Sec. 18. A person may not live or sleep in a room used for food handling or in a room opening directly into a food establishment.
As added by P.L.2-1993, SEC.25.

IC 16-42-5-19
Diseases; employees

Sec. 19. A person who has a communicable or infectious disease may not work in a food establishment in any capacity in which epidemiological evidence indicates the person may spread the disease.
As added by P.L.2-1993, SEC.25.

IC 16-42-5-20
Wearing apparel; employees

Sec. 20. A person shall wear clean outer garments while working in a food establishment.
As added by P.L.2-1993, SEC.25.

IC 16-42-5-21
Washing; employees

Sec. 21. A person who works in a food establishment shall wash the person's hands and arms thoroughly with soap and clean water before beginning work, before resuming work after a rest period, and before resuming work after visiting a toilet room.
As added by P.L.2-1993, SEC.25.

IC 16-42-5-22
Sitting or lying on food handling equipment

Sec. 22. A person may not sit or lie upon equipment used or installed for use in handling food.
As added by P.L.2-1993, SEC.25.

IC 16-42-5-23
Inspections

Sec. 23. The state department may do the following:

(1) Enter at any time a food establishment or place suspected of being a food establishment.

(2) Inspect the premises, utensils, fixtures, equipment, furniture, and machinery used in food handling.

As added by P.L.2-1993, SEC.25.

IC 16-42-5-24
Local health officers

Sec. 24. (a) For the purpose of enforcing IC 16-41-20,

IC 16-41-23, IC 16-41-24, IC 16-41-34, or IC 16-42-5, the local health officers are food environmental health specialists subordinate to the state department.

(b) The state department shall provide to the local health officers who are food environmental health specialists guidelines concerning the interpretation of the state department's rules concerning food handling and food establishments so that enforcement of the state laws and rules is uniform throughout the state.

As added by P.L.2-1993, SEC.25. Amended by P.L.137-1996, SEC.72; P.L.144-1996, SEC.13; P.L.266-2001, SEC.14; P.L.104-2003, SEC.7; P.L.86-2015, SEC.2.

IC 16-42-5-25

Prosecution of violators; orders to abate condition or violation

Sec. 25. If, upon inspection of a food establishment, a local health officer or food environmental health specialist finds an employer, operator, or other employee to be violating IC 16-41-20, IC 16-41-23, IC 16-41-24, IC 16-41-34, or this chapter, the local health officer or food environmental health specialist shall do at least one (1) of the following:

(1) Furnish evidence of the violation to the prosecuting attorney of the county or circuit in which the violation occurs. The prosecuting attorney shall prosecute all persons violating IC 16-41-20, IC 16-41-23, IC 16-41-24, IC 16-41-34, or this chapter, or rules adopted under those provisions.

(2) Report the condition and violation to the state health commissioner or the commissioner's legally authorized agent. The state health commissioner may issue an order to the person in authority at the offending establishment to abate the condition or violation within five (5) days or within another reasonable time required to abate the condition or violation. The proceedings to abate must be in accordance with IC 4-21.5.

As added by P.L.2-1993, SEC.25. Amended by P.L.137-1996, SEC.73; P.L.144-1996, SEC.14; P.L.104-2003, SEC.8; P.L.1-2009, SEC.118; P.L.86-2015, SEC.3.

IC 16-42-5-26

Noncompliance with order or requirement; offenses

Sec. 26. (a) A person who refuses to comply with a lawful order or requirement of the state health commissioner made in writing as provided in this chapter commits a Class B misdemeanor.

(b) Each day after the expiration of the time limit for abating unsanitary conditions and completing improvements to abate the conditions as ordered by the state health commissioner constitutes a separate offense.

As added by P.L.2-1993, SEC.25.

IC 16-42-5-27

Violations of chapter; offenses

Sec. 27. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.
As added by P.L.2-1993, SEC.25.

IC 16-42-5-28
Civil penalties

Sec. 28. (a) The state department shall adopt rules under IC 4-22-2 establishing a schedule of civil penalties that may be imposed by the state department to enforce either of the following:

(1) This chapter.

(2) Rules adopted to implement this chapter.

(b) A penalty included in the schedule of civil penalties established under this section may not exceed one thousand dollars ($1,000) for each violation per day.

(c) The civil penalties collected under this section shall be deposited in the state general fund.

(d) The state department may issue an order of compliance or impose a civil penalty included in the schedule of civil penalties established under this section, or both, against a person who does any of the following:

(1) Fails to comply with this chapter or a rule adopted to implement this chapter.

(2) Interferes with or obstructs the state department or the state department's designated agent in the performance of duties under this chapter.

(e) The state department may issue an order of compliance against a person described in subsection (d) under IC 4-21.5-3-6, IC 4-21.5-3-8, or IC 4-21.5-4. The state department may impose a civil penalty against a person described in subsection (d) only in a proceeding under IC 4-21.5-3-8.

(f) A proceeding commenced to impose a civil penalty under the schedule of civil penalties established under this section may be consolidated with any other proceeding commenced to enforce either of the following:

(1) This chapter.

(2) A rule adopted by the state department to implement this chapter.

(g) A corporation or a local health department:

(1) may bring an administrative action to enforce this chapter, rules adopted to implement this chapter, or the schedule of civil penalties established by the state department under this section;

(2) may use tickets or citations to enforce this chapter, rules adopted under this chapter, or the schedule of civil penalties established by the state department under this section; and

(3) shall deposit in the general fund of the corporation or the

local health department the civil penalties collected under this section.

(h) For each violation of the state law or rules concerning food handling or food establishments, the state or either:

(1) a corporation; or

(2) a local health department;

may bring an enforcement action against a food establishment.

As added by P.L.266-2001, SEC.15. Amended by P.L.97-2004, SEC.70.

IC 16-42-5-29

Exemption from food establishment requirements; standards for farmers markets and roadside stands; samples; health hazards; distribution of poultry products and rabbit meat

Sec. 29. (a) Except as provided in subsection (h), this section applies to an individual vendor of a farmers market or roadside stand.

(b) As used in this section, "end consumer" means a person who is the last person to purchase any food product and who does not resell the food product.

(c) An individual vendor of a farmers market or roadside stand is not considered to be a food establishment and is exempt from the requirements of this title that apply to food establishments if the individual vendor's food product:

(1) is made, grown, or raised by an individual at the individual's primary residence, property owned by the individual, or property leased by the individual;

(2) is not a potentially hazardous food product;

(3) is prepared by an individual who practices proper sanitary procedures, including:

(A) proper hand washing;

(B) sanitation of the container or other packaging in which the food product is contained; and

(C) safe storage of the food product;

(4) is not resold; and

(5) includes a label that contains the following information:

(A) The name and address of the producer of the food product.

(B) The common or usual name of the food product.

(C) The ingredients of the food product, in descending order by predominance by weight.

(D) The net weight and volume of the food product by standard measure or numerical count.

(E) The date on which the food product was processed.

(F) The following statement in at least 10 point type: "This product is home produced and processed and the production area has not been inspected by the state department of health.".

(d) An individual vendor who meets the requirements in

subsection (c) is subject to food sampling and inspection if:

(1) the state department determines that the individual vendor's food product is:

(A) misbranded under IC 16-42-2-3; or

(B) adulterated; or

(2) a consumer complaint has been received by the state department.

(e) If the state department has reason to believe that an imminent health hazard exists with respect to an individual vendor's food product, the state department may order cessation of production and sale of the food product until the state department determines that the hazardous situation has been addressed.

(f) For purposes of this section, the state health commissioner or the commissioner's authorized representatives may take samples for analysis and conduct examinations and investigations through any officers or employees under the state health commissioner's supervision. Those officers and employees may enter, at reasonable times, the facilities of an individual vendor and inspect any food products in those places and all pertinent equipment, materials, containers, and labeling.

(g) The state health commissioner may develop guidelines for an individual vendor who seeks an exemption from regulation as a food establishment as described in subsection (c). The guidelines may include:

(1) standards for best safe food handling practices;

(2) disease control measures; and

(3) standards for potable water sources.

(h) The department shall exclude from the definition of food establishment the sale of products described in subsection (i):

(1) by an individual vendor of a farmers market or roadside stand; and

(2) by a farmer selling directly to the end consumer on the farm where the product is produced and through delivery to the end consumer.

(i) Subsection (h) applies to the distribution of the following products:

(1) Poultry products produced under IC 15-17-5-11. Poultry products sold at a farmers market or roadside stand must be frozen at the point of sale. Poultry products sold on the farm where the product is produced must be refrigerated at the point of sale and through delivery.

(2) Rabbits that are slaughtered and processed on a farm for the purpose of conducting limited sales on the farm, at a farmers market, and at a roadside stand. Rabbit meat sold at a farmers market or roadside stand must be frozen at the point of sale. Rabbit meat sold on the farm where the product is produced must be refrigerated at the point of sale and through delivery.

Subsection (h) does not apply to the distribution of meat from a game

animal.

(j) An individual vendor of a farmers market or roadside stand that sells eggs that meet the requirements under IC 16-42-11 is not considered to be a food establishment and is exempt from the requirements of this title that apply to a food establishment relating to the sale of eggs.

(k) Notwithstanding any other law, a local unit of government (as defined in IC 14-22-31.5-1) may not by ordinance or resolution require any licensure, certification, or inspection of foods or food products of an individual vendor who meets the requirements in subsection (c), including an individual vendor who delivers the individual's food or food product directly to an end consumer.

As added by P.L.86-2009, SEC.3. Amended by P.L.86-2012, SEC.1; P.L.128-2013, SEC.1; P.L.154-2014, SEC.1; P.L.202-2015, SEC.7; P.L.80-2016, SEC.3.

IC 16-42-5-30

Exemption from food establishment requirements; standards for farm winery and small brewery permit holders at festivals, fairs, and other temporary locations; licensure, registration, and certification requirements by local units prohibited

Sec. 30. (a) As used in this section, "permit holder" means the holder of:

(1) a farm winery permit under IC 7.1-3-12-5; or

(2) a brewer's permit under IC 7.1-3-2-7(5).

(b) A permit holder that sells or furnishes alcoholic beverages by the glass at a festival, fair, or other temporary location authorized by the permit holder's permit under IC 7.1, is not considered to be a food establishment and is exempt from the requirements of this title that apply to food establishments, if the following requirements are met:

(1) The holder of a farm winery permit furnishes only the following for consumption on the premises, regardless of whether there is a charge:

(A) Wine samples.

(B) Wine by the glass.

The holder may not serve or furnish any food, including any fruit, condiment, flavoring, or garnish added to the wine after the wine is poured from its original container.

(2) The holder of a brewer's permit furnishes only the following for consumption on the premises, regardless of whether there is a charge:

(A) Beer samples.

(B) Beer by the glass.

The holder may not serve or furnish any food, including any fruit, condiment, flavoring, or garnish added to the beer after the beer is poured from its original container.

(c) A local unit of government (as defined in IC 14-22-31.5-1) may not require any licensure, registration, or certification of a

permit holder as a condition of providing alcoholic beverages at a festival, fair, or other temporary location authorized by the permit holder's permit under IC 7.1, if the permit holder meets the requirements of this section.
As added by P.L.144-2015, SEC.6.

IC 16-42-5-31
Sale of poultry products produced under a limited permit

Sec. 31. A food establishment may sell or serve poultry products produced by an establishment operating under a limited permit issued under IC 15-17-5-11(f) only if the poultry products are produced and labeled in accordance with the requirements of IC 15-17-5-11(f).
As added by P.L.80-2016, SEC.4.

IC 16-42-5.2

Chapter 5.2. Food Handlers

IC 16-42-5.2-1

Local regulation precluded

Sec. 1. Except as provided in this chapter, a corporation or local health department may not impose any registration, certification, or licensing requirements on food handling or food handlers.

As added by P.L.266-2001, SEC.16.

IC 16-42-5.2-2

Exempt food establishments

Sec. 2. (a) Except as provided in subsection (b), this chapter does not apply to a food establishment when the food establishment's food handling activities are limited solely to one (1) or more of the following:

(1) Heating or serving precooked foods.

(2) Preparing or serving a continental breakfast such as rolls, coffee, juice, milk, and cold cereal.

(3) Preparing or serving nonalcoholic or alcoholic beverages that are not potentially hazardous beverages or ice.

(4) Preparing or serving packaged or unpackaged foods that are not potentially hazardous foods, including elephant ears, funnel cakes, cotton candy, confectionaries, baked goods, popcorn, and chips and grinding coffee beans.

(5) Providing prepackaged food in its original package.

(b) This subsection does not apply to a pharmacy that is a food establishment that provides only prepackaged food products for sale. A food establishment that has more than ten thousand (10,000) square feet in total retail sales space at the food establishment location must comply with this chapter.

As added by P.L.266-2001, SEC.16. Amended by P.L.139-2005, SEC.1.

IC 16-42-5.2-3

Exempt entities

Sec. 3. This chapter does not apply to the following:

(1) Hospitals licensed under IC 16-21.

(2) Health facilities licensed under IC 16-28.

(3) Housing with services establishments that are required to file disclosure statements under IC 12-10-15.

(4) Continuing care retirement communities required to file disclosure statements under IC 23-2-4.

(5) Community mental health centers (as defined in IC 12-7-2-38).

(6) Private mental health institutions licensed under IC 12-25.

(7) An area agency on aging designated under IC 12-10-1 that provides food under a nutrition service program. However, the

premises where the food is prepared is not exempt from the requirements under this chapter.

(8) A food pantry that:

(A) is operated or affiliated with a nonprofit organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code; and

(B) distributes food, which may include food from the United States Department of Agriculture, to needy persons.

However, a food bank or other facility that distributes donated food to other organizations is not exempt from the requirements of this chapter.

As added by P.L.266-2001, SEC.16. Amended by P.L.104-2003, SEC.9; P.L.97-2004, SEC.71; P.L.139-2005, SEC.2.

IC 16-42-5.2-3.5
Exempt organizations

Sec. 3.5. (a) An organization that is exempt from the state gross retail tax under IC 6-2.5-5-21(b)(1)(B), IC 6-2.5-5-21(b)(1)(C), or IC 6-2.5-5-21(b)(1)(D) is exempt from complying with the requirements of this chapter.

(b) This section does not prohibit an exempted organization from waiving the exemption and using a certified food handler.

As added by P.L.139-2005, SEC.3.

IC 16-42-5.2-4
"Certified food handler" defined

Sec. 4. As used in this chapter, "certified food handler" means a food handler who holds a certificate described in section 7 of this chapter.

As added by P.L.266-2001, SEC.16.

IC 16-42-5.2-5
"Food handler" defined

Sec. 5. As used in this chapter, "food handler" means an individual who:

(1) is an owner, an operator, a manager, or an employee of a food establishment; and

(2) is responsible for or oversees the storage, preparation, display, or serving of food to the public.

As added by P.L.266-2001, SEC.16.

IC 16-42-5.2-6
Certified food handler requirement

Sec. 6. After December 31, 2004, at least one (1) food handler at a food establishment must be a certified food handler.

As added by P.L.266-2001, SEC.16.

IC 16-42-5.2-7

Food borne illness prevention training requirement

Sec. 7. A food handler who holds a certificate recognized by the Conference for Food Protection or an equivalent nationally recognized certification program as determined by the state department of health meets the food borne illness prevention training requirements established by the state department of health.

As added by P.L.266-2001, SEC.16.

IC 16-42-5.2-8

Presence of certified food handler

Sec. 8. After December 31, 2004, a food establishment must have at least one (1) certified food handler responsible for all periods of the food establishment's operation. However, a certified food handler need not be present at the food establishment during all hours of operation.

As added by P.L.266-2001, SEC.16.

IC 16-42-5.2-9

Time requirements; food establishment beginning operation or changing ownership

Sec. 9. After December 31, 2004, a food establishment that begins operation or changes ownership shall comply with section 6 of this chapter not later than six (6) months after beginning operation or changing ownership.

As added by P.L.266-2001, SEC.16.

IC 16-42-5.2-10

Time requirements; certified food handler terminating employment

Sec. 10. After December 31, 2004, if a food establishment does not have a certified food handler because a certified food handler terminates employment with the food establishment, the owner or operator of the food establishment shall comply with section 6 of this chapter not later than three (3) months after the termination date of the previous certified food handler.

As added by P.L.266-2001, SEC.16.

IC 16-42-5.2-11

Multiple food establishments on same property

Sec. 11. After December 31, 2004, if more than one (1) food establishment operated by the same individual is located on the same property or on contiguous properties, only one (1) certified food handler is required for the food establishments.

As added by P.L.266-2001, SEC.16.

IC 16-42-5.2-12

Penalties

Sec. 12. After December 31, 2004, an individual who violates any

of the provisions of this chapter is subject to the penalties prescribed by the executive board under section 13 of this chapter.
As added by P.L.266-2001, SEC.16.

IC 16-42-5.2-13
Adoption of rules

Sec. 13. Not later than December 31, 2003, the executive board shall adopt rules under IC 4-22-2 establishing standards for:

(1) the administration of this chapter; and
(2) the imposition of penalties for violations of this chapter.

As added by P.L.266-2001, SEC.16.

IC 16-42-5.2-14
Local licensing authority not limited

Sec. 14. This chapter does not limit the authority of a corporation or local health department to license retail food establishments.
As added by P.L.266-2001, SEC.16.

IC 16-42-5.2-15
Local enforcement

Sec. 15. A corporation or local health department may, upon application to and approval of the state department, enforce the provisions of this chapter.
As added by P.L.266-2001, SEC.16.

IC 16-42-6
Repealed
(Repealed by P.L.144-1996, SEC.15.)

IC 16-42-7
Repealed
(Repealed by P.L.104-2003, SEC.10.)

IC 16-42-8
Repealed

(Repealed by P.L.144-1996, SEC.15.)

IC 16-42-9
Repealed

(Repealed by P.L.87-1994, SEC.16.)

IC 16-42-10

Chapter 10. Food: Manufacture and Sale of Flour, White Bread, and Rolls

IC 16-42-10-1

"Enriched" defined

Sec. 1. As used in this chapter, "enriched" as applied to flour, means the addition to flour of the vitamins and other nutritional ingredients necessary to make the flour conform to the definition and standard of identity of enriched flour, enriched bromated flour, or enriched self-rising flour, as established or modified by order of the state department.

As added by P.L.2-1993, SEC.25.

IC 16-42-10-2

"Flour" defined

Sec. 2. (a) As used in this chapter, "flour" means the following foods as defined in the definitions and standards of identity adopted by the state department:

(1) Flour, white flour, wheat flour, plain flour.

(2) Bromated flour.

(3) Self-rising flour, self-rising white flour, self-rising wheat flour.

(4) Phosphated flour, phosphated white flour, and phosphated wheat flour.

(b) The term does not include special flours not used for bread, roll, bun, or biscuit baking, such as specialty cake, pancake, and pastry flours.

As added by P.L.2-1993, SEC.25.

IC 16-42-10-3

"Person" defined

Sec. 3. As used in this chapter, "person" means an individual, a corporation, a partnership, a limited liability company, an association, a joint stock company, a trust, or an unincorporated organization to the extent the person is engaged in the commercial manufacture or sale of flour, white bread, or rolls.

As added by P.L.2-1993, SEC.25. Amended by P.L.8-1993, SEC.253.

IC 16-42-10-4

"Rolls" defined

Sec. 4. (a) As used in this chapter, "rolls" includes the following:

(1) Plain white rolls and buns of the semibread dough type, such as soft rolls, hamburger, hot dog, and Parker House.

(2) Hard rolls, such as Vienna and Kaiser.

(3) All rolls or buns made without fillings or icing.

(b) The term does not include yeast-raised sweet rolls or sweet buns, cinnamon rolls or buns, butterfly rolls,and other items of the

same class.
As added by P.L.2-1993, SEC.25.

IC 16-42-10-5
"White bread" defined

Sec. 5. As used in this chapter, "white bread" means any bread, whether baked in a pan or on a hearth or screen, that is commonly known or usually represented and sold as white bread, including Vienna bread, French bread, and Italian bread.
As added by P.L.2-1993, SEC.25.

IC 16-42-10-6
Enforcement; rules and orders

Sec. 6. The state health commissioner shall enforce the provisions of this chapter and shall adopt, amend, or rescind rules and orders for the efficient enforcement of this chapter.
As added by P.L.2-1993, SEC.25.

IC 16-42-10-7
Enriched flour; exceptions; certificate of intent

Sec. 7. (a) This section does not apply to flour sold to bakers or other commercial secondary processors if, before or simultaneously with delivery, the purchaser furnishes to the seller a certificate of intent in the form the state health commissioner prescribes by rule certifying that the flour may be used only in the manufacture, mixing, or compounding of flour or white bread or rolls enriched to meet the requirements of this chapter or of products other than flour or white bread or rolls.

(b) A person may only manufacture, mix, compound, sell, or offer for sale in Indiana for human consumption in Indiana flour that is enriched.

(c) A purchaser described in subsection (a) who furnishes a certificate of intent may not use the flour so purchased in a manner other than as stated in the certificate.
As added by P.L.2-1993, SEC.25.

IC 16-42-10-8
White bread or rolls; standards

Sec. 8. (a) Except as provided in subsection (b), a person may not manufacture, bake, sell, or offer for sale in Indiana for human consumption white bread or rolls unless the white bread or rolls conform to the definition and standard of identity then in effect for enriched bread and enriched rolls or enriched buns, as established by order of the state department under the pure food statutes or rules of Indiana.

(b) If no order of a federal agency or officer fixing and establishing a definition and standard of identity for enriched bread and enriched rolls or enriched buns is in effect, a person may not

manufacture, bake, sell, or offer for sale in Indiana for human consumption any white bread or rolls unless the white bread or rolls conform to the proposed definition and standard of identity for enriched bread and enriched rolls or enriched buns under the pure food statutes or rules of Indiana.
As added by P.L.2-1993, SEC.25.

IC 16-42-10-9
Labeling requirements; interstate commerce

Sec. 9. (a) This section does not apply to white bread or rolls that bear no labeling of any kind and that are sold directly to the consumer by the manufacturer.

(b) A person may not sell or offer for sale in Indiana for human consumption in Indiana any flour, wrapped white bread, or rolls meeting the requirements of sections 7 and 8 of this chapter that fail to conform to the labeling requirements of the state department and the rules adopted by the state department concerning those products when introduced in interstate commerce.
As added by P.L.2-1993, SEC.25.

IC 16-42-10-10
Shortages of ingredients; exempting orders; hearings; rescinding orders

Sec. 10. (a) If the state health commissioner finds that:

(1) there is an existing or imminent shortage of any ingredient required by section 7 or 8 of this chapter; and

(2) because of the existing or imminent shortage the sale and distribution of flour or white bread or rolls may be impeded by the enforcement of this chapter;

the state health commissioner shall issue an order, effective immediately upon issuance, permitting the omission of that ingredient from flour or white bread or rolls, and if the state health commissioner finds it necessary or appropriate, excepting those foods from the labeling requirements of this chapter until further order of the state health commissioner.

(b) Findings of the state health commissioner under subsection (a) may be made without a hearing on the basis of an order or of factual information supplied by the appropriate officer. In the absence of an order of the appropriate federal agency or factual information supplied by the federal agency, the state health commissioner:

(1) may, upon the commissioner's own motion; or

(2) shall, within twenty (20) days after receiving the sworn statements of at least ten (10) persons subject to this chapter that a shortage exists or is imminent;

hold a public hearing on that topic at which any interested person may present evidence. At the conclusion of the hearing, the state health commissioner shall make findings based upon the evidence presented.

(c) The state health commissioner shall publish notice of a hearing under subsection (b) at least ten (10) days before the hearing.

(d) Whenever the state health commissioner has reason to believe that a shortage no longer exists, the state health commissioner shall hold a public hearing, after giving at least ten (10) days notice at which any interested person may present evidence. At the conclusion of the hearing, the state health commissioner shall make findings based upon the evidence presented at the hearing.

(e) If the state health commissioner finds that a shortage no longer exists, the state health commissioner shall issue an order revoking the previous order. An order revoking the previous order becomes effective not less than thirty (30) days after publication of the revocation order. However, undisposed flour stocks on hand at the effective date of the revocation order or flour manufactured before the effective date of the revocation order for sale in Indiana may subsequently be lawfully sold or disposed of.

As added by P.L.2-1993, SEC.25.

IC 16-42-10-11

Publication of orders, rules, or notices

Sec. 11. (a) All orders and rules adopted by the state health commissioner under this chapter shall be published in the manner prescribed in this chapter and, within the limits specified by this chapter, take effect on the date the state health commissioner determines.

(b) Whenever publication of any notice, order, or rule is required under this chapter, publication must be made at least one (1) time in at least one (1) daily newspaper of general circulation printed and published in Indiana.

As added by P.L.2-1993, SEC.25.

IC 16-42-10-12

Examinations, investigations, and inspections

Sec. 12. For the purposes of this chapter, the state health commissioner or the commissioner's authorized representatives may take samples for analysis and conduct examinations and investigations through any officers or employees under the state health commissioner's supervision. Those officers and employees may enter, at reasonable times:

(1) a factory, mill, warehouse, shop, or establishment where flour, white bread, or rolls are manufactured, processed, packed, sold, or held; or

(2) a vehicle being used for the transportation of those items;

and may inspect those places and any flour, white bread, or rolls in those places and all pertinent equipment, materials, containers, and labeling.

As added by P.L.2-1993, SEC.25.

IC 16-42-10-13
Violations

Sec. 13. A person who recklessly violates this chapter commits a Class B misdemeanor.

As added by P.L.2-1993, SEC.25.

IC 16-42-11

Chapter 11. Food: Eggs Offered for Sale and State Egg Board

IC 16-42-11-1

Repealed

(As added by P.L.2-1993, SEC.25. Repealed by P.L.28-2009, SEC.16.)

IC 16-42-11-1.1

Definitions

Sec. 1.1. The following definitions apply throughout this chapter:

(1) "Case" means thirty (30) dozen.

(2) "Eggs" means shell eggs represented as fresh or treated.

(3) "Farmers market" means a common facility where two (2) or more farmers or growers gather on a regular basis to sell farm products, which they produce, directly to the consumer.

(4) "Fresh eggs" means consumer grades of eggs as defined by the standards of quality and weights as set forth by the state egg board.

(5) "Person" means any individual, partnership, association, business trust, corporation, or any organized group of persons, regardless of whether the group is incorporated.

(6) "Retailer" means any person who sells eggs for human consumption and not for resale.

(7) "Treated eggs" means eggs that have been treated by a process such as pasteurization, irradiation, or other method of treatment that changes the interior quality of an egg in such a manner that United States Department of Agriculture quality standards do not apply.

(8) "Wholesaler" means any person engaged in buying eggs for human consumption for resale to retailers, hotels, restaurants, hospitals, nursing homes, schools, state or federal institutions, operators of multiple unit retail outlets engaged in the distribution of eggs to their own retail units, or producers who sell or deliver eggs to retailers, hotels, restaurants, hospitals, nursing homes, schools, or state or federal institutions.

As added by P.L.28-2009, SEC.4.

IC 16-42-11-2

Repealed

(As added by P.L.2-1993, SEC.25. Repealed by P.L.28-2009, SEC.16.)

IC 16-42-11-3

Repealed

(As added by P.L.2-1993, SEC.25. Repealed by P.L.28-2009, SEC.16.)

IC 16-42-11-4

Establishment of board; membership; term; oath; officers; compensation; business office

Sec. 4. (a) The state egg board is established. The board consists of nine (9) members appointed by the governor as follows:

(1) One (1) member from recommendations submitted by the Indiana State Poultry Association, Inc.

(2) One (1) member from recommendations submitted by the Indiana Farm Bureau, Inc.

(3) One (1) member from recommendations submitted by the Indiana Retail Grocery and Convenience Store Association, Inc.

(4) One (1) member from recommendations submitted by the Indiana Retail Council, Inc.

(5) One (1) member from recommendations submitted by the Egg Council of the Indiana State Poultry Association, Inc.

(6) One (1) member from recommendations submitted by the dean of the college of agriculture of Purdue University.

(7) One (1) member at large to represent the interests of the consumer.

(8) One (1) member to represent those engaged in the wholesaling of eggs through the Federal-State Egg Grading Program in Indiana.

(9) One (1) member to represent the interests of the food service industry.

(b) All appointments are for terms of three (3) years. However, an appointment to fill an unexpired term shall be made by the governor for the remainder of that term only.

(c) The recommendations provided for in this section shall be submitted to the governor within ten (10) days before an appointment is to be made to the state egg board. All appointments by the governor under this chapter shall be made within twenty (20) days after submission to the governor of the recommendations for appointments. If the recommendations are not submitted to the governor within the specified time, the governor shall make the appointment without the recommendations. If the governor does not make an appointment to fill an expired term for a member described in subsection (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), or (a)(6) within twenty (20) days after receiving the recommendation, the current members of the state egg board may select an individual from the names submitted by an organization under subsection (a) to fill the position represented by that organization on the state egg board. The individual shall serve a three (3) year term beginning with the next official board meeting following the twenty (20) day deadline.

(d) The members of the state egg board shall, before entering upon their duties, take and subscribe to the oath of office provided for other state officers. The oath of office shall be filed in the office of the secretary of state. The secretary of state shall administer the oath as a part of the duties of the office of secretary of state.

(e) The state egg board shall elect from its own membership the following officers:

(1) President.

(2) A vice president who serves in the president's absence or disability.

(3) Recording secretary.

The officers serve for one (1) year or until their successors are elected and qualified.

(f) Each member of the state egg board who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(g) The state egg board shall provide a suitable office, equipment, supplies, and facilities for the conduct of the board's business.

As added by P.L.2-1993, SEC.25. Amended by P.L.40-1993, SEC.55; P.L.28-2009, SEC.5.

IC 16-42-11-5

Powers and duties

Sec. 5. (a) The state egg board shall administer, enforce, and carry out this chapter.

(b) The state egg board shall do the following:

(1) Formulate and determine standards of quality and weights of eggs sold or offered for sale.

(2) Regulate the sale of and commerce in eggs sold or offered for sale at retail or wholesale and regulate the sale of eggs by wholesalers and retailers.

(3) Formulate and publish definitions, names, and grades of eggs and specifications for the care and handling of eggs that may be offered for sale at retail and wholesale under the terms of this chapter and for the care and handling of eggs that may be offered for sale by wholesalers and retailers as eggs fit for human consumption.

(4) Provide for and issue permits to wholesalers or retailers of eggs and provide for the registration of wholesalers and retailers of eggs.

(5) Adopt rules necessary for or incident to carrying out this chapter.

(6) Investigate and report violations of this chapter and violations of the rules of the state egg board to the proper authorities for prosecution.

(7) Revoke any registration or permit for a violation of this chapter or of the rules adopted by the state egg board.

(8) Hold four (4) regular meetings at quarterly intervals at the time and place the state egg board designates. The president of

the state egg board may call special meetings of the state egg board whenever in the president's judgment it becomes necessary. The president shall call a special meeting of the state egg board upon written request of a majority of the members of the state egg board.

(9) The state egg board shall publish or cause to be published an annual report of the board's work. In addition, the state egg board may periodically publish or cause to be published and distributed other information concerning eggs.

As added by P.L.2-1993, SEC.25. Amended by P.L.28-2009, SEC.6.

IC 16-42-11-6
Substandard eggs; prohibited sale

Sec. 6. A person may not sell, offer for sale, or advertise for sale at retail or wholesale eggs that do not meet the standards of quality and weight set forth by the state egg board.

As added by P.L.2-1993, SEC.25. Amended by P.L.28-2009, SEC.7.

IC 16-42-11-7
Proof of delivery

Sec. 7. (a) Every person selling eggs to a retailer shall furnish proof of delivery at the time of delivery showing:

(1) the date;
(2) the grades; and
(3) the quantity of the eggs;

according to the standards prescribed by the state egg board.

(b) A copy of the proof of delivery shall be kept on file by retailers at their respective places of business for thirty (30) days and at all reasonable times shall be available and open for inspection by accredited inspectors or representatives of the state egg board.

As added by P.L.2-1993, SEC.25. Amended by P.L.28-2009, SEC.8.

IC 16-42-11-8
Farmers' and egg producers' exemption

Sec. 8. Farmers and other bona fide egg producers who sell and deliver, on the premises where produced, eggs produced by their own flocks on their own premises are exempt from this chapter.

As added by P.L.2-1993, SEC.25.

IC 16-42-11-9
Farmer's or egg producer's wholesaler or retailer registration

Sec. 9. A farmer or bona fide egg producer may apply for registration as a wholesaler or retailer under this chapter and may, upon application, after being registered receive a permit to sell eggs.

As added by P.L.2-1993, SEC.25.

IC 16-42-11-9.5
Farmers market retail permit

Sec. 9.5. (a) A farmer or bona fide egg producer who markets directly to the consumer at a location that is not the farmer's or producer's own premises and is recognized as a farmers market may be required to have a farmers market retail permit issued by the state egg board. The state egg board shall establish requirements and procedures for obtaining a farmers market retail permit by rule under IC 4-22-2.

(b) Notwithstanding any other law, a local unit of government (as defined in IC 14-22-31.5-1) may not by ordinance or resolution require any licensure, certification, or inspection of foods or food products of a farmer or bona fide egg producer acting under this section.

As added by P.L.28-2009, SEC.9. Amended by P.L.154-2014, SEC.2.

IC 16-42-11-10

Application of section; registration statement; fees; wholesaler report permit

Sec. 10. (a) Except as provided in section 10.2(d) of this chapter, this section applies to:

(1) registrations and permits issued by; and

(2) fees due and payable to;

the state egg board before July 1, 2010.

(b) Every wholesaler or retailer selling eggs shall, before July 1 of each year, file with the state egg board a statement setting forth the fact that the wholesaler or retailer desires to sell eggs. The statement shall designate the name of the wholesaler or retailer desiring to register the location of the wholesaler's or retailer's principal office and any location where eggs are stored or distributed if that location is different from the principal office. The state egg board shall furnish blank forms for registration. The state egg board shall register the facts set forth in the statement in a permanent record. The state egg board shall furnish to each registered wholesaler a registration number upon payment of the registration fee and deposit.

(c) The state egg board shall require and collect from each wholesaler at the time of registration a fee based upon the average number of cases of eggs sold to retailers, hotels, restaurants, hospitals, nursing homes, schools, or to state or federal institutions each week during the preceding calendar year, as follows:

Average Number of Cases Sold	Registration Fee
0 - 100	$ 30
101 - 250	$ 60
251 - 500	$ 90
501 - 1,000	$ 120
1,001 and over	$ 150

(d) The state egg board shall require and collect from each wholesaler at the time of registration a deposit equal to the product

obtained by using a multiplier of six cents ($0.06) and a multiplicand that is the number of cases of eggs sold in that quarter of the immediately preceding five (5) calendar quarters in which the highest number of cases of eggs were sold by the wholesaler to retailers, hotels, restaurants, hospitals, nursing homes, schools, or to state or federal institutions. However, if the wholesaler does not have a five (5) quarter history, the state egg board shall fix the deposit at a reasonable amount.

(e) The state egg board shall require and collect from each retail store or unit of retailing a fee based upon the average number of cases of eggs sold each week during the preceding calendar year, as follows:

Average Number of Cases Sold	Registration Fee
1-5	$20
more than 5	$25

(f) All registered wholesalers must make application to the state egg board for a permit to report the case volume of eggs sold in Indiana and submit a fee of six cents ($0.06) for each thirty (30) dozen eggs or a fraction of that number of the volume reported. In applying for a permit, the applicant must agree to do the following:

(1) Keep records the state egg board considers necessary to indicate accurately the case volume of eggs sold in Indiana.

(2) Grant the state egg board permission to examine those records and verify the statement of the number and grade of eggs reported.

(3) Report under oath to the state egg board, on forms furnished by the state egg board, the number of eggs reported during the period covered.

As added by P.L.2-1993, SEC.25. Amended by P.L.183-1993, SEC.1; P.L.28-2009, SEC.10.

IC 16-42-11-10.2

Application of section; permit and registration requirements; fees

Sec. 10.2. (a) Except as provided in subsection (d), this section applies to:

(1) registrations and permits issued by; and

(2) fees due and payable to;

the state egg board after June 30, 2010.

(b) The state egg board may establish requirements for issuing a permit or registration under this chapter by rule under IC 4-22-2.

(c) The state egg board may establish fees necessary to carry out this chapter by rule under IC 4-22-2.

(d) If a rule is not in effect by July 1, 2010, the fees and requirements for obtaining a registration or permit under section 10 of this chapter apply until the date the rule takes effect.

As added by P.L.28-2009, SEC.11.

IC 16-42-11-10.4
Permits; issuance; revocation; fees

Sec. 10.4. The state egg board may grant a permit if the board determines that the action will lead to efficient enforcement of this chapter. The state egg board may revoke a permit at any time if it appears to the state egg board that a wholesaler is not complying with the terms of the agreement entered into at the time of the issuance. The report of eggs is due and the fees are payable quarterly on the last day of the month following the end of the quarter. If:

(1) the report is not filed and the fee paid by the tenth day following the due date;
(2) the report is false; or
(3) the requirements of this chapter have not been complied with;

the state egg board may revoke the permit. If the fee is unpaid after the ten (10) day grace period, a penalty of the greater of twenty dollars ($20) or ten percent (10%) of the amount due in addition to the amount due shall be assessed. If the state egg board determines that an account review is necessary, out-of-state permit holders shall reimburse the state egg board for expenses incurred to conduct the account review.

As added by P.L.28-2009, SEC.12.

IC 16-42-11-11
Prohibited sales or distribution

Sec. 11. (a) A person may not sell as a wholesaler to a retailer, hotel, restaurant, hospital, nursing home, school, or state or federal institution eggs for human consumption that are not subject to being reported as provided in this chapter.

(b) A person operating multiple retail outlets may not distribute or deliver to retail units eggs for human consumption that are not subject to being reported as provided for in this chapter. A retail store or retail unit may not receive from a wholesaler eggs for human consumption that are not subject to being reported as provided for in this chapter.

As added by P.L.2-1993, SEC.25. Amended by P.L.28-2009, SEC.13.

IC 16-42-11-12
Purdue University; inspections

Sec. 12. The dean of the college of agriculture of Purdue University may, subject to the approval of the state egg board, employ an executive administrator, inspectors, clerks, and other assistants necessary to carry out this chapter under the direction and supervision of the state egg board. The inspectors shall inspect and examine eggs sold, offered for sale, or exposed for sale and shall also inspect and examine eggs sold by wholesalers and retailers as fit for human consumption under this chapter at times and places and in the manner the state egg board directs.

As added by P.L.2-1993, SEC.25. Amended by P.L.40-1993, SEC.56; P.L.28-2009, SEC.14.

IC 16-42-11-13
Fiscal management

Sec. 13. All money received by the state egg board shall be paid to the treasurer of Purdue University who shall, under the direction of the state egg board, expend the money on proper vouchers to meet all necessary expenditures for carrying out this chapter and for any other expenses of Purdue University agricultural programs authorized by law and in support of the purposes of this chapter. The dean of agriculture shall submit to the state egg board an annual report showing the receipts and expenditures of all money received and expended by the director under this chapter. The report shall be made a part of the annual report of the state egg board.
As added by P.L.2-1993, SEC.25. Amended by P.L.40-1993, SEC.57.

IC 16-42-11-14
Violations

Sec. 14. A person who violates this chapter commits a Class C infraction.
As added by P.L.2-1993, SEC.25.

IC 16-42-11-15
Immunity from liability

Sec. 15. The:
(1) members of the state egg board;
(2) dean of the college of agriculture of Purdue University; and
(3) employees of the state egg board;

are not liable in their individual capacity, except to the state, for an act done or omitted in connection with the performance of their respective duties under this chapter.
As added by P.L.2-1993, SEC.25. Amended by P.L.40-1993, SEC.58; P.L.28-2009, SEC.15.

IC 16-42-12
Repealed

(Repealed by P.L.137-1996, SEC.75.)

IC 16-42-13
Repealed
(Repealed by P.L.137-1996, SEC.75.)

IC 16-42-14
Repealed
(Repealed by P.L.144-1996, SEC.15.)

IC 16-42-15
Repealed

(Repealed by P.L.87-1994, SEC.16.)

IC 16-42-16
Repealed
(Repealed by P.L.137-1996, SEC.75.)

IC 16-42-17
Chapter 17. Food: Regulation of Sodium Saccharin, N.F.

IC 16-42-17-1
Permitted activities

Sec. 1. Notwithstanding any rule or regulation adopted by the federal Food and Drug Administration concerning sodium saccharin, N.F., the chemical substance sodium saccharin, N.F. may be manufactured, distributed, sold, and used within Indiana.

As added by P.L.2-1993, SEC.25.

IC 16-42-17-2
Powers of board of pharmacy and department of health

Sec. 2. (a) The Indiana board of pharmacy and the state department may not prohibit the manufacture, distribution, sale, or use of sodium saccharin, N.F. within Indiana, either as a component of any other substance produced within Indiana or as a separate product.

(b) The state department may regulate the manufacture, distribution, sale, or use of sodium saccharin, N.F. only to ensure that the substance is not adulterated or misbranded within the meaning of IC 16-42-2 and IC 16-42-3.

As added by P.L.2-1993, SEC.25.

IC 16-42-17-3
Manufacture, distribution, sale, or use not prohibited

Sec. 3. A person who is engaged in the manufacture, sale, distribution, or use of sodium saccharin, N.F. may not be prohibited from the manufacture, sale, distribution, or use of sodium saccharin, N.F. within Indiana.

As added by P.L.2-1993, SEC.25.

IC 16-42-18

Chapter 18. Food: Transportation of Food in Trucks Used to Transport Solid Waste

IC 16-42-18-1

"Solid waste" defined

Sec. 1. (a) As used in this chapter and except as provided in subsection (b), "solid waste" has the meaning set forth in IC 13-11-2-205(a).

(b) The term does not include waste that is regulated under the following:

(1) IC 13-22-1 through IC 13-22-8.

(2) IC 13-22-11.5.

(3) IC 13-22-13 through IC 13-22-14.

As added by P.L.2-1993, SEC.25. Amended by P.L.1-1996, SEC.77; P.L.45-1997, SEC.22; P.L.128-1997, SEC.10.

IC 16-42-18-2

"Truck" defined

Sec. 2. As used in this chapter, "truck" has the meaning set forth in IC 9-13-2-188(a).

As added by P.L.2-1993, SEC.25.

IC 16-42-18-3

Trucks transporting both solid waste and food; time limitations

Sec. 3. Except as provided in section 4 of this chapter, a truck that is used to transport a quantity of more than four thousand (4,000) pounds of solid waste to a landfill, an incinerator, or a transfer station may not be used to transport food until at least fifteen (15) days after transporting the solid waste.

As added by P.L.2-1993, SEC.25.

IC 16-42-18-4

Sanitizing trucks transporting both solid waste and food

Sec. 4. A truck that is used to transport a quantity of more than four thousand (4,000) pounds of solid waste to a landfill, an incinerator, or a transfer station may be used to transport food less than fifteen (15) days after transporting the solid waste if the truck, after transporting the solid waste, has been properly sanitized according to rules adopted under section 5 of this chapter.

As added by P.L.2-1993, SEC.25.

IC 16-42-18-5

Rules

Sec. 5. The state department may adopt rules under IC 4-22-2 to implement this chapter. The rules adopted under this section may do the following:

(1) Require documentation on the transportation of food in

Indiana that would disclose violations of section 3 of this chapter.

(2) Establish procedures for the proper sanitizing of trucks for the purposes of this chapter.

As added by P.L.2-1993, SEC.25.

IC 16-42-18-6
Civil penalties

Sec. 6. A person who violates section 3 of this chapter is subject to civil penalties under IC 16-42-1-17.

As added by P.L.2-1993, SEC.25.

IC 16-42-18-7
Violations

Sec. 7. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.

As added by P.L.2-1993, SEC.25.

IC 16-42-19
Chapter 19. Drugs: Indiana Legend Drug Act

IC 16-42-19-1
Intent of chapter

Sec. 1. This chapter is intended to supplement IC 16-42-1 through IC 16-42-4.

As added by P.L.2-1993, SEC.25.

IC 16-42-19-2
"Drug"

Sec. 2. As used in this chapter, "drug" means the following:

(1) Articles or substances recognized in United States Pharmacopeial Convention, Inc.; The United States Pharmacopeia, Twenty-Second Edition (1990) or United States Pharmacopeial Convention, Inc.; The National Formulary, Seventeenth Edition (1990) as revised by United States Pharmacopeial Convention, Inc.; Supplement 1 to The United States Pharmacopeia, Twenty-Second Edition and The National Formulary, Seventeenth Edition (1990); and any supplements printed after 1990.

(2) Articles or substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or other animals.

(3) Articles other than food intended to affect the structure or any function of the body of human beings or other animals.

(4) Articles intended for use as a component of any article specified in subdivision (1), (2), or (3).

(5) Devices.

As added by P.L.2-1993, SEC.25. Amended by P.L.239-1999, SEC.1.

IC 16-42-19-3
"Drug order"

Sec. 3. As used in this chapter, "drug order" means an order that meets the following conditions:

(1) Is:

(A) a written order in a hospital or other health care institution for an ultimate user for a drug or device, issued and signed by a practitioner; or

(B) an order transmitted by other means of communication from a practitioner that is immediately reduced to writing by the pharmacist, registered nurse, or other licensed health care practitioner authorized by the hospital or institution.

(2) Contains the following:

(A) The name and bed number of the patient.

(B) The name and strength or size of the drug or device.

(C) Unless specified by individual institutional policy or guidelines, the amount to be dispensed either in quantity or

days.

(D) Adequate directions for the proper use of the drug or device when administered to the patient.

(E) The name of the prescriber.

As added by P.L.2-1993, SEC.25.

IC 16-42-19-4
"Investigational or new drug"

Sec. 4. As used in this chapter, "investigational or new drug" means a drug that is limited by state law to use under professional supervision of a practitioner authorized by law to prescribe or administer the drug.

As added by P.L.2-1993, SEC.25.

IC 16-42-19-5
"Practitioner"

Sec. 5. As used in this chapter, "practitioner" means any of the following:

(1) A physician licensed under IC 25-22.5.

(2) A veterinarian licensed to practice veterinary medicine in Indiana.

(3) A dentist licensed to practice dentistry in Indiana.

(4) A podiatrist licensed to practice podiatric medicine in Indiana.

(5) An optometrist who is:

(A) licensed to practice optometry in Indiana; and

(B) certified under IC 25-24-3.

(6) An advanced practice nurse who meets the requirements of IC 25-23-1-19.5.

(7) A physician assistant licensed under IC 25-27.5 who is delegated prescriptive authority under IC 25-27.5-5-6.

As added by P.L.2-1993, SEC.25. Amended by P.L.185-1993, SEC.1; P.L.157-2006, SEC.6; P.L.90-2007, SEC.2; P.L.177-2009, SEC.8.

IC 16-42-19-6
"Precursor"

Sec. 6. As used in this chapter, "precursor" means a substance, other than a legend drug, that:

(1) is an immediate chemical intermediate that can be processed or synthesized into a legend drug; and

(2) is used or produced primarily for use in the manufacture of a legend drug by persons other than persons:

(A) licensed to manufacture the legend drug by the Indiana board of pharmacy;

(B) registered by the state department; or

(C) licensed to practice pharmacy by the Indiana board of pharmacy.

As added by P.L.2-1993, SEC.25.

IC 16-42-19-7
"Prescription"

Sec. 7. As used in this chapter, "prescription" means:

(1) a written order to or for an ultimate user for a drug or device containing the name and address of the patient, the name and strength or size of the drug or device, the amount to be dispensed, adequate directions for the proper use of the drug or device by the patient, and the name of the practitioner, issued and signed by a practitioner; or

(2) an order transmitted by other means of communication from a practitioner that is:

(A) immediately reduced to writing by the pharmacist or pharmacist intern (as defined in IC 25-26-13-2); or

(B) for an electronically transmitted prescription:

(i) has the electronic signature of the practitioner; and

(ii) is recorded by the pharmacist in an electronic format.

As added by P.L.2-1993, SEC.25. Amended by P.L.204-2005, SEC.6.

IC 16-42-19-8
"Sale"

Sec. 8. As used in this chapter, "sale" means every sale and includes the following:

(1) Manufacturing, processing, transporting, handling, packing, or any other production, preparation, or repackaging.

(2) Exposure, offer, or any other proffer.

(3) Holding, storing, or any other possession.

(4) Dispensing, giving, delivering, or any other supplying.

(5) Applying, administering, or any other using.

As added by P.L.2-1993, SEC.25.

IC 16-42-19-9
"Warehouseman"

Sec. 9. As used in this chapter, "warehouseman" means a person who stores legend drugs for others and who has no control over the disposition of legend drugs except for the purpose of storage.

As added by P.L.2-1993, SEC.25.

IC 16-42-19-10
"Wholesaler"

Sec. 10. As used in this chapter, "wholesaler" means a person engaged in the business of distributing legend drugs that the person has not produced or prepared to persons included in any of the classes named in section 21 of this chapter.

As added by P.L.2-1993, SEC.25.

IC 16-42-19-11
Sale of legend drug unlawful; exceptions

Sec. 11. (a) Except as provided in section 21 of this chapter, a

person may not sell a legend drug unless either of the following conditions exist:

(1) Except as provided in subsection (b), the legend drug is dispensed by a pharmacist upon an original prescription or drug order with the drug product specified on the prescription or drug order or by the authorization of the practitioner and there is affixed to the immediate container in which the drug is delivered a label bearing the following:

(A) The name, address, and phone number of the establishment from which the drug was dispensed.

(B) The date on which the prescription for the drug was filled.

(C) The number of the prescription as filed in the prescription files of the pharmacist who filled the prescription.

(D) The name of the practitioner who prescribed the drug.

(E) The name of the patient, or if the drug was prescribed for an animal, a statement of the species of the animal.

(F) The directions for the use of the drug as contained in the prescription.

(2) The legend drug is delivered by the practitioner in good faith in the course of practice and the immediate container in which the drug is delivered bears a label on which appears the following:

(A) The directions for use of the drug.

(B) The name and address of the practitioner.

(C) The name of the patient.

(D) If the drug is prescribed for an animal, a statement of the species of the animal.

This section does not prohibit a practitioner from delivering professional samples of legend drugs in their original containers in the course of the practitioner's practice when oral directions for use are given at the time of delivery.

(b) Notwithstanding subsection (a)(1), the following apply:

(1) A pharmacist at a hospital licensed under IC 16-21 may fill a drug order for a legend drug with a drug product allowed under the hospital's policies and procedures for the use, selection, and procurement of drugs.

(2) A pharmacist who fills a prescription for a legend drug must comply with IC 16-42-22 and IC 25-26-16.

As added by P.L.2-1993, SEC.25. Amended by P.L.239-1999, SEC.2.

IC 16-42-19-12

Refilling prescription or drug order

Sec. 12. Except as authorized under IC 25-26-13-25(d), a person may not refill a prescription or drug order for a legend drug except in the manner designated on the prescription or drug order or by the authorization of the practitioner.

As added by P.L.2-1993, SEC.25. Amended by P.L.270-2001, SEC.1; P.L.204-2005, SEC.7.

IC 16-42-19-13
Possession or use of legend drug or precursor

Sec. 13. A person may not possess or use a legend drug or a precursor unless the person obtains the drug:

(1) on the prescription or drug order of a practitioner;
(2) in accordance with section 11(2) or 21 of this chapter; or
(3) in accordance with rules adopted by the board of pharmacy under IC 25-26-23.

As added by P.L.2-1993, SEC.25. Amended by P.L.119-2011, SEC.3.

IC 16-42-19-14
Records

Sec. 14. A person may not fail to keep records as required by section 22 of this chapter.

As added by P.L.2-1993, SEC.25.

IC 16-42-19-15
Inspection of records

Sec. 15. A person may not refuse to make available and to accord full opportunity to check a record, as required by section 22 of this chapter.

As added by P.L.2-1993, SEC.25.

IC 16-42-19-16
Unlawful acts

Sec. 16. Except as provided in section 30 of this chapter, a person may not do any of the following:

(1) Obtain or attempt to obtain a legend drug or procure or attempt to procure the administration of a legend drug by any of the following:
    (A) Fraud, deceit, misrepresentation, or subterfuge.
    (B) The forgery or alteration of a prescription, drug order, or written order.
    (C) The concealment of a material fact.
    (D) The use of a false name or the giving of a false address.
(2) Communicate information to a physician in an effort unlawfully to procure a legend drug or unlawfully to procure the administration of a legend drug. Such a communication is not considered a privileged communication.
(3) Intentionally make a false statement in a prescription, drug order, order, report, or record required by this chapter.
(4) For the purpose of obtaining a legend drug, falsely assume the title of or represent oneself to be a manufacturer, wholesaler, pharmacist, physician, dentist, veterinarian, or other person.

(5) Make or utter a false or forged prescription or false drug order or forged written order.

(6) Affix a false or forged label to a package or receptacle containing legend drugs. This subdivision does not apply to law enforcement agencies or their representatives while engaged in enforcing this chapter.

(7) Dispense a legend drug except as provided in this chapter.

As added by P.L.2-1993, SEC.25. Amended by P.L.239-1999, SEC.3; P.L.48-2015, SEC.1.

IC 16-42-19-17
Legend drug smoking devices

Sec. 17. A person may not possess or have under the person's control with intent to violate this chapter an instrument or contrivance designed or generally used in smoking a legend drug.

As added by P.L.2-1993, SEC.25.

IC 16-42-19-18
Legend drug injection devices; violation

Sec. 18. (a) A person may not possess with intent to:

(1) violate this chapter; or

(2) commit an offense described in IC 35-48-4;

a hypodermic syringe or needle or an instrument adapted for the use of a controlled substance or legend drug by injection in a human being.

(b) A person who violates subsection (a) commits a Level 6 felony.

As added by P.L.2-1993, SEC.25. Amended by P.L.187-2015, SEC.23.

IC 16-42-19-19
Anabolic steroids

Sec. 19. Except as provided in section 21 of this chapter, a person may not possess or use an anabolic steroid without a valid prescription or drug order issued by a practitioner acting in the usual course of the practitioner's professional practice.

As added by P.L.2-1993, SEC.25.

IC 16-42-19-20
Validity of prescriptions or drug orders

Sec. 20. (a) Except as provided in section 30 of this chapter, a prescription or drug order for a legend drug is not valid unless the prescription or drug order is issued for a legitimate medical purpose by a practitioner acting in the usual course of the practitioner's business.

(b) A practitioner may not knowingly issue an invalid prescription or drug order for a legend drug.

(c) A pharmacist may not knowingly fill an invalid prescription

or drug order for a legend drug.
As added by P.L.2-1993, SEC.25. Amended by P.L.48-2015, SEC.2.

IC 16-42-19-21
Authorized sale or possession

Sec. 21. Sections 11, 13, 19, and 25(b) of this chapter are not applicable to the following:

(1) The sale of legend drugs to persons included in any of the classes named in subdivision (2), or to the agents or employees of such persons for use in the usual course of their business or practice or in the performance of their official duties.

(2) Possession of legend drugs by the following persons or their agents or employees for such use:

(A) Pharmacists.

(B) Practitioners.

(C) Persons who procure legend drugs for handling by or under the supervision of pharmacists or practitioners employed by them or for the purpose of lawful research, teaching, or testing and not for resale.

(D) Hospitals and other institutions that procure legend drugs for lawful administration by practitioners.

(E) Manufacturers and wholesalers.

(F) Carriers and warehousemen.

As added by P.L.2-1993, SEC.25.

IC 16-42-19-22
Manufacturers and wholesalers; records

Sec. 22. (a) Manufacturers and wholesalers shall maintain records of the movement in commerce of legend drugs for two (2) years immediately following the date of the last entry on those records and shall make those records available, at reasonable times, to law enforcement agencies and their representatives in the enforcement of this chapter.

(b) Evidence obtained under this section may not be used in a criminal prosecution of the person from whom obtained.
As added by P.L.2-1993, SEC.25.

IC 16-42-19-23
Mechanical device for storage or dispensing of drugs; restrictions; inspection of premises

Sec. 23. (a) As used in this section, "mechanical device" means a machine for storage and dispensing of drugs. The term does not include devices or instruments used by practitioners in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or other animals.

(b) A person may not maintain, operate, or use any type of mechanical device in which any legend drug or narcotic drug is stored or held for the purpose of dispensing the drug from the

mechanical device. However, the mechanical device may be used for the storage and dispensing of legend drugs if:

(1) the mechanical device is used in a:

(A) pharmacy that holds a permit issued by the Indiana board of pharmacy;

(B) remote location under the jurisdiction of the board of pharmacy; or

(C) health care facility that is licensed under IC 16-28 or IC 16-21-2; and

(2) the mechanical device is operated under the direct supervision and control of a:

(A) registered pharmacist; or

(B) practitioner;

who is directly responsible for dispensing the drug from the mechanical device.

(c) Inspectors of the Indiana board of pharmacy may inspect the premises of any person suspected of violating this section.

As added by P.L.2-1993, SEC.25. Amended by P.L.98-2006, SEC.1.

IC 16-42-19-24

Repealed

(As added by P.L.2-1993, SEC.25. Repealed by P.L.59-2016, SEC.3.)

IC 16-42-19-25

Anabolic steroids; unlawful acts

Sec. 25. (a) A practitioner may not prescribe, order, distribute, supply, or sell an anabolic steroid for any of the following:

(1) Enhancing performance in an exercise, sport, or game.

(2) Hormonal manipulation intended to increase muscle mass, strength, or weight without a medical necessity.

(b) Except as provided in section 21 of this chapter, a person who is not a practitioner or lawful manufacturer of anabolic steroids may not do any of the following:

(1) Knowingly or intentionally manufacture or deliver an anabolic steroid, pure or adulterated.

(2) Possess, with intent to manufacture or deliver, an anabolic steroid.

As added by P.L.2-1993, SEC.25.

IC 16-42-19-26

Pleading

Sec. 26. In:

(1) any complaint, information, affidavit, or indictment; and

(2) any action or proceeding brought for the enforcement of any provision of this chapter;

it is not necessary to negate an exception, excuse, proviso, or exemption contained in this chapter. The burden of proof of such an

exception, excuse, proviso, or exemption is upon the defendant.
As added by P.L.2-1993, SEC.25.

IC 16-42-19-27
Violations; prior offenders; anabolic steroids

Sec. 27. (a) Unless otherwise specified, a person who knowingly violates this chapter, except sections 25(b) and 30(c) of this chapter, commits a Level 6 felony. However, the offense is a Level 5 felony if the person has a prior conviction under this subsection or IC 16-6-8-10(a) before its repeal.

(b) A person who violates section 25(b) of this chapter commits dealing in an anabolic steroid, a Level 5 felony. However, the offense is a Level 4 felony if the person delivered the anabolic steroid to a person who is:

(1) less than eighteen (18) years of age; and

(2) at least three (3) years younger than the delivering person.

(c) A person who violates section 30(c) of this chapter commits a Class A infraction.
As added by P.L.2-1993, SEC.25. Amended by P.L.2-2005, SEC.58; P.L.158-2013, SEC.248; P.L.48-2015, SEC.3; P.L.187-2015, SEC.24; P.L.59-2016, SEC.4.

IC 16-42-19-28
Immunity of law enforcement officers from prosecution

Sec. 28. Law enforcement officers in the performance of their official duties are exempt from prosecution for and may not be convicted of violations of this chapter.
As added by P.L.2-1993, SEC.25.

IC 16-42-19-29
Requirement of prescription for retail sale of insulin

Sec. 29. A legend drug that is composed wholly or partly of insulin may be sold for retail sale by a pharmacy only to an individual who possesses a prescription from one (1) of the following:

(1) A physician licensed under IC 25-22.5.

(2) A veterinarian licensed to practice veterinary medicine in Indiana.

(3) An advanced practice nurse who meets the requirements of IC 25-23-1-19.5.

(4) A physician assistant licensed under IC 25-27.5 who is delegated prescriptive authority under IC 25-27.5-5-6.
As added by P.L.131-2014, SEC.8.

IC 16-42-19-30
Investigation of suspected legend drugs; records

Sec. 30. (a) Sections 16 and 20 of this chapter do not apply to the actions of a:

(1) person who is employed or retained as an investigator by a pharmaceutical manufacturer described in subdivision (3);

(2) practitioner; or

(3) pharmaceutical manufacturer that is approved by the federal Food and Drug Administration;

performed in an investigation of a pharmaceutical manufacturer's legend drug that is suspected of being counterfeited, adulterated, or misbranded.

(b) A drug sample collected during an investigation described in subsection (a) may only be used for testing or a civil or criminal action. A drug sample collected during an investigation may not be resold or provided for human consumption.

(c) A pharmaceutical manufacturer that collects drug samples during an investigation described in subsection (a) shall:

(1) maintain records of the drug samples; and

(2) make these records available, at a reasonable time, to law enforcement agencies or the agencies' representatives in the enforcement of this chapter.

As added by P.L.48-2015, SEC.4.

IC 16-42-20

Chapter 20. Drugs: Enforcement of Pharmacy Laws and Rules

IC 16-42-20-1

Powers of enforcement officers

Sec. 1. (a) Each member of the Indiana board of pharmacy, designated employees of the Indiana board of pharmacy, and all law enforcement officers of Indiana are primarily responsible for the enforcement of all statutes and rules of Indiana relating to controlled substances. However, the Indiana board of pharmacy is primarily responsible for making accountability audits of the supply and inventory of controlled substances.

(b) An officer or employee of the Indiana board of pharmacy designated by the board may do any of the following:

(1) Carry firearms in the performance of the officer's or employee's official duties.

(2) Execute and serve search warrants, arrest warrants, administrative inspection warrants, subpoenas, and summonses issued under the authority of this state.

(3) Make arrests without warrant for any offense relating to controlled substances committed in the officer's or employee's presence or if the officer or employee has probable cause to believe that the person to be arrested has committed or is committing a felony relating to controlled substances.

(4) Make seizures of property under this chapter.

(5) Perform other law enforcement duties that the Indiana board of pharmacy designates.

As added by P.L.2-1993, SEC.25.

IC 16-42-20-2

"Controlled premises" defined; administrative inspections and warrants

Sec. 2. (a) As used in this section, "controlled premises" means the following:

(1) Places where persons registered or exempted from registration requirements under IC 35-48-3 are required to keep records.

(2) Places, including factories, warehouses, establishments, and conveyances, in which persons registered or exempted from registration requirements under IC 35-48-3 are permitted to possess, manufacture, compound, process, sell, deliver, or otherwise dispose of a controlled substance.

(b) Issuance and execution of administrative inspection warrants must be as follows:

(1) A judge of a court of record within the judge's jurisdiction may, upon proper oath or affirmation showing probable cause, issue warrants for the purpose of conducting administrative

inspections authorized by this chapter and seizures of property appropriate to the inspections.

(2) For purposes of the issuance of administrative inspection warrants, probable cause exists upon showing a valid public interest in the effective enforcement of this chapter sufficient to justify administrative inspection of the area, premises, building, or conveyance in the circumstances specified in the application for the warrant.

(3) A warrant shall be issued only upon an affidavit of a designated officer or employee having knowledge of the facts alleged, sworn to before the judge, and establishing the grounds for issuing the warrant. If the judge is satisfied that grounds for the application exist or that there is probable cause to believe the grounds exist, the judge shall issue a warrant identifying the area, premises, building, or conveyance to be inspected, the purpose of the inspection, and, if appropriate, the type of property to be inspected.

(4) The warrant must do the following:

(A) State the grounds for the warrant's issuance and the name of each person whose affidavit has been taken in support of the warrant.

(B) Be directed to a person authorized by section 1 of this chapter to execute the warrant.

(C) Command the person to whom the warrant is directed to inspect the area, premises, building, or conveyance identified for the purpose specified and, if appropriate, direct the seizure of the property specified.

(D) Identify the item or types of property to be seized, if any.

(E) Direct that the warrant may be served during normal business hours and designate the judge to whom the warrant shall be returned.

(5) A warrant issued under this section must be executed and returned within ten (10) days of the warrant's date unless, upon a showing of a need for additional time, the court orders otherwise.

(6) If property is seized under a warrant, a copy shall be given to the person from whom or from whose premises the property is taken, together with a receipt for the property taken. The return of the warrant shall be made promptly, accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if present, or in the presence of at least one (1) credible person other than the person executing the warrant. A copy of the inventory shall be delivered to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

(7) The judge who issues a warrant shall attach to the warrant

a copy of the return and all papers returnable in connection with the issuance of the warrant and file them with the clerk of the circuit or superior court for the judicial circuit in which the inspection was made.

(c) The Indiana board of pharmacy may make administrative inspections of controlled premises in accordance with the following provisions:

(1) When authorized by an administrative inspection warrant issued under subsection (b), an officer or employee designated by the Indiana board of pharmacy, upon presenting the warrant and appropriate credentials to the owner, operator, or agent in charge, may enter controlled premises for the purpose of conducting an administrative inspection.

(2) When authorized by an administrative inspection warrant, an officer or employee designated by the Indiana board of pharmacy may do the following:

(A) Inspect and copy records required by IC 35-48-3 to be kept.

(B) Inspect, within reasonable limits and in a reasonable manner, controlled premises and all pertinent equipment, finished and unfinished material, containers, and labeling found on the premises, and, except as provided in subdivision (4), all other things on the premises, including records, files, papers, processes, controls, and facilities bearing on violation of laws relating to controlled substances.

(C) Inventory any stock of any controlled substance on the premises and obtain samples of the controlled substance.

(3) This section does not prevent an inspection without a warrant of books and records under an administrative subpoena issued in accordance with IC 4-21.5-3 or prevent entries and administrative inspections, including seizures of property, without a warrant if any of the following conditions exist:

(A) The owner, operator, or agent in charge of the controlled premises consents.

(B) A situation presents imminent danger to health or safety.

(C) A situation involves the inspection of conveyances if there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant.

(D) An exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking.

(E) A situation in which a warrant is not constitutionally required.

(4) An inspection authorized by this section may not extend to financial data, sales data (other than shipment data), or pricing data unless the owner, operator, or agent in charge of the controlled premises consents in writing.

As added by P.L.2-1993, SEC.25.

IC 16-42-20-3
Injunctions

Sec. 3. Any court of record has jurisdiction to restrain or enjoin violations of laws relating to controlled substances.

As added by P.L.2-1993, SEC.25.

IC 16-42-20-4
Cooperative arrangements and confidentiality

Sec. 4. (a) The Indiana board of pharmacy shall cooperate with federal and other state agencies in discharging the board's responsibilities concerning traffic in controlled substances and in suppressing the abuse of controlled substances. To this end, the board may do the following:

(1) Arrange for the exchange of information among governmental officials concerning the use and abuse of controlled substances.

(2) Coordinate and cooperate in training programs concerning controlled substance law enforcement at local, state, and federal levels.

(3) Cooperate with the Drug Enforcement Administration by establishing a centralized unit to accept, catalog, file, and collect statistics, including records of drug dependent persons and other controlled substance law offenders within Indiana, and make the information available for federal, state, and local law enforcement purposes. The board may not furnish the name or identity of a patient or research subject whose identity cannot be obtained under subsection (c).

(4) Conduct programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled substances may be extracted.

(b) Results, information, and evidence received from the Drug Enforcement Administration relating to the regulatory functions of this chapter, including the results of inspections conducted by the Drug Enforcement Administration, may be relied on and acted upon by the Indiana board of pharmacy in the exercise of the board's regulatory functions.

(c) A practitioner engaged in medical practice or research is not required or compelled to furnish the name or identity of a patient or research subject to the Indiana board of pharmacy. A practitioner may not be compelled in any state or local civil, criminal, administrative, legislative, or other proceedings to furnish the name or identity of an individual that the practitioner is obligated to keep confidential.

As added by P.L.2-1993, SEC.25.

IC 16-42-20-5
Forfeitures

Sec. 5. (a) The following are subject to forfeiture:

(1) All controlled substances that are or have been unlawfully manufactured, distributed, dispensed, acquired, or possessed, or with respect to which there has been an act by a person in violation of laws relating to controlled substances.

(2) All raw materials, instruments, devices, and other objects that are used or intended for use by the person in possession of them in unlawfully planting, growing, manufacturing, compounding, processing, delivering, importing, or exporting a controlled substance.

(3) All property that is used or intended for use by the person in possession of the property as a container for property described in subdivision (1) or (2).

(4) All books, records, and research products and materials, including formulas, microfilm, tapes, and data that are used or intended for use by the person in possession in violation of a law relating to controlled substances.

(b) Property subject to forfeiture under this chapter may be seized by an enforcement officer upon process issued by any state court of record having jurisdiction over the property. Seizure without process may be made if any of the following conditions exist:

(1) The seizure is incident to an arrest, a search under a search warrant, or an inspection under an administrative inspection warrant.

(2) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding.

(3) The Indiana board of pharmacy has probable cause to believe that the property is directly or indirectly dangerous to health or safety.

(4) The Indiana board of pharmacy has probable cause to believe that the property was used by the person in possession of the property or is intended to be used in violation of a law relating to controlled substances.

(c) In a seizure under subsection (b), proceedings under subsection (d) shall be instituted promptly.

(d) Property taken or detained under this section is not subject to replevin, but is considered to be in the custody of the Indiana board of pharmacy subject only to the orders and decrees of the court having jurisdiction over the forfeiture proceedings. When property is seized under this chapter, the Indiana board of pharmacy may do any of the following:

(1) Place the property under seal.

(2) Remove the property to a place designated by the board.

(3) Take custody of the property and remove the property to an appropriate location for disposition in accordance with law.

All property seized under this chapter shall be retained by the Indiana board of pharmacy until all proceedings in which the property may be involved have concluded.

(e) When property is forfeited under this chapter, the Indiana board of pharmacy shall do the following:

(1) Sell property that by law is not required to be transferred or destroyed, that has a monetary value, and that is not harmful to the public. The proceeds shall be used for payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, and court costs. All proceeds in excess of expenses shall be paid into the common school fund of the state.

(2) Take custody of property that has no monetary value or cannot lawfully be sold and remove the property for disposition in accordance with administrative rule or forward the property to the Drug Enforcement Administration for disposition.

(f) Controlled substances listed in schedule I that are unlawfully possessed, transferred, sold, or offered for sale are contraband and shall be seized and summarily forfeited to the state. Controlled substances listed in schedule I that are seized or come into the possession of the state, the owners of which are unknown, are contraband and shall be summarily forfeited to the state.

(g) Species of plants from which controlled substances in schedules I and II may be derived that:

(1) have been unlawfully planted or cultivated and the owners or cultivators are unknown; or

(2) are wild growths;

may be seized and summarily forfeited to the state.

(h) The failure, upon demand by the Indiana board of pharmacy or the board's authorized agent, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored to produce an appropriate registration or proof that the person is the holder of the plants constitutes authority for the seizure and forfeiture of the plants.

As added by P.L.2-1993, SEC.25.

IC 16-42-20-6

Burden of proof; liabilities

Sec. 6. (a) It is not necessary for the state to negate any exemption or exception in this chapter or in IC 35-48 in a complaint, an information, an indictment, or other pleading or in a trial, hearing, or other proceeding under this chapter or under IC 35-48. The burden of proof of an exemption or exception is on the person claiming the exemption or exception.

(b) In the absence of proof that a person is the duly authorized holder of an appropriate registration or order form issued under IC 35-48-3, a person is presumed not to be the holder of the registration or form.

As added by P.L.2-1993, SEC.25.

IC 16-42-20-7

Judicial review

Sec. 7. All final determinations, findings, and conclusions of the Indiana board of pharmacy under this chapter are conclusive decisions of the matters involved. A person aggrieved by the decision may obtain review of the decision in accordance with IC 4-21.5-5. Findings of fact by the Indiana board of pharmacy, if supported by substantial evidence, are conclusive.

As added by P.L.2-1993, SEC.25.

IC 16-42-20-8

Education programs

Sec. 8. The addiction services bureau of the division of mental health and addiction shall carry out educational programs designed to prevent and deter misuse and abuse of controlled substances. In connection with these programs, the bureau may do the following:

(1) Promote better recognition of the problems of misuse and abuse of controlled substances within the regulated industry and among interested groups and organizations.

(2) Assist the regulated industry and interested groups and organizations in contributing to the reduction of misuse and abuse of controlled substances.

(3) Consult with interested groups and organizations to aid the groups and organizations in solving administrative and organizational problems.

(4) Evaluate procedures, projects, techniques, and controls conducted or proposed as part of educational programs on misuse and abuse of controlled substances.

(5) Disseminate the results of research on misuse and abuse of controlled substances to promote a better public understanding of what problems exist and what can be done to combat the problems.

(6) Assist in the education and training of state and local law enforcement officials in efforts to control misuse and abuse of controlled substances.

As added by P.L.2-1993, SEC.25. Amended by P.L.215-2001, SEC.86.

IC 16-42-20-9

Research

Sec. 9. The addiction services bureau of the division of mental health and addiction shall encourage research on misuse and abuse of controlled substances. In connection with the research and in furtherance of the enforcement of laws relating to controlled substances, the bureau may do the following:

(1) Establish methods to assess accurately the effects of controlled substances and identify and characterize those with potential for abuse.

(2) Make studies and undertake programs of research to do the

following:

(A) Develop new or improved approaches, techniques, systems, equipment, and devices to strengthen the enforcement of laws relating to controlled substances.

(B) Determine patterns of misuse and abuse of controlled substances and the social effects of such behavior.

(C) Improve methods for preventing, predicting, understanding, and dealing with the misuse and abuse of controlled substances.

(3) Enter into contracts with public agencies, postsecondary educational institutions, and private organizations or individuals for the purpose of conducting research, demonstrations, or special projects that bear directly on misuse and abuse of controlled substances.

As added by P.L.2-1993, SEC.25. Amended by P.L.215-2001, SEC.87; P.L.2-2007, SEC.195.

IC 16-42-20-10
Contracts for educational and research activities

Sec. 10. The addiction services bureau of the division of mental health and addiction may enter into contracts for educational and research activities without performance bonds.

As added by P.L.2-1993, SEC.25. Amended by P.L.215-2001, SEC.88.

IC 16-42-20-11
Anonymity of research subjects

Sec. 11. The Indiana board of pharmacy may authorize persons engaged in research on the use and effects of controlled substances to withhold the names and other identifying characteristics of individuals who are the subjects of the research. Persons who obtain this authorization may not be compelled in any civil, criminal, administrative, legislative, or other proceeding to identify the individuals who are the subjects of research for which the authorization was obtained.

As added by P.L.2-1993, SEC.25.

IC 16-42-20-12
Possession and distribution of controlled substances for research purposes

Sec. 12. The Indiana board of pharmacy may authorize the possession and distribution of controlled substances by persons engaged in research. Persons who obtain this authorization are exempt from state prosecution for possession and distribution of controlled substances to the extent of the authorization.

As added by P.L.2-1993, SEC.25.

IC 16-42-21

Chapter 21. Drugs: Drug Samples

IC 16-42-21-1

"Controlled substance" defined

Sec. 1. As used in this chapter, "controlled substance" has the meaning set forth in IC 35-48-1.

As added by P.L.2-1993, SEC.25.

IC 16-42-21-2

"Drug sample" defined

Sec. 2. As used in this chapter, "drug sample" means a legend drug or a controlled substance that is manufactured, packaged, labeled, or otherwise marketed to be distributed and dispensed without consideration.

As added by P.L.2-1993, SEC.25.

IC 16-42-21-3

"Practitioner" defined

Sec. 3. As used in this chapter, "practitioner" means any of the following:

(1) A licensed physician.

(2) A dentist licensed to practice dentistry in Indiana.

(3) A podiatrist licensed to practice podiatry in Indiana.

(4) A veterinarian licensed to practice veterinary medicine in Indiana.

(5) An optometrist who is:

(A) licensed to practice optometry in Indiana; and

(B) certified under IC 25-24-3.

(6) An advanced practice nurse licensed and granted the authority to prescribe legend drugs under IC 25-23.

As added by P.L.2-1993, SEC.25. Amended by P.L.157-2006, SEC.7; P.L.105-2008, SEC.1.

IC 16-42-21-4

Delivery of drug samples to ultimate user after removal from original packaging or after expiration date; offense

Sec. 4. A person who:

(1) is a manufacturer, wholesaler, practitioner, or pharmacist, or is an employee or agent of a manufacturer, wholesaler, practitioner, or pharmacist; and

(2) either:

(A) knowingly or intentionally removes a drug sample from its original packaging, repackages the drug sample, and delivers the drug sample to an ultimate user in exchange for money or other property; or

(B) knowingly or intentionally delivers a drug sample to an ultimate user when the expiration date listed by the

manufacturer on the drug sample has passed;
commits a Class B misdemeanor.
As added by P.L.2-1993, SEC.25.

IC 16-42-22

Chapter 22. Drugs: Generic Drugs

IC 16-42-22-1

"Brand name" defined

Sec. 1. As used in this chapter, "brand name" means the proprietary or trade name selected by the drug manufacturer and placed upon a drug or the drug's container, label, or wrappings at the time of packaging.

As added by P.L.2-1993, SEC.25.

IC 16-42-22-2

Repealed

(As added by P.L.2-1993, SEC.25. Repealed by P.L.239-1999, SEC.9.)

IC 16-42-22-3

"Customer" defined

Sec. 3. As used in this chapter, "customer" means the individual for whom a prescription is written or electronically transmitted or the individual's representative.

As added by P.L.2-1993, SEC.25. Amended by P.L.204-2005, SEC.8.

IC 16-42-22-4

"Generically equivalent drug product" defined

Sec. 4. (a) As used in this chapter, "generically equivalent drug product" means a multiple source drug product:

(1) that contains an identical quantity of identical active ingredients in the identical dosage forms (but not necessarily containing the same inactive ingredients) that meet the identical physical and chemical standards in The United States Pharmacopeia (USP) described in IC 16-42-19-2, or its supplements, as the prescribed brand name drug; and

(2) if applicable, for which the manufacturer or distributor holds either an approved new drug application or an approved abbreviated new drug application unless other approval by law or of the federal Food and Drug Administration is required.

(b) A drug does not constitute a generically equivalent drug product if it is listed by the federal Food and Drug Administration on or after July 1, 1987, as having actual or potential bioequivalence problems.

As added by P.L.2-1993, SEC.25. Amended by P.L.239-1999, SEC.4.

IC 16-42-22-4.5

"Practitioner" defined

Sec. 4.5. As used in this chapter, "practitioner" means any of the following:

(1) A licensed physician.

(2) A dentist licensed to practice dentistry in Indiana.
(3) A podiatrist licensed to practice podiatric medicine in Indiana.
(4) An optometrist who is:
(A) licensed to practice optometry in Indiana; and
(B) certified under IC 25-24-3.
(5) An advanced practice nurse licensed and granted the authority to prescribe legend drugs under IC 25-23.

As added by P.L.2-1993, SEC.25. Amended by P.L.239-1999, SEC.5; P.L.157-2006, SEC.8.

IC 16-42-22-5
"Substitute" defined

Sec. 5. As used in this chapter, "substitute" means to dispense a generically equivalent drug product in place of the brand name drug product prescribed by the practitioner.

As added by P.L.2-1993, SEC.25.

IC 16-42-22-5.5
Limitation of effect of chapter

Sec. 5.5. Nothing in this chapter authorizes any substitution other than substitution of a generically equivalent drug product.

As added by P.L.239-1999, SEC.6.

IC 16-42-22-6
Prescription forms

Sec. 6. (a) Each written prescription issued by a practitioner must have two (2) signature lines printed at the bottom of the prescription form, one (1) of which must be signed by the practitioner for the prescription to be valid. Under the blank line on the left side of the form must be printed the words "Dispense as written.". Under the blank line on the right side of the form must be printed the words "May substitute.".

(b) Each electronically transmitted prescription issued by a practitioner must:
(1) have an electronic signature; and
(2) include the electronically transmitted instructions "Dispense as written." or "May substitute.".

As added by P.L.2-1993, SEC.25. Amended by P.L.204-2005, SEC.9.

IC 16-42-22-7
Repealed

(As added by P.L.2-1993, SEC.25. Repealed by P.L.239-1999, SEC.9.)

IC 16-42-22-8
Requirements for substitution

Sec. 8. (a) For substitution to occur for a prescription other than

a prescription filled under the Medicaid program (42 U.S.C. 1396 et seq.), the children's health insurance program established under IC 12-17.6-2, the biosimilar biological products requirements under IC 16-42-25, or the Medicare program (42 U.S.C. 1395 et seq.):

(1) the practitioner must:

(A) sign on the line under which the words "May substitute" appear; or

(B) for an electronically transmitted prescription, electronically transmit the instruction "May substitute."; and

(2) the pharmacist must inform the customer of the substitution.

(b) This section does not authorize any substitution other than substitution of a generically equivalent drug product.

As added by P.L.2-1993, SEC.25. Amended by P.L.239-1999, SEC.7; P.L.291-2001, SEC.233; P.L.204-2005, SEC.10; P.L.96-2014, SEC.5.

IC 16-42-22-9

Transmission of practitioner's instructions to pharmacist

Sec. 9. If the practitioner communicates instructions to the pharmacist orally or electronically, the pharmacist shall:

(1) indicate the instructions in the pharmacist's own handwriting on the written copy of the prescription order; or

(2) record the electronically transmitted instructions in an electronic format.

As added by P.L.2-1993, SEC.25. Amended by P.L.204-2005, SEC.11.

IC 16-42-22-10

Substitution prohibited

Sec. 10. (a) If a prescription is filled under the Medicaid program (42 U.S.C. 1396 et seq.), the children's health insurance program established under IC 12-17.6-2, or the Medicare program (42 U.S.C. 1395 et seq.), the pharmacist shall substitute a generically equivalent drug product and inform the customer of the substitution if the substitution would result in a lower price unless:

(1) the words "Brand Medically Necessary" or words of similar meaning are:

(A) written in the practitioner's own writing on the form; or

(B) electronically transmitted with an electronically transmitted prescription; or

(2) the practitioner has indicated that the pharmacist may not substitute a generically equivalent drug product by:

(A) orally stating that a substitution is not permitted; or

(B) for an electronically transmitted prescription, indicating with the electronic prescription that a substitution is not permitted.

(b) If a practitioner orally states that a generically equivalent drug product may not be substituted, the practitioner must subsequently

forward to the pharmacist a written or electronically transmitted prescription with the "Brand Medically Necessary" instruction appropriately indicated in the physician's own handwriting.

(c) This section does not authorize any substitution other than substitution of a generically equivalent drug product.

As added by P.L.2-1993, SEC.25. Amended by P.L.239-1999, SEC.8; P.L.291-2001, SEC.234; P.L.204-2005, SEC.12; P.L.32-2013, SEC.1.

IC 16-42-22-11

Substitution of generic drugs; identification of brand name drug

Sec. 11. If under this section a pharmacist substitutes a generically equivalent drug product for a brand name drug product prescribed by a practitioner, the prescription container label must identify the brand name drug for which the substitution is made and the generic drug. The identification required under this subsection must take the form of the following statement on the drug container label, with the generic name and the brand name inserted on the blank lines:

"_____ Generic for _____".

As added by P.L.2-1993, SEC.25. Amended by P.L.186-1993, SEC.1.

IC 16-42-22-12

Identification of manufacturer or distributor of dispensed drug product on prescription

Sec. 12. The pharmacist shall record on the prescription in writing or in an electronic format for an electronically transmitted prescription the name of the manufacturer or distributor, or both, of the actual drug product dispensed under this chapter.

As added by P.L.2-1993, SEC.25. Amended by P.L.204-2005, SEC.13.

IC 16-42-23

Chapter 23. Drugs: Use of Amygdalin (Laetrile)

IC 16-42-23-1

Health care facilities; restrictions on use

Sec. 1. Except as provided in section 8 of this chapter, a hospital or other health care facility may not interfere with the physician-patient relationship by restricting or forbidding the use of amygdalin (laetrile) as an adjunct to recognized, customary, or accepted modes of therapy in the treatment of any malignancy, disease, illness, or physical condition if the following conditions exist:

(1) Amygdalin (laetrile) is prescribed or administered by a physician holding an unlimited license for the practice of medicine in Indiana.

(2) The patient has signed the "written informed request" as set forth in section 5 of this chapter.

As added by P.L.2-1993, SEC.25.

IC 16-42-23-2

Disciplinary action against attending physician

Sec. 2. A physician may not be subjected to disciplinary action by the medical licensing board of Indiana for prescribing or administering amygdalin (laetrile) to a patient under the physician's care as an adjunct to recognized, customary, or accepted modes of therapy in the treatment of a malignancy, a disease, an illness, or a physical condition if the patient has signed the written informed request as set forth in section 5 of this chapter.

As added by P.L.2-1993, SEC.25.

IC 16-42-23-3

Prescription or administration permitted with written informed request

Sec. 3. A physician may prescribe or administer amygdalin (laetrile) instead of or in addition to customary or accepted modes of therapy in the treatment of a malignancy, a disease, an illness, or a physical condition of a patient who has signed the written informed request as set forth in section 5 of this chapter.

As added by P.L.2-1993, SEC.25.

IC 16-42-23-4

Construction of chapter

Sec. 4. (a) This chapter does not constitute an endorsement of amygdalin (laetrile) for the treatment of a malignancy, a disease, an illness, or a physical condition.

(b) This chapter does not prevent a physician from prescribing amygdalin (laetrile) as a dietary supplement to a patient not suffering from a known malignancy, disease, illness, or physical condition

upon execution of the written informed request.
As added by P.L.2-1993, SEC.25.

IC 16-42-23-5
Written informed request form

Sec. 5. (a) The written informed request must be on a form prepared by and obtained from the medical licensing board of Indiana and must be in substance as follows:

WRITTEN INFORMED REQUEST
FOR PRESCRIPTION OF AMYGDALIN
(LAETRILE) FOR MEDICAL
TREATMENT

Patient's name _____
Address _____
Age _____ Sex _____
Name and address of prescribing physician
_____
Malignancy, disease, illness, or physical condition diagnosed for medical treatment by amygdalin (laetrile) or the use of amygdalin as a dietary supplement:
_____
_____
My physician has explained the following to me:

(1) That the manufacture and distribution of amygdalin (laetrile) has been banned by the Federal Food and Drug Administration.

(2) That neither the American Cancer Society, the American Medical Association, nor the Indiana State Medical Association recommend use of amygdalin (laetrile) in the treatment of a malignancy, a disease, an illness, or a physical condition.

(3) That there are alternative recognized treatments for the malignancy, disease, illness, or physical condition from which I suffer that my physician has offered to provide for me, including the following:

(Here describe)
_____
_____
Notwithstanding this explanation, I request prescription and use of amygdalin (laetrile):

(1) in the medical treatment of the malignancy, disease, illness, or physical condition from which I suffer ( ); or

(2) as a dietary supplement ( ).

(Check (1) or (2))

_____
Patient or person signing for patient

ATTEST:
_____
Prescribing physician

(b) A copy of the written informed request shall be forwarded after execution to the medical licensing board of Indiana for appropriate filing.
As added by P.L.2-1993, SEC.25.

IC 16-42-23-6
Regulation of use, sale, prescription, manufacture, or distribution within state

Sec. 6. (a) Amygdalin (laetrile) is not a drug or a controlled substance under Indiana statutes governing the use, manufacture, or distribution of drugs and controlled substances within Indiana.

(b) A physician may prescribe amygdalin (laetrile) under this chapter as a treatment that may be prescribed under IC 25-22.5-1-1.1(f).

(c) The state department and the Indiana board of pharmacy may regulate the manufacture, distribution, and sale of amygdalin (laetrile) for use within Indiana only to ensure that the substance is not adulterated or misbranded within the meaning of IC 16-42-3.

(d) The state department may not adopt a rule that prohibits the use of amygdalin (laetrile) in a hospital, an ambulatory outpatient surgical center, or a health care facility licensed by the state department.

(e) The Indiana board of pharmacy may not adopt a rule that prohibits the manufacture, distribution, or sale of amygdalin (laetrile) by a person or in any place licensed by the Indiana board of pharmacy.
As added by P.L.2-1993, SEC.25.

IC 16-42-23-7
Required manufacture, sale, distribution, or prescription

Sec. 7. (a) This chapter does not require a:
(1) physician;
(2) pharmacist;
(3) pharmacy;
(4) manufacturer; or
(5) distributor;
to manufacture, sell, or distribute amygdalin (laetrile).

(b) This chapter does not require a physician to prescribe amygdalin (laetrile) for a patient.
As added by P.L.2-1993, SEC.25.

IC 16-42-23-8
Federal funding of health care facilities

Sec. 8. If:
(1) the federal government indicates that the federal government will withdraw all federal funds from a health care facility for allowing amygdalin (laetrile) to be used within the facility; and
(2) providing or allowing use of amygdalin (laetrile) within the

facility would jeopardize the receipt of:

(A) federal funds for reimbursement for Medicare or Medicaid for all persons within the facility; or

(B) construction funds provided by the federal government under the Hill-Burton Hospital Construction Program (42 U.S.C. 291 et seq.) or under Title XVI of the Public Health Services Act (42 U.S.C. 300q-300t);

the hospital or other health care facility may prohibit the use of amygdalin (laetrile) within the hospital or facility.

As added by P.L.2-1993, SEC.25.

IC 16-42-24
Chapter 24. Drugs: Use of Chymopapain

IC 16-42-24-1
Record of use

Sec. 1. The state department shall establish a record keeping system concerning the use of chymopapain and its effectiveness. The state department may require neurosurgeons and orthopedic surgeons to supply information concerning the use of chymopapain.
As added by P.L.2-1993, SEC.25.

IC 16-42-24-2
Administration restricted

Sec. 2. Only a neurosurgeon or an orthopedic surgeon may administer chymopapain. Chymopapain may only be administered in a hospital licensed under IC 16-21-2.
As added by P.L.2-1993, SEC.25.

IC 16-42-24-3
Hospital's restricting or forbidding use prohibited; conditions

Sec. 3. Except as provided in section 10 of this chapter, a hospital may not interfere with the physician-patient relationship by restricting or forbidding the use of chymopapain for treatment of certain back ailments if the following conditions are met:

(1) Chymopapain is administered by a neurosurgeon or an orthopedic surgeon holding an unlimited license to practice medicine in Indiana.

(2) The patient has signed the request form described in section 7 of this chapter.

As added by P.L.2-1993, SEC.25.

IC 16-42-24-4
Disciplinary action against attending physician prohibited if use requested by patient

Revisor's Note: The version of IC 16-42-24-4 appearing in the 1993 Edition of the Indiana Code was printed incorrectly. Use the following version of IC 16-42-24-4.

Sec. 4. A neurosurgeon or an orthopedic surgeon may not be subjected to disciplinary action by the medical licensing board of Indiana for administering chymopapain to a patient under the neurosurgeons's or orthopedic surgeon's care to treat certain back ailments if the patient has signed the request form described in section 7 of this chapter.
As added by P.L.2-1993, SEC.25.

IC 16-42-24-5
Use permitted in place of other therapies if requested by patient

Sec. 5. A neurosurgeon or an orthopedic surgeon may administer

chymopapain instead of other modes of therapy for treatment of certain back ailments of a patient who has signed the request form described in section 7 of this chapter.
As added by P.L.2-1993, SEC.25.

IC 16-42-24-6
Construction of chapter

Sec. 6. This chapter is not an endorsement of chymopapain for the treatment of back ailments.
As added by P.L.2-1993, SEC.25.

IC 16-42-24-7
Use request form

Sec. 7. (a) The state department shall prepare a form for a patient to use to request administration of chymopapain. The form must be substantially in the following form:

REQUEST FOR ADMINISTRATION OF
CHYMOPAPAIN FOR MEDICAL
TREATMENT

Patient's name _____
Address _____
Age _____ Sex _____
Name and address of administering physician
_____
Physical condition diagnosed for medical treatment by chymopapain
_____
_____
My physician has explained the following to me:
(1) That the manufacture and distribution of chymopapain has been banned by the federal Food and Drug Administration.
(2) That there are alternative recognized treatments for the back ailment from which I suffer that my physician has offered to provide for me, including the following: (Here describe)
_____
_____
Notwithstanding this explanation, I request the administration of chymopapain in the medical treatment of the back ailment from which I suffer.

_____
Patient or person signing for patient

ATTEST:
_____
Prescribing physician

(b) A copy of the request form shall be sent immediately after execution to the state department.
As added by P.L.2-1993, SEC.25.

IC 16-42-24-8

Regulation of manufacture, distribution, sale, or use

Sec. 8. (a) Chymopapain is not a drug or a controlled substance under Indiana statutes governing the use, manufacture, or distribution of drugs and controlled substances within Indiana.

(b) The state department and the Indiana board of pharmacy may regulate the manufacture, distribution, and sale of chymopapain for use within Indiana only to ensure that the substance is not adulterated or misbranded within the meaning of IC 16-42-3.

(c) The state department may not adopt a rule that prohibits the use of chymopapain in a hospital or health care facility licensed by the state department.

(d) The Indiana board of pharmacy may not adopt a rule that prohibits the manufacture, distribution, or sale of chymopapain by a person or in a place licensed by the Indiana board of pharmacy.

As added by P.L.2-1993, SEC.25.

IC 16-42-24-9

Manufacture, sale, distribution, or prescription not required

Sec. 9. (a) This chapter does not require a:

(1) physician;
(2) pharmacist;
(3) pharmacy;
(4) manufacturer; or
(5) distributor;

to manufacture, sell, or distribute chymopapain.

(b) This chapter does not require a physician to prescribe chymopapain for a patient.

As added by P.L.2-1993, SEC.25.

IC 16-42-24-10

Use prohibition by health care facility facing loss of federal funding

Sec. 10. If:

(1) the federal government indicates that the federal government will withdraw all federal funds from a health care facility for allowing chymopapain to be used within the facility; and
(2) providing or allowing use of chymopapain within the facility would jeopardize the receipt of:
    (A) federal funds for reimbursement for Medicare or Medicaid for all persons within the facility; or
    (B) construction funds provided by the federal government under the Hill-Burton Hospital Construction Program (42 U.S.C. 291 et seq.) or under Title XVI of the Public Health Services Act (42 U.S.C. 300q-300t);

the hospital or other health care facility may prohibit the use of chymopapain within the hospital or facility.

As added by P.L.2-1993, SEC.25.

IC 16-42-25

Chapter 25. Drugs: Biosimilar Biological Products

IC 16-42-25-1

"Biological product"

Sec. 1. As used in this chapter, "biological product" means:

(1) a virus;
(2) a therapeutic serum;
(3) a toxin;
(4) an antitoxin;
(5) a vaccine;
(6) blood;
(7) a blood component;
(8) a blood derivative;
(9) an allergenic product;
(10) a protein (except any chemically synthesized polypeptide);
(11) a product analogous to a product described in subdivisions (1) through (10);
(12) arsphenamine;
(13) an arsphenamine derivative; or
(14) any other trivalent organic arsenic compound;

applicable to the prevention, treatment, or cure of a disease or condition for human beings.

As added by P.L.96-2014, SEC.6.

IC 16-42-25-2

"Biosimilar"

Sec. 2. As used in this chapter, "biosimilar" refers to a biological product that:

(1) has been licensed as a biosimilar product under 41 U.S.C. 262(k) or has been approved based on an application filed under 21 U.S.C. 355(b)(2); and
(2) is highly similar to the reference product, with:
(A) no clinically meaningful differences between the biological product and the reference product in terms of safety, purity, and potency of the product; and
(B) only minor differences in clinically inactive components.

As added by P.L.96-2014, SEC.6.

IC 16-42-25-3

"Interchangeable"

Sec. 3. As used in this chapter, "interchangeable" means:

(1) a determination by the federal Food and Drug Administration that a biosimilar product may be substituted for a reference biological product without the intervention of the health care provider that prescribed the biological product; or
(2) concerning a biological product filed under 21 U.S.C. 355(b)(2), a product that is designated as therapeutically

equivalent by the federal Food and Drug Administration in the Approved Drug Products with Therapeutic Equivalence Evaluations.

As added by P.L.96-2014, SEC.6.

IC 16-42-25-4

Substitution; conditions

Sec. 4. A pharmacist may substitute for a prescribed biological product if the following conditions are met:

(1) The substitute has been determined by the federal Food and Drug Administration to be interchangeable with the prescribed biological product.

(2) The prescribing practitioner has:

(A) for a written prescription, signed on the line under which the words "May substitute." appear; or

(B) for an electronically transmitted prescription, electronically transmitted the instruction "May substitute.".

(3) The pharmacist has informed the customer of the substitution.

As added by P.L.96-2014, SEC.6.

IC 16-42-25-5

Records of dispensing biologic product; time frame; exception

Sec. 5. (a) Except as provided in subsection (b), in order to ensure medical records are complete and accurate, a pharmacist shall, not later than ten (10) calendar days after dispensing a biologic product, record the name and manufacturer of the biologic product dispensed using:

(1) an interoperable electronic health records system shared with the prescribing practitioner, to the extent a system is in place between the pharmacist and the practitioner; or

(2) if an electronic health records system is not in place between the pharmacist and the prescribing practitioner, any prevailing means available to communicate to the prescribing practitioner the name and manufacturer of the biologic product dispensed.

(b) The pharmacist is not required to report to or communicate with the prescribing practitioner under subsection (a)(2) if:

(1) there is no federal Food and Drug Administration approved interchangeable biological product for the prescribed biological product; or

(2) the refill prescription is not changed from the product originally dispensed.

As added by P.L.96-2014, SEC.6.

IC 16-42-25-6

Record retention; pharmacy; prescribing practitioner

Sec. 6. (a) The pharmacy shall retain a record in accordance with

IC 25-26-13-25(a) of the dispensed biological product.

(b) The prescribing practitioner shall retain a record in accordance with IC 16-39-7-1 of the dispensed biological product.

As added by P.L.96-2014, SEC.6.

IC 16-42-25-7

Link to current list of interchangeable biological products; rules

Sec. 7. (a) The Indiana board of pharmacy shall maintain a link on the board's Internet web site to the current list of all biological products determined by the United States Food and Drug Administration to be interchangeable with a specific reference biological product.

(b) The Indiana board of pharmacy may adopt rules under IC 4-22-2 necessary to implement this chapter.

As added by P.L.96-2014, SEC.6.

IC 16-42-25-8

Compliance with prescription requirements

Sec. 8. A written or electronic prescription for a biological product must comply with the requirements under IC 16-42-22-6.

As added by P.L.96-2014, SEC.6.

IC 16-42-26

Chapter 26. Drugs: Investigational Drug, Biological Product, or Device

IC 16-42-26-1

Affect on clinical trial laws; availability

Sec. 1. (a) This chapter does not affect IC 5-10-8-15, IC 12-15-5-9.2, IC 27-8-25, or IC 27-13-7-20.2.

(b) This chapter does not require a manufacturer to make available any investigational drug, biological product, or device.

As added by P.L.2-2015, SEC.3.

IC 16-42-26-2

"Investigational drug, biological product, or device"

Sec. 2. As used in this chapter, "investigational drug, biological product, or device" means an investigational or experimental:

(1) drug;

(2) biological product; or

(3) medical device;

that has successfully completed Phase I of a federal Food and Drug Administration approved clinical trial, but has not been approved for general use by the federal Food and Drug Administration and remains under investigation in a clinical trial.

As added by P.L.2-2015, SEC.3.

IC 16-42-26-3

"Qualified patient"

Sec. 3. As used in this chapter, "qualified patient" means a patient who meets the requirements under IC 25-22.5-1-2.1(a).

As added by P.L.2-2015, SEC.3.

IC 16-42-26-4

Availability of investigational drug, biological product, or device

Sec. 4. (a) A manufacturer of an investigational drug, biological product, or device may make available the investigational drug, biological product, or device to a qualified patient.

(b) A manufacturer may do any of the following:

(1) Provide an investigational drug, biological product, or device to a qualified patient without receiving compensation.

(2) Require a qualified patient to pay the costs of or associated with the manufacture of the investigational drug, biological product, or device.

As added by P.L.2-2015, SEC.3.

IC 16-42-26-5

Causes of action

Sec. 5. This chapter does not create a cause of action against a manufacturer of an investigational drug, biological product, or device

for any harm to a qualified patient resulting from use of an investigational drug, biological product, or device.
As added by P.L.2-2015, SEC.3.

IC 16-42-27

Chapter 27. Drugs: Overdose Intervention Drugs

IC 16-42-27-1

"Prescriber"

Sec. 1. As used in this chapter, "prescriber" means any of the following:

(1) A physician licensed under IC 25-22.5.

(2) A physician assistant licensed under IC 25-27.5 and granted the authority to prescribe by the physician assistant's supervisory physician and in accordance with IC 25-27.5-5-4.

(3) An advanced practice nurse licensed and granted the authority to prescribe drugs under IC 25-23.

(4) The state health commissioner, if the state health commissioner holds an active license under IC 25-22.5.

(5) A public health authority.

As added by P.L.32-2015, SEC.7. Amended by P.L.6-2016, SEC.5.

IC 16-42-27-2

Prescribing or dispensing of overdose intervention drug without examination; requirements; administration of drug; exemption from practice of medicine; entities acting under standing order; statewide standing order; immunity from prosecution

Sec. 2. (a) A prescriber may, directly or by standing order, prescribe or dispense an overdose intervention drug without examining the individual to whom it may be administered if all of the following conditions are met:

(1) The overdose intervention drug is dispensed or prescribed to:

(A) a person at risk of experiencing an opioid-related overdose; or

(B) a family member, a friend, or any other individual or entity in a position to assist an individual who, there is reason to believe, is at risk of experiencing an opioid-related overdose.

(2) The prescriber instructs the individual receiving the overdose intervention drug or prescription to summon emergency services either immediately before or immediately after administering the overdose intervention drug to an individual experiencing an opioid-related overdose.

(3) The prescriber provides education and training on drug overdose response and treatment, including the administration of an overdose intervention drug.

(4) The prescriber provides drug addiction treatment information and referrals to drug treatment programs, including programs in the local area and programs that offer medication assisted treatment that includes a federal Food and Drug Administration approved long acting, nonaddictive medication

for the treatment of opioid or alcohol dependence.

(b) A prescriber may provide a prescription of an overdose intervention drug to an individual as a part of the individual's addiction treatment plan.

(c) An individual described in subsection (a)(1) may administer an overdose intervention drug to an individual who is suffering from an overdose.

(d) An individual described in subsection (a)(1) may not be considered to be practicing medicine without a license in violation of IC 25-22.5-8-2, if the individual, acting in good faith, does the following:

(1) Obtains the overdose intervention drug from a prescriber or entity acting under a standing order issued by a prescriber.

(2) Administers the overdose intervention drug to an individual who is experiencing an apparent opioid-related overdose.

(3) Attempts to summon emergency services either immediately before or immediately after administering the overdose intervention drug.

(e) An entity acting under a standing order issued by a prescriber must do the following:

(1) Annually register with either the:

(A) state department; or

(B) local health department in the county where services will be provided by the entity;

in a manner prescribed by the state department.

(2) Provide education and training on drug overdose response and treatment, including the administration of an overdose intervention drug.

(3) Provide drug addiction treatment information and referrals to drug treatment programs, including programs in the local area and programs that offer medication assisted treatment that includes a federal Food and Drug Administration approved long acting, nonaddictive medication for the treatment of opioid or alcohol dependence.

(4) Submit an annual report to the state department containing:

(A) the number of sales of the overdose intervention drug dispensed;

(B) the dates of sale of the overdose intervention drug dispensed; and

(C) any additional information requested by the state department.

(f) The state department shall ensure that a statewide standing order for the dispensing of an overdose intervention drug in Indiana is issued under this section. The state health commissioner or a designated public health authority who is a licensed prescriber may, as part of the individual's official capacity, issue a statewide standing order that may be used for the dispensing of an overdose intervention drug under this section. The immunity provided in IC 34-13-3-3

applies to an individual described in this subsection.

(g) A law enforcement officer may not take an individual into custody based solely on the commission of an offense described in subsection (h), if the law enforcement officer, after making a reasonable determination and considering the facts and surrounding circumstances, reasonably believes that the individual:

(1) obtained the overdose intervention drug as described in subsection (a)(1);

(2) complied with the provisions in subsection (d);

(3) administered an overdose intervention drug to an individual who appeared to be experiencing an opioid-related overdose;

(4) provided:

(A) the individual's full name; and

(B) any other relevant information requested by the law enforcement officer;

(5) remained at the scene with the individual who reasonably appeared to be in need of medical assistance until emergency medical assistance arrived;

(6) cooperated with emergency medical assistance personnel and law enforcement officers at the scene; and

(7) came into contact with law enforcement because the individual requested emergency medical assistance for another individual who appeared to be experiencing an opioid-related overdose.

(h) An individual who meets the criteria in subsection (g) is immune from criminal prosecution for the following:

(1) IC 35-48-4-6 (possession of cocaine).

(2) IC 35-48-4-6.1 (possession of methamphetamine).

(3) IC 35-48-4-7 (possession of a controlled substance).

(4) IC 35-48-4-8.3 (possession of paraphernalia).

(5) IC 35-48-4-11 (possession of marijuana).

(6) IC 35-48-4-11.5 (possession of a synthetic drug or synthetic drug lookalike substance).

As added by P.L.32-2015, SEC.7. Amended by P.L.6-2016, SEC.6.

IC 16-42-27-3

Immunity of provider, pharmacist, individual, entity

Sec. 3. (a) Except for an act of gross negligence or willful misconduct, a prescriber who dispenses or prescribes an overdose intervention drug in compliance with this chapter is immune from civil liability arising from those actions.

(b) Except for an act of gross negligence or willful misconduct, a pharmacist who dispenses an overdose intervention drug in compliance with this chapter is immune from civil liability arising from those actions.

(c) Except for an act of gross negligence or willful misconduct, an individual or entity described in section 2(a)(1) of this chapter is immune from civil liability for the following actions:

(1) Obtaining an overdose intervention drug under this chapter.
(2) Administering an overdose intervention drug in good faith.
(3) Acting under a standing order under this chapter.

As added by P.L.32-2015, SEC.7.

IC 16-43

ARTICLE 43. HAZARDOUS PRODUCTS

IC 16-43-1

Repealed

(Repealed by P.L.87-1994, SEC.16.)

IC 16-44

ARTICLE 44. PRODUCT LABELING AND INSPECTION

IC 16-44-1

Chapter 1. Labeling of Used or Reclaimed Lubricating Oil

IC 16-44-1-1

Labeling requirements; advertisements; violations

Sec. 1. (a) A person who deals in retail in:

(1) previously used or previously used and reclaimed;
(2) refined;
(3) recleaned; or
(4) reconditioned:

lubricating oils, lubricants, or mixtures of lubricants shall at all times have every container or item of equipment in or through which any of those products are sold, kept for sale, displayed, or dispensed plainly labeled under subsection (b).

(b) The products described in subsection (a) must be plainly labeled in lettering:

(1) as large as any other lettering on the product; or
(2) in letters at least one-half (1/2) inch in height;

whichever is larger, stating that the contents comprise a previously used product.

(c) A person who publishes, displays, or circulates an advertisement offering for sale any:

(1) previously used or previously used and reclaimed;
(2) rerefined;
(3) recleaned; or
(4) reconditioned;

lubricating oils, lubricants, or mixtures of lubricants shall state in the advertisement, in letters at least as large as any other lettering in the advertisement, the fact that the products have been previously used.

(d) A person who recklessly violates this section commits a Class B misdemeanor.

As added by P.L.2-1993, SEC.27.

IC 16-44-1-2

Injunction

Sec. 2. (a) A person who deals at retail:

(1) in:
    (A) previously used or previously used and reclaimed;
    (B) refined;
    (C) recleaned; or
    (D) reconditioned;

lubricating oils, lubricants, or mixtures of lubricants; and

(2) without:

(A) plainly labeling, as required by this chapter, each container or item of equipment in or through which any of the products described in subdivision (1) are sold, kept for sale, displayed, or dispensed; or

(B) inserting in any advertisement of those products a statement required by this chapter that the products have been previously used, reclaimed, rerefined, recleaned, or reconditioned;

may be enjoined from selling or offering, displaying, or advertising for sale any of the products described in subdivision (1).

(b) An action for an injunction under this section may be brought in any court having jurisdiction to hear and decide cases in the county in which the defendant resides. The action for an injunction may be brought by the following:

(1) The attorney general.

(2) The prosecuting attorney for the county.

(c) The authority granted by this section is in addition to the authority to criminally prosecute a person for a violation of this chapter.

As added by P.L.2-1993, SEC.27.

IC 16-44-1-3

Temporary injunction; prohibition; right to hearing

Sec. 3. This chapter does not confer upon any court the right to grant temporary restraining orders or temporary injunctions under this chapter, and an injunction may not be issued until the defendant has had a day in court.

As added by P.L.2-1993, SEC.27.

IC 16-44-1-4

Injunction; purpose

Sec. 4. (a) The granting or enforcing of an injunction under this chapter is a preventive measure for the protection of the people of this state, not a punitive measure.

(b) The fact that a person has been charged or convicted of a violation of this chapter does not prevent the issuance of an injunction to prevent further unlawful dealing in previously used, reclaimed, rerefined, recleaned, or reconditioned lubricating oils, lubricants, or mixtures of lubricants.

(c) The fact that an injunction has been granted under this chapter does not preclude criminal prosecution.

As added by P.L.2-1993, SEC.27.

IC 16-44-2

Chapter 2. Inspection, Sale, and Delivery of Petroleum Products

IC 16-44-2-1

"Gasoline" defined

Sec. 1. As used in this chapter, "gasoline" has the meaning set forth in IC 6-6-1.1-103.

As added by P.L.2-1993, SEC.27.

IC 16-44-2-2

"Kerosene" defined

Sec. 2. As used in this chapter, "kerosene" means any light fuel oil:

(1) with an A.P.I. gravity of at least thirty-nine (39) degrees Fahrenheit as determined by the ASTM D-287-55 method; and

(2) having an end point of not greater than five hundred ninety (590) degrees Fahrenheit as determined by the ASTM D-86-56 distillation method.

As added by P.L.2-1993, SEC.27. Amended by P.L.177-1993, SEC.3.

IC 16-44-2-2.4

"MTBE" defined

Sec. 2.4. As used in this chapter, "MTBE" refers to the gasoline additive methyl tertiary butyl ether.

As added by P.L.26-2002, SEC.2.

IC 16-44-2-3

"Petroleum products" defined

Sec. 3. (a) As used in this chapter, "petroleum products" includes the following:

(1) Gasoline.

(2) Naphtha.

(3) Kerosene.

(4) Distillate.

(5) Fuel oil.

(6) Similar petroleum products, regardless of name, including benzol and other similar products that are or may be used in the blending of motor fuel.

(b) The term does not include the following:

(1) Lubricating oils.

(2) Any product having:

(A) a Saybolt universal viscosity at one hundred (100) degrees Fahrenheit of at least seventy (70) seconds; and

(B) a flash point of at least one hundred fifty (150) degrees Fahrenheit by the ASTM method.

As added by P.L.2-1993, SEC.27.

IC 16-44-2-4

Gasoline and kerosene for sale or use in Indiana; inspection of samples; fee

Sec. 4. (a) The state department or any authorized agent of the state department may inspect samples of gasoline or kerosene stored in any tank:

(1) that is adjacent to a refinery or marine or pipeline terminal in Indiana; and

(2) from which withdrawals are made for sale or use in Indiana or for transportation to destinations in Indiana other than transportation to other refineries or terminals in Indiana.

(b) Gasoline or kerosene inspected under subsection (a) is subject to the inspection fee specified in section 18 of this chapter whenever the stock in the tank is replenished.

As added by P.L.2-1993, SEC.27. Amended by P.L.177-1993, SEC.4.

IC 16-44-2-5

Imported gasoline and kerosene; inspection of samples; fee

Sec. 5. (a) The state department or any authorized agent of the state department may inspect samples of gasoline or kerosene imported into Indiana other than that placed in storage at refineries or marine or pipeline terminals in Indiana.

(b) Gasoline or kerosene inspected under subsection (a) is subject to the inspection fee specified in section 18 of this chapter.

(c) A person who receives gasoline or kerosene:

(1) that is imported into Indiana (other than that placed in storage at refineries or marine or pipeline terminals in Indiana); and

(2) on which the inspection fee has not been paid;

shall notify the state department of the receipt of the gasoline or kerosene.

As added by P.L.2-1993, SEC.27. Amended by P.L.177-1993, SEC.5.

IC 16-44-2-6

Place of inspections

Sec. 6. The state department may conduct inspections and tests on gasoline or kerosene at any place the gasoline or kerosene is offered for sale in Indiana.

As added by P.L.2-1993, SEC.27. Amended by P.L.177-1993, SEC.6.

IC 16-44-2-7

Prohibition on sale of defective products

Sec. 7. (a) If the state department's inspection of gasoline or kerosene under this chapter reveals that the gasoline or kerosene fails to meet the specifications prescribed by law for those products, the state department may prohibit the sale of those products.

(b) A person may not offer for sale any gasoline or kerosene that the state department has prohibited from sale.

As added by P.L.2-1993, SEC.27. Amended by P.L.177-1993, SEC.7.

IC 16-44-2-8
Conduct of inspections; minimum specifications

Sec. 8. (a) The inspections and tests made by the state department under this chapter shall be conducted in accordance with the methods outlined by the American Society for Testing and Materials.

(b) The inspections and tests as to gasoline, gasohol, and kerosene must reflect the following minimum specifications necessary for the approval of the product:

(1) Gasoline or gasohol:

(A) Corrosion Test – Method ASTM D-130. A clean copper strip may not show more than extremely slight discoloration when submerged in the gasoline for three (3) hours at one hundred twenty-two (122) degrees Fahrenheit.

(B) Distillation Range – Method ASTM D-86. When the thermometer reads one hundred sixty-seven (167) degrees Fahrenheit, not less than ten percent (10%) may be evaporated. When the thermometer reads two hundred eighty-four (284) degrees Fahrenheit, not less than fifty percent (50%) may be evaporated. When the thermometer reads three hundred ninety-two (392) degrees Fahrenheit, not less than ninety percent (90%) may be evaporated. The residue may not exceed two percent (2%). Percent evaporated is found by adding the distillation loss to the amount collected in the receiver at each specification temperature.

(C) Sulphur – Method ASTM D-1266 or D-2622. Sulphur may not exceed twenty-five hundredths of one percent (0.25%).

(D) Vapor Pressure – Method ASTM D-4953, ASTM D-5191, or any other ASTM method to determine vapor pressure approved by the United States Environmental Protection Agency. For gasoline, the Reid vapor pressure at one hundred (100) degrees Fahrenheit may not exceed the following:

(i) Fifteen (15) pounds per square inch at the normal barometric pressure at the point of delivery during November, December, January, February, and March.

(ii) Fourteen (14) pounds per square inch during April and October.

(iii) Twelve (12) pounds per square inch during May, June, July, August, and September.

(E) For gasohol (a blend of gasoline and alcohol permitted under federal tax requirements), the vapor pressure may not exceed the following:

(i) Sixteen (16) pounds per square inch during November, December, January, February, and March.

(ii) Fifteen (15) pounds per square inch during April and October.

(iii) Thirteen (13) pounds per square inch during May, June, July, August, and September.

(F) After July 23, 2004, gasoline may not contain more than one-half percent (0.5%) of MTBE by volume.

(2) Kerosene:

(A) Flash Test – Method ASTM D-56. Flash point may not be lower than one hundred (100) degrees Fahrenheit.

(B) For the purpose of this chapter, any petroleum product designated by name or reference as "kerosene" must meet the federal specifications for kerosene VV-K-211d in effect on March 1, 1977.

(c) Gasoline, gasohol, and kerosene products that do not comply with the minimum specifications described in subsection (b) may not be sold, offered for sale, or used in Indiana.

(d) Petroleum products other than gasoline, gasohol, or kerosene shall be inspected and tested by the methods as are necessary to determine the contents and characteristics of the product.

As added by P.L.2-1993, SEC.27. Amended by P.L.177-1993, SEC.8; P.L.151-1997, SEC.1; P.L.26-2002, SEC.3.

IC 16-44-2-9

Petroleum products containing ethanol or methanol; sale or delivery other than retail; instrument requirements

Sec. 9. (a) A person who sells or delivers a petroleum product containing ethanol (ethyl alcohol) or methanol (methyl alcohol), or both, to a person other than a retail consumer must place on the instrument evidencing the sale or delivery of the petroleum product:

(1) the name of each alcohol; and

(2) the percentage (to the nearest whole percent), by volume, of each alcohol;

that is contained in the petroleum product sold or delivered by the person.

(b) A person who fails to comply with this section commits a Class A infraction.

As added by P.L.2-1993, SEC.27.

IC 16-44-2-10

Repealed

(Repealed by P.L.123-1994, SEC.3.)

IC 16-44-2-11

Samples; inspections and tests

Sec. 11. (a) The state department or any authorized agent of the state department may take samples of petroleum products for tests, make inspections at any points inside or outside Indiana, open any original container containing petroleum products, and take a true

sample of not less than sixteen (16) ounces of the contents, even though the original container may still be in the possession of a common or contract carrier if opening and sampling does not unduly inconvenience or hamper the transportation of the products. The state department or any authorized agent of the state department may not take a sample that exceeds sixty-four (64) fluid ounces.

(b) If an original container is opened and sampled under subsection (a), the container shall be resealed with seals furnished by the state department or any authorized agent of the state department.

As added by P.L.2-1993, SEC.27. Amended by P.L.177-1993, SEC.10.

IC 16-44-2-12

Powers of law enforcement officers

Sec. 12. The authorized agents or employees of the state department have the authority of law enforcement officers in the enforcement of this chapter, including the authority to arrest, with or without warrants, and to take offenders to courts for prosecution.

As added by P.L.2-1993, SEC.27. Amended by P.L.177-1993, SEC.11.

IC 16-44-2-13

Rules and regulations governing inspections, forms, and enforcement

Sec. 13. The state department may adopt rules under IC 4-22-2 concerning the following:

(1) Methods of inspections.

(2) The providing of forms required.

(3) Other matters necessary for the enforcement of this chapter.

As added by P.L.2-1993, SEC.27. Amended by P.L.177-1993, SEC.12.

IC 16-44-2-14

Railroad and transportation companies; records; inspections

Sec. 14. (a) Every agent and employee of any railroad company or other transportation company that has the custody of books or records showing the shipment or receipt of petroleum products shall give and permit the state department or the state department's agents and employees free access to those books and records for the purpose of determining the amount of those products shipped and received.

(b) All clerks, bookkeepers, express agents, railroad agents or officials, employees of common carriers or contract carriers, or other persons shall assist the state department or the state department's employees or authorized agents, when so requested, in tracing, finding, and inspecting shipments.

As added by P.L.2-1993, SEC.27. Amended by P.L.177-1993, SEC.13.

IC 16-44-2-15
Receipt of kerosene or gasoline; definition

Sec. 15. For the purposes of this chapter, gasoline or kerosene is considered to be received in Indiana as follows:

(1) If stored in tanks adjacent to a refinery or a marine or pipeline terminal in Indiana, the gasoline or kerosene is considered to be received when withdrawn from storage for sale or use in Indiana or for transportation to destinations in Indiana other than for transfer to other refineries or marine or pipeline terminals in Indiana and not before. When so withdrawn, the gasoline or kerosene is considered to be received by the person who is the owner of the gasoline or kerosene at the time of withdrawal unless the gasoline or kerosene is withdrawn for transportation or delivery to or for the account of a person who is bonded under the gasoline tax law (IC 6-6-1.1), in which case the gasoline or kerosene is considered to be received by the person to or for whose account the gasoline or kerosene is transported or delivered.

(2) If imported into Indiana (other than to a refinery or marine or pipeline terminal in Indiana), the gasoline or kerosene is considered to be received at the time and by the person who is the owner of the gasoline or kerosene when the gasoline or kerosene is spotted or placed for unloading in Indiana.

(3) If produced, blended, or compounded in Indiana other than at a refinery or a marine or pipeline terminal, the gasoline or kerosene is considered to be received when produced, blended, or compounded.

As added by P.L.2-1993, SEC.27.

IC 16-44-2-16
Records of tests and inspections

Sec. 16. The state department shall keep the records necessary for the purposes of this chapter of all tests and inspections under this chapter.

As added by P.L.2-1993, SEC.27. Amended by P.L.177-1993, SEC.14.

IC 16-44-2-17
Certificate of inspection

Sec. 17. (a) The state department shall furnish to the person for whom inspections are made under this chapter a certificate of inspection covering each receipt by that person of gasoline or kerosene with respect to which an inspection is made. The certificate must indicate the following:

(1) The date of the inspection.

(2) The identity of the container from which the sample was taken.

(3) The kind and quantity of the product received.

(4) The identity of the conveyance by which the product was received.

(5) The result of the test and inspection.

(b) To enable the state department to make certificates covering withdrawals from storage at a refinery or marine or pipeline terminal and the receipt of gasoline or kerosene at other points in Indiana, the records of withdrawals and receipts shall be available to the state department during all reasonable business hours.

As added by P.L.2-1993, SEC.27. Amended by P.L.177-1993, SEC.15.

IC 16-44-2-18

Inspection fees; surety bonds; failure to pay tax; penalty and interest

Sec. 18. (a) Except as provided in subsection (b), fees for the inspection of gasoline or kerosene shall be at the rate of fifty cents ($0.50) per barrel (fifty (50) gallons) on all gasoline or kerosene received in Indiana less deductions provided in this section.

(b) A fee for inspection of gasoline or kerosene may not be charged for the following:

(1) On transport or tank car shipments direct to the federal government.

(2) On gasoline or kerosene received and subsequently exported from Indiana or returned to refineries or marine or pipeline terminals in Indiana.

(c) Fees shall be paid to the state department by the person receiving gasoline or kerosene in Indiana at the time gasoline or kerosene products are received, unless the person receiving the gasoline or kerosene is licensed as a distributor under the gasoline tax law (IC 6-6-1.1). In that case, the person in receipt of the gasoline or kerosene shall do the following:

(1) Include in the person's monthly gasoline tax report a statement of all gasoline and kerosene received during the preceding calendar month on which inspection fees are due.

(2) Remit the amount of the inspection fees at the same time the monthly motor fuel tax report is due.

(d) A refiner or other person supplying gasoline or kerosene to the first receiver in Indiana may elect to pay the fees monthly on all gasoline or kerosene supplied to persons in Indiana not licensed as distributors under the gasoline tax law (IC 6-6-1.1). If the supplier is not licensed as a distributor under the gasoline tax law of Indiana (IC 6-6-1.1), the supplier shall, as a condition precedent to such election, file with the state department a corporate surety bond that meets the following conditions:

(1) Is in the form and amount that the state department determines, not to exceed two thousand dollars ($2,000).

(2) Is conditioned that the supplier does the following:

(A) Reports all gasoline and kerosene supplied by the

supplier to persons in Indiana not licensed as distributors under the gasoline tax law (IC 6-6-1.1).

(B) Pays inspection fees monthly on or before the twenty-fifth day of each calendar month for the preceding calendar month.

(e) A person taking credit for gasoline or kerosene exported or returned to a refinery or terminal shall substantiate that credit in the manner that the state department reasonably requires by rule.

(f) A distributor who fails to file a monthly report and pay the tax due as required by this chapter is subject to a penalty of five percent (5%) of the amount of unpaid tax due and interest on the unpaid tax and penalty at the rate of eight percent (8%) annually. However, if a delay not exceeding ten (10) days is due to a mistake, an accident, or an oversight without intent to avoid payment, the administrator may waive the penalty and interest.

As added by P.L.2-1993, SEC.27. Amended by P.L.177-1993, SEC.16; P.L.28-1997, SEC.29; P.L.214-2005, SEC.60.

IC 16-44-2-18.5

Special fuel inspection fee; collection; refunds

Sec. 18.5. (a) As used in this section, "special fuel" has the meaning set forth in IC 6-6-2.5-22, except that the term does not include kerosene.

(b) Except as provided in subsection (c), fees for the inspection of special fuel shall be at the rate of fifty cents ($0.50) per barrel (fifty (50) gallons) on all special fuel sold or used in producing or generating power for propelling motor vehicles in Indiana less deductions provided in this section.

(c) A fee for the inspection of special fuel may not be charged with respect to special fuel that is exempt from the special fuel tax under IC 6-6-2.5-30.

(d) The fee imposed by this chapter on special fuel sold or used in producing or generating power for propelling motor vehicles in Indiana shall be collected and remitted to the state at the same time, by the same person, and in accordance with the same requirements for collection and remittance of the special fuels tax under IC 6-6-2.5-35.

(e) Fees collected under this section shall be deposited by the department in the underground petroleum storage tank excess liability trust fund established by IC 13-23-7-1.

(f) A person who receives a refund of special fuel tax under IC 6-6-2.5 is also entitled to a refund of fees paid under this section if:

(1) the fees were paid with respect to special fuel that was used for an exempt purpose described in IC 6-6-2.5-30; and

(2) the person submits to the department of state revenue a claim for a refund, in the form prescribed by the department of state revenue, that includes the following information:

(A) Any evidence requested by the department of state revenue concerning the person's:

(i) payment of the fee imposed by this section; and

(ii) receipt of a refund of special fuel taxes from the department of state revenue under IC 6-6-2.5.

(B) Any other information reasonably requested by the department of state revenue.

The department of state revenue may make any investigation it considers necessary before refunding fees to a person.

As added by P.L.214-2005, SEC.61. Amended by P.L.1-2006, SEC.307.

IC 16-44-2-19

Disposition of funds collected

Sec. 19. All money collected for inspections under this chapter shall be deposited in the underground petroleum storage tank excess liability trust fund established by IC 13-23-7-1.

As added by P.L.2-1993, SEC.27. Amended by P.L.1-1996, SEC.78; P.L.2-1998, SEC.61.

IC 16-44-2-20

Inspectors; conflict of interest

Sec. 20. A person employed by the state department to make inspections under this chapter may not do any of the following:

(1) Directly or indirectly engage in the business of dealing in petroleum products.

(2) Engage in any other business of a nature that prevents proper attention to the details and duties of the necessary inspections as prescribed by this chapter.

As added by P.L.2-1993, SEC.27. Amended by P.L.177-1993, SEC.17.

IC 16-44-2-21

False or altered mark or brand

Sec. 21. A person may not knowingly mark or brand falsely a container of petroleum products or change, alter, or deface the mark or brand of such a container.

As added by P.L.2-1993, SEC.27.

IC 16-44-2-22

Violations

Sec. 22. Except as provided in sections 9 and 10 of this chapter, a person who recklessly violates this chapter commits a Class B misdemeanor.

As added by P.L.2-1993, SEC.27.

IC 16-44-3

Chapter 3. Inspection, Labeling, and Registration of Motor Fuel and Motor Fuel Outlets

IC 16-44-3-1

Accuracy of octane labeling; program

Sec. 1. To ensure uniformity among the requirements for motor fuels in Indiana, this chapter establishes a program to assure the accuracy of the octane labeling of motor fuels.

As added by P.L.2-1993, SEC.27.

IC 16-44-3-1.5

Outlets selling aviation fuels only; applicability of chapter

Sec. 1.5. This chapter does not apply to motor fuel outlets where only aviation fuels are distributed or sold.

As added by P.L.177-1993, SEC.18.

IC 16-44-3-2

"Motor fuel" defined

Sec. 2. As used in this chapter, "motor fuel" means gasoline or gasoline-oxygenate blends suitable for use as a fuel in a motor vehicle.

As added by P.L.2-1993, SEC.27.

IC 16-44-3-3

"Motor fuel outlet" defined

Sec. 3. As used in this chapter, "motor fuel outlet" means a location where motor fuel is sold at retail to the public.

As added by P.L.2-1993, SEC.27.

IC 16-44-3-4

Enforcement and administration of chapter

Sec. 4. The state department shall enforce and administer this chapter.

As added by P.L.2-1993, SEC.27.

IC 16-44-3-5

Inspections; rules and regulations

Sec. 5. (a) The state department shall establish a motor fuel inspection program that provides for the:

(1) inspection; and

(2) analysis;

of octane levels of motor fuels sold at motor fuel outlets.

(b) The state department shall adopt rules under IC 4-22-2 to use the test standards and tolerances set forth in the Annual Book of ASTM Standards and Supplements, except as amended or modified by the state department.

As added by P.L.2-1993, SEC.27.

IC 16-44-3-6
Adoption of rules

Sec. 6. The state department may adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.2-1993, SEC.27.

IC 16-44-3-7
Inspection program; powers of department

Sec. 7. In establishing the inspection program, the state department shall collect samples of motor fuel on a random basis for testing and analysis. The state department may do the following:

(1) Obtain access to motor fuel outlets during normal business hours for the following purposes:
  (A) Examination.
  (B) Inspection.
  (C) Investigation.

(2) Issue a stop sale order for violation of this chapter or for a motor fuel found not to be in compliance with the standards set forth in this chapter.

(3) Rescind a stop sale order under subdivision (2) if the motor fuel is brought into full compliance with this chapter.

(4) Refuse to issue, revoke, or suspend the registration of a motor fuel that is not in full compliance with this chapter.

As added by P.L.2-1993, SEC.27.

IC 16-44-3-8
Motor fuel sellers; registration

Sec. 8. (a) A person who sells a motor fuel at a motor fuel outlet shall do the following:

(1) Separately register each motor fuel outlet with the state department.

(2) Pay the registration fee set under section 9 of this chapter.

(b) The registration required under subsection (a) must include the following:

(1) The name and address of the principal business address of the person registering the motor fuel.

(2) The name and address of the motor fuel outlet where the motor fuel is sold.

(3) The name, brand, or trademark and the antiknock motor fuel to be marketed at the motor fuel outlet.

As added by P.L.2-1993, SEC.27.

IC 16-44-3-9
Motor fuel outlets; registration and penalty fees

Sec. 9. (a) The state department shall collect an annual registration fee of fifty dollars ($50) for each motor fuel outlet registered under this chapter.

(b) In addition to the fee in subsection (a), a penalty fee of fifty

dollars ($50) may be imposed by the state department for an application for registration renewal filed after the previous registration has expired. The state department may waive the penalty fee for a showing of good cause.
As added by P.L.2-1993, SEC.27. Amended by P.L.168-2003, SEC.4.

IC 16-44-3-10
Motor fuel inspection fund

Sec. 10. (a) The motor fuel inspection fund is established for the purpose of facilitating compliance with and enforcement of this chapter. The state department shall administer the fund.

(b) The fund consists of the fees collected under section 9 of this chapter.

(c) The expenses of administering the fund shall be paid from the money in the fund.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund.
As added by P.L.2-1993, SEC.27.

IC 16-44-3-11
Violation of chapter

Sec. 11. A person violates this chapter if the person does any of the following:

(1) Markets a motor fuel without properly labeling the octane number (antiknock index) of the motor fuel in conformance with the octane posting requirements contained in 16 CFR Part 306 and issued under the Petroleum Marketing Practices Act of 1978 (15 U.S.C. 2801).

(2) Submits:
  (A) incorrect;
  (B) misleading; or
  (C) false information;
regarding the registration of a motor fuel or a motor fuel outlet.

(3) Hinders or obstructs the state department in the enforcement of this chapter.

(4) Markets a motor fuel that is not in compliance with this chapter.

(5) Markets a motor fuel at an outlet that is not registered by the person under this chapter.
As added by P.L.2-1993, SEC.27.

IC 16-45

ARTICLE 45. FEDERAL AID FOR HEALTH PROGRAMS

IC 16-45-1

Repealed

(Repealed by P.L.144-1996, SEC.15.)

IC 16-45-2
Repealed

(Repealed by P.L.144-1996, SEC.15.)

IC 16-45-3

Chapter 3. State Acceptance of Federal Aid for Maternity and Infant Welfare

IC 16-45-3-1

Acceptance of federal act

Sec. 1. The state of Indiana accepts the provisions and benefits of an act of the United States Congress entitled "An act for the promotion of the welfare and hygiene of maternity and infancy, and for other purposes," approved November 23, 1921, and will observe and comply with all the requirements of that act (42 U.S.C. 701 et seq.).

As added by P.L.2-1993, SEC.28.

IC 16-45-3-2

Custody of funds

Sec. 2. (a) The treasurer of state is designated as the custodian of all money received by the state from any appropriations made by the United States Congress for the purpose of cooperating with the several states in promoting the welfare and hygiene of maternity and infancy.

(b) The treasurer of state may receive and provide for the proper custody of money received from the federal government under this chapter. The treasurer of state may make disbursements from that money upon the order of the state department and upon a warrant of the auditor of state.

As added by P.L.2-1993, SEC.28.

IC 16-45-3-3

Administration of chapter

Sec. 3. The state department is designated as the state agency to carry out this chapter. The state department may, through the division of maternal and child health, cooperate with the United States Department of Labor in the administration of 42 U.S.C. 701 et seq. and may formulate plans for the effective administration of 42 U.S.C. 701 et seq.

As added by P.L.2-1993, SEC.28.

IC 16-45-4

Chapter 4. Rural Health Care Pilot Program Support Fund

IC 16-45-4-1

"Office"

Sec. 1. As used in this chapter, "office" means the office of technology established by IC 4-13.1-2-1.

As added by P.L.108-2007, SEC.1.

IC 16-45-4-2

"Pilot program"

Sec. 2. As used in this chapter, "pilot program" refers to the rural health care pilot program established by the Federal Communications Commission under 47 U.S.C. 254(h)(1)(A) to provide federal funding to support the construction of state or regional broadband networks and the services provided over those networks.

As added by P.L.108-2007, SEC.1. Amended by P.L.7-2015, SEC.45.

IC 16-45-4-3

Rural health care pilot program support fund

Sec. 3. (a) The rural health care pilot program support fund is established for the purpose of making grants to Indiana health care providers who participate in the pilot program. The fund shall be administered by the office.

(b) The expenses of administering the fund shall be paid from the money in the fund.

(c) The fund consists of:

(1) money appropriated or otherwise designated or dedicated by the general assembly; and

(2) gifts, grants, and bequests.

(d) Notwithstanding IC 5-13, the treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund under IC 5-10.3-5. The treasurer of state may contract with investment management professionals, investment advisers, and legal counsel to assist in the management of the fund and may pay the state expenses incurred under those contracts.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.108-2007, SEC.1.

IC 16-45-4-4

Making grants to health care providers

Sec. 4. (a) The office must use money in the fund to make grants to health care providers who participate in the pilot program. A health care provider that receives a grant under this chapter must use the grant money to make the local match required as a condition of the provider's participation in the pilot program.

(b) The office may:

(1) prescribe grant application forms;
(2) establish grant application procedures; and
(3) take any other action necessary to implement this chapter.

As added by P.L.108-2007, SEC.1.

IC 16-46

ARTICLE 46. STATE HEALTH GRANTS AND PROGRAMS

IC 16-46-1

Chapter 1. State Grants to Local Boards of Health for the Improvement of Community Health Services

IC 16-46-1-1

Legislative intent

Sec. 1. In many areas within Indiana, local boards of health lack the necessary funds to provide adequate and proper health services. The general assembly by this chapter intends that the state shall assume the state's responsibility for providing adequate and proper health services through local boards of health throughout Indiana. Other statutes have established a partnership responsibility by and between the state and local government for the provision of health services, and the purpose of this chapter is to enable local boards of health through the provision of state foundation, adjustment, and incentive support to more adequately meet present and future needs and requirements for community health services.

As added by P.L.2-1993, SEC.29.

IC 16-46-1-2

Adjustment and incentive support

Sec. 2. As used in this chapter, "adjustment and incentive support" means money in addition to the foundation support allocated to local boards of health under this chapter.

As added by P.L.2-1993, SEC.29.

IC 16-46-1-3

Community health services

Sec. 3. As used in this chapter, "community health services" includes the following:

(1) All activities and responsibilities assigned or delegated to local boards of health by statute.

(2) Those activities and responsibilities delegated to local boards of health by the state department.

As added by P.L.2-1993, SEC.29.

IC 16-46-1-4

County health fund

Sec. 4. As used in this chapter, "county health fund" means a special fund established by the proper local authority for the purposes of appropriating money and allocating expenditures solely for the operation of official county or multiple county boards of health.

As added by P.L.2-1993, SEC.29.

IC 16-46-1-5
Foundation support

Sec. 5. As used in this chapter, "foundation support" means a fixed amount distributed to each local board of health meeting the conditions in this chapter.

As added by P.L.2-1993, SEC.29.

IC 16-46-1-6
Inclusive

Sec. 6. As used in this chapter, "inclusive" means a comprehensive program within the scope of statutory responsibilities of local boards of health and those functions assigned by the state department.

As added by P.L.2-1993, SEC.29.

IC 16-46-1-7
Local board of health

Sec. 7. As used in this chapter, "local board of health" means a board established under IC 16-20-2, IC 16-20-3, IC 16-20-4, or IC 16-22-8.

As added by P.L.2-1993, SEC.29.

IC 16-46-1-8
Migratory temporary increase in population

Sec. 8. As used in this chapter, "migratory temporary increase in population" refers to migratory workers and any other population of a migratory nature that requires special consideration and special community health services.

As added by P.L.2-1993, SEC.29.

IC 16-46-1-9
Partnership responsibility

Sec. 9. As used in this chapter, "partnership responsibility" means the sharing of the cost for local health services by state and local governmental units.

As added by P.L.2-1993, SEC.29.

IC 16-46-1-10
Grants to local boards

Sec. 10. The state department may make grants to local boards of health from funds appropriated to the state department for this purpose, in accordance with the formula provided in section 14 of this chapter.

As added by P.L.2-1993, SEC.29.

IC 16-46-1-11
Community health services plan

Sec. 11. To qualify for financial support under this chapter, a local

board of health must submit an acceptable plan of community health services to the state department.
As added by P.L.2-1993, SEC.29.

IC 16-46-1-12
Inclusive health plans

Sec. 12. An inclusive health plan for local boards of health must include the services necessary to meet additional demands for health services resulting from a migratory temporary increase in population or other unusual circumstances affecting the health of the community.
As added by P.L.2-1993, SEC.29.

IC 16-46-1-13
Distribution of funds

Sec. 13. (a) State funds for foundation and adjustment and incentive support may be distributed to local boards of health through the established local authority and in accordance with legally established guidelines.

(b) Funds distributed to local boards of health under this chapter shall be placed in a special fund known as the county health fund or the city general fund.
As added by P.L.2-1993, SEC.29.

IC 16-46-1-14
Basis of financial assistance

Sec. 14. (a) Whenever a local board of health qualifies for state financial assistance under this chapter, the assistance shall be based upon an annual foundation support not to exceed ten thousand dollars ($10,000) plus an amount in accord with a formula on a pro rata basis determined by the state department in proportion to the amount appropriated.

(b) The formula described in subsection (a) shall be provided for by rule of the state department and within the policy and intent of this chapter.
As added by P.L.2-1993, SEC.29.

IC 16-46-1-15
Joint and contract health services

Sec. 15. A local board of health may join or contract with another board of health for the provision of health services when it is economical to do so.
As added by P.L.2-1993, SEC.29.

IC 16-46-1-16
Rules

Sec. 16. The state department may adopt rules under IC 4-22-2 necessary to implement this chapter. The rules must implement and

construe the activities and responsibilities assigned to local boards of health by Indiana statutes and those delegated to the state department.
As added by P.L.2-1993, SEC.29.

IC 16-46-1-17
Funds from other sources

Sec. 17. This chapter does not prevent local boards of health from receiving funds from other sources and disbursing those funds for use:

(1) in the improvement and extension of existing programs; and
(2) in the development of new and needed programs;

to protect the health of the public.
As added by P.L.2-1993, SEC.29.

IC 16-46-2

Chapter 2. Governor's Use of State Funds to Prevent Spread of Disease

IC 16-46-2-1

Drawing of orders

Sec. 1. For the purpose of preventing the introduction and spread of cholera and other contagious and infectious diseases within Indiana, the governor may, at any time the governor believes it proper and necessary, draw an order on the auditor of state, subject to the limitation set forth in section 4 of this chapter.

As added by P.L.2-1993, SEC.29.

IC 16-46-2-2

Issuance of warrants

Sec. 2. The auditor of state shall issue to the governor a warrant on the state treasury in the amount named in the order of the governor.

As added by P.L.2-1993, SEC.29.

IC 16-46-2-3

Use of funds

Sec. 3. The governor shall expend the amount drawn, aided by the state department and other persons designated by the governor, in the manner ordered by the governor.

As added by P.L.2-1993, SEC.29.

IC 16-46-2-4

Limit on funds

Sec. 4. Not more than fifty thousand dollars ($50,000) may be drawn under this chapter in any one (1) fiscal year.

As added by P.L.2-1993, SEC.29.

IC 16-46-3

Chapter 3. Cooperative Efforts of State Department of Health and Indiana State Board of Education

IC 16-46-3-1

Consultation and cooperation

Sec. 1. The state department and the Indiana state board of education shall at all times consult with and cooperate with one another in matters relating to the health of children attending the public schools.

As added by P.L.2-1993, SEC.29.

IC 16-46-3-2

Consultant and advisory services

Sec. 2. The state department and the Indiana state board of education shall jointly work out a program under which the services of all doctors, nurses, dentists, sanitary engineers, and other specialists of the state department shall be made available to public and other schools accredited by the Indiana state board of education for consultant and advisory services in matters pertaining to the following:

(1) School nursing.

(2) Obtaining the services of physicians and dentists for schools.

(3) Sanitation of school buildings and grounds.

(4) Health.

(5) Physical education.

As added by P.L.2-1993, SEC.29.

IC 16-46-3-3

Effect of chapter

Sec. 3. This chapter does not amend, supersede, or repeal any other statute vesting authority in any township trustee, school board, board of school trustees, or board of school commissioners.

As added by P.L.2-1993, SEC.29.

IC 16-46-4

Chapter 4. Cooperative Efforts of State Department of Health and Other State Agencies

IC 16-46-4-1

Availability of state health department facilities and personnel

Sec. 1. The professional, technical, and administrative facilities and personnel of the state department shall be made available to other agencies of state government upon request of the appropriate administrative authority of the other agencies.

As added by P.L.2-1993, SEC.29.

IC 16-46-4-2

Facilities and personnel available to state health department

Sec. 2. Upon the request of the local board of health and the commissioner of the state department, the professional, technical, and administrative facilities and personnel of other agencies of state government shall be made available by those other agencies to the state department.

As added by P.L.2-1993, SEC.29.

IC 16-46-5

Chapter 5. Indiana Health Care Professional Recruitment and Retention Fund

IC 16-46-5-1

Community or migrant health center

Sec. 1. As used in this chapter, "community or migrant health center" means a nonprofit corporation that:

(1) provides primary health care services to indigent persons on a sliding fee scale basis; and

(2) is consumer governed.

As added by P.L.2-1993, SEC.29.

IC 16-46-5-2

Repealed

(As added by P.L.2-1993, SEC.29. Repealed by P.L.72-2001, SEC.11.)

IC 16-46-5-3

Fund

Sec. 3. As used in this chapter, "fund" refers to the Indiana health care professional recruitment and retention fund.

As added by P.L.2-1993, SEC.29. Amended by P.L.72-2001, SEC.2.

IC 16-46-5-4

Repealed

(As added by P.L.2-1993, SEC.29. Repealed by P.L.72-2001, SEC.11.)

IC 16-46-5-5

Maternal and child health clinic

Sec. 5. As used in this chapter, "maternal and child health clinic" means a clinic that provides quality, comprehensive prenatal, child health, or family services to a person who would otherwise be unable to obtain these services due to financial or geographic barriers.

As added by P.L.2-1993, SEC.29.

IC 16-46-5-6

Shortage area

Sec. 6. As used in this chapter, "shortage area" means a county, city, town, census tract, or township designated by the state department as underserved by health care professionals under section 7 of this chapter.

As added by P.L.2-1993, SEC.29. Amended by P.L.72-2001, SEC.3.

IC 16-46-5-7

Designation of areas underserved by health care professionals

Sec. 7. The state department shall annually adopt the federal

designation of the counties, cities, towns, census tracts, and townships in Indiana that are underserved by specific types of health care professionals as determined by the state department. The state department shall rank these areas according to the degree each area is underserved by health care professionals.
As added by P.L.2-1993, SEC.29. Amended by P.L.72-2001, SEC.4.

IC 16-46-5-8
Establishment and use of fund

Sec. 8. (a) The Indiana health care professional recruitment and retention fund is established. The purpose of the fund is to provide loan repayment for student loans incurred by health care professionals to encourage the delivery of health care in shortage areas. The state department shall administer the fund.

(b) The fund consists of the following:

(1) Appropriations by the general assembly.

(2) Repayments by loan recipients from the Indiana medical and nursing distribution loan fund under IC 25-22.5-9 (repealed July 1, 1987).

(3) Gifts to the fund.

(4) Grants from public or private sources.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(e) The fund shall be used to do the following:

(1) Provide loan repayment under this chapter.

(2) Pay the costs incurred by the state department in administering this chapter.

The administrative costs paid from the fund under subdivision (2) may not exceed thirty thousand dollars ($30,000) per year.
As added by P.L.2-1993, SEC.29. Amended by P.L.72-2001, SEC.5; P.L.122-2012, SEC.8.

IC 16-46-5-9
Health care professional eligible for loan repayment

Sec. 9. In order to be eligible for loan repayment for student loans, a health care professional must meet all of the following conditions:

(1) Hold an unlimited license to practice a health care profession in Indiana that has been declared by the state department to be eligible for loan repayment in a specified fiscal year.

(2) Practice in a shortage area in a health care profession that has been declared eligible by the state department for loan repayment in a specified fiscal year.

(3) Either:

(A) enter into an agreement with the state department; or

(B) provide the state department with a copy of an

agreement that the health professional has entered into with a provider in a shortage area;

to practice in the shortage area for at least one (1) year.

As added by P.L.2-1993, SEC.29. Amended by P.L.72-2001, SEC.6; P.L.122-2012, SEC.9.

IC 16-46-5-10
Repealed

(As added by P.L.2-1993, SEC.29. Repealed by P.L.72-2001, SEC.11.)

IC 16-46-5-11
Application forms

Sec. 11. A health care professional must apply for a loan repayment on an application form supplied by the state department.

As added by P.L.2-1993, SEC.29. Amended by P.L.72-2001, SEC.7.

IC 16-46-5-12
Determination of eligibility and extent of shortages

Sec. 12. The state department shall consider each application and determine the following:

(1) The eligibility of the applicant for the program under which the application is submitted.

(2) The extent to which the shortage area or eligible entity located in a shortage area is underserved, according to the rank given the shortage area under section 7 of this chapter.

As added by P.L.2-1993, SEC.29. Amended by P.L.72-2001, SEC.8.

IC 16-46-5-13
Repealed

(As added by P.L.2-1993, SEC.29. Repealed by P.L.72-2001, SEC.11.)

IC 16-46-5-13.5
Annual loan repayment for student grants

Sec. 13.5. The state department may award an annual loan repayment in an amount not greater than the documented amount of the student loans incurred by a health care professional.

As added by P.L.72-2001, SEC.9.

IC 16-46-5-14
Repealed

(As added by P.L.2-1993, SEC.29. Repealed by P.L.72-2001, SEC.11.)

IC 16-46-5-15

(As added by P.L.2-1993, SEC.29. Repealed by P.L.72-2001, SEC.11.)

IC 16-46-5-16
Repealed

(As added by P.L.2-1993, SEC.29. Repealed by P.L.72-2001, SEC.11.)

IC 16-46-5-17
Repealed

(As added by P.L.2-1993, SEC.29. Repealed by P.L.72-2001, SEC.11.)

IC 16-46-5-18
Annual reports

Sec. 18. The state department shall file an annual report with the governor and the general assembly on the following:

(1) The receipt, disbursement, and use of funds.

(2) The identification of shortage areas.

(3) The number of applications for loan repayment by the following categories:

(A) Profession.

(B) Specialty.

(C) Underserved area to be served.

(4) The number and amount of loan repayments provided by the state department.

A report filed under this section with the general assembly must be in an electronic format under IC 5-14-6.

As added by P.L.2-1993, SEC.29. Amended by P.L.72-2001, SEC.10; P.L.28-2004, SEC.141.

IC 16-46-5-19
Rules

Sec. 19. (a) The state department shall adopt rules under IC 4-22-2 necessary to carry out this chapter.

(b) The state department shall adopt rules under IC 4-22-2 to ensure that a loan repayment provided under this chapter complies with federal law and regulations.

As added by P.L.2-1993, SEC.29. Amended by P.L.122-2012, SEC.10.

IC 16-46-6

Chapter 6. Interagency State Council on Black and Minority Health

IC 16-46-6-1

Council

Sec. 1. As used in this chapter, "council" refers to the interagency state council on black and minority health.

As added by P.L.2-1993, SEC.29.

IC 16-46-6-2

Minority

Sec. 2. As used in this chapter, "minority" means an individual identified as any of the following:

(1) Black or African-American.

(2) Hispanic or Latino.

(3) Asian.

(4) American Indian.

(5) Alaska Native.

(6) Native Hawaiian and other Pacific Islander.

As added by P.L.2-1993, SEC.29. Amended by P.L.194-1995, SEC.1; P.L.242-2003, SEC.1.

IC 16-46-6-3

Establishment

Sec. 3. The state department shall establish the interagency state council on black and minority health.

As added by P.L.2-1993, SEC.29.

IC 16-46-6-4

Membership

Sec. 4. (a) The council consists of the following twenty-one (21) members:

(1) Two (2) members of the house of representatives from different political parties appointed by the speaker of the house of representatives.

(2) Two (2) members of the senate from different political parties appointed by the president pro tempore of the senate.

(3) The governor or the governor's designee.

(4) The state health commissioner or the commissioner's designee.

(5) The director of the division of family resources or the director's designee.

(6) The director of the office of Medicaid policy and planning or the director's designee.

(7) The director of the division of mental health and addiction or the director's designee.

(8) The commissioner of the department of correction or the

commissioner's designee.

(9) One (1) representative of a local health department appointed by the governor.

(10) One (1) representative of a public health care facility appointed by the governor.

(11) One (1) psychologist appointed by the governor who:

(A) is licensed to practice psychology in Indiana; and

(B) has knowledge and experience in the special health needs of minorities.

(12) One (1) member appointed by the governor based on the recommendation of the Indiana State Medical Association.

(13) One (1) member appointed by the governor based on the recommendation of the National Medical Association.

(14) One (1) member appointed by the governor based on the recommendation of the Indiana Hospital and Health Association.

(15) One (1) member appointed by the governor based on the recommendation of the American Cancer Society.

(16) One (1) member appointed by the governor based on the recommendation of the American Heart Association.

(17) One (1) member appointed by the governor based on the recommendation of the American Diabetes Association.

(18) One (1) member appointed by the governor based on the recommendation of the Black Nurses Association.

(19) One (1) member appointed by the governor based on the recommendation of the Indiana Minority Health Coalition.

(b) At least fifty-one percent (51%) of the members of the council must be minorities.

As added by P.L.2-1993, SEC.29. Amended by P.L.4-1993, SEC.249; P.L.5-1993, SEC.262; P.L.194-1995, SEC.2; P.L.215-2001, SEC.89; P.L.242-2003, SEC.2; P.L.2-2005, SEC.59; P.L.145-2006, SEC.147.

IC 16-46-6-5

Appointments

Sec. 5. All appointments to the council are for two (2) years. A member may be reappointed to the commission for succeeding terms.

As added by P.L.2-1993, SEC.29.

IC 16-46-6-6

Chairman

Sec. 6. The council shall select a chairman from the membership annually.

As added by P.L.2-1993, SEC.29.

IC 16-46-6-7

Vacancy appointments

Sec. 7. Appointments to fill a vacancy are for the remainder of an unexpired term and are made by the authority who made the original

appointment.
As added by P.L.2-1993, SEC.29.

IC 16-46-6-8
Staff

Sec. 8. The state department and the Indiana Minority Health Coalition, Inc. shall provide staff for the council.
As added by P.L.2-1993, SEC.29. Amended by P.L.242-2003, SEC.3.

IC 16-46-6-9
Meetings

Sec. 9. The council shall hold at least four (4) meetings annually.
As added by P.L.2-1993, SEC.29.

IC 16-46-6-10
Duties

Sec. 10. The council shall do the following:

(1) Identify and study the special health care needs and health problems of minorities.

(2) Examine the factors and conditions that affect the health of minorities.

(3) Examine the health care services available to minorities in the public and private sector and determine the extent to which these services meet the needs of minorities.

(4) Study the state and federal laws concerning the health needs of minorities.

(5) Examine the coordination of services to minorities and recommend improvements in the delivery of services.

(6) Examine funding sources for minority health care.

(7) Examine and recommend preventive measures concerning the leading causes of death or injury among minorities, including the following:

(A) Heart disease.
(B) Stroke.
(C) Cancer.
(D) Intentional injuries.
(E) Accidental death and injury.
(F) Cirrhosis.
(G) Diabetes.
(H) Infant mortality.
(I) HIV and acquired immune deficiency syndrome.
(J) Mental Health.
(K) Substance Abuse.

(8) Examine the impact of the following on minorities:

(A) Adolescent pregnancy.
(B) Sexually transmitted and other communicable diseases.
(C) Lead poisoning.
(D) Long term disability and aging.

(E) Sickle cell anemia.

(9) Monitor the Indiana minority health initiative and other public policies that affect the health status of minorities.

(10) Develop and implement a comprehensive plan and time line to address health disparities and health issues of minority populations in Indiana.

As added by P.L.2-1993, SEC.29. Amended by P.L.194-1995, SEC.3; P.L.242-2003, SEC.4.

IC 16-46-6-11
Annual reports

Sec. 11. The council shall submit a report in an electronic format under IC 5-14-6 to the general assembly before November 1 of each year. The report must include the following:

(1) The findings and conclusions of the council.

(2) Recommendations of the council.

As added by P.L.2-1993, SEC.29. Amended by P.L.28-2004, SEC.142.

IC 16-46-6-12
Violations

Sec. 12. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.

As added by P.L.2-1993, SEC.29.

IC 16-46-6-13
Per diem compensation and traveling expenses

Sec. 13. (a) Each member of the council who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The council member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the council who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) Expenses incurred under this section must be paid out of the funds appropriated to the state department.

As added by P.L.152-1997, SEC.1.

IC 16-46-7

Chapter 7. Sickle Cell Anemia Grant Program

IC 16-46-7-1
Repealed

(Repealed by P.L.87-1994, SEC.16.)

IC 16-46-7-2
Establishment

Sec. 2. The state department shall establish a program for the purpose of providing funds for the prevention, care, and treatment of sickle cell anemia and for educational programs concerning the disease.

As added by P.L.2-1993, SEC.29.

IC 16-46-7-3
Repealed

(Repealed by P.L.87-1994, SEC.16.)

IC 16-46-7-4
Repealed

(Repealed by P.L.87-1994, SEC.16.)

IC 16-46-7-5
Repealed

(Repealed by P.L.87-1994, SEC.16.)

IC 16-46-7-6
Repealed

(Repealed by P.L.87-1994, SEC.16.)

IC 16-46-7-7
Repealed

(Repealed by P.L.87-1994, SEC.16.)

IC 16-46-7-8
Duties of state health department

Sec. 8. The state department shall do the following:

(1) Develop application criteria and standards of eligibility for groups or organizations who apply for funds under this program.

(2) Make available grants to groups and organizations who meet the eligibility standards set by the department. However, the highest priority for grants shall be accorded to established sickle cell anemia foundation chapters throughout Indiana.

(3) Determine the maximum amount available for each grant.

(4) Determine policies for expiration and renewal of grants.

(5) Require that all grant funds be used for the purpose of

prevention, care, and treatment of sickle cell anemia or for educational programs concerning the disease.

(6) Adopt necessary rules.

As added by P.L.2-1993, SEC.29. Amended by P.L.87-1994, SEC.12.

IC 16-46-8

Chapter 8. Chronic Renal Disease Program; Chronic Disease Advisory Committee

IC 16-46-8-1

Repealed

(Repealed by P.L.87-1994, SEC.16.)

IC 16-46-8-2

Establishment of program

Sec. 2. The state department shall establish a program for the purpose of prevention, care, and treatment of chronic renal disease. *As added by P.L.2-1993, SEC.29.*

IC 16-46-8-3

Repealed

(Repealed by P.L.87-1994, SEC.16.)

IC 16-46-8-4

Repealed

(Repealed by P.L.87-1994, SEC.16.)

IC 16-46-8-5

Repealed

(Repealed by P.L.87-1994, SEC.16.)

IC 16-46-8-6

Repealed

(Repealed by P.L.87-1994, SEC.16.)

IC 16-46-8-7

Repealed

(Repealed by P.L.87-1994, SEC.16.)

IC 16-46-8-8

Repealed

(Repealed by P.L.87-1994, SEC.16.)

IC 16-46-8-9

Duties of state health department

Sec. 9. The state department shall do the following:

(1) Develop programs for the prevention, care, and treatment of persons suffering from chronic renal diseases, including dialysis, transplantation, and other medical procedures and techniques which will have a lifesaving effect.

(2) Set standards for dialysis and other treatment centers within these programs.

(3) Develop standards for determining eligibility for care and

treatment.

(4) Extend financial assistance to persons suffering from chronic renal diseases for obtaining necessary medical, nursing, pharmaceutical, and technical services, including the rental or purchase of home dialysis equipment.

(5) Institute an educational program among physicians, hospitals, public health departments, and the public concerning chronic renal diseases, including the dissemination of information.

(6) Adopt necessary rules.

As added by P.L.2-1993, SEC.29. Amended by P.L.87-1994, SEC.13.

IC 16-46-8-10
Financial assistance

Sec. 10. Financial assistance shall be available to individuals who are unable to pay for services on a continuing basis.

As added by P.L.2-1993, SEC.29.

IC 16-46-9
Chapter 9. Grants for Tuberculosis Programs

IC 16-46-9-1
Grant recipients

Sec. 1. The state department may make grants of money from state appropriated money to:

(1) any county or counties jointly operating a local clinic or dispensary;
(2) a sanatorium;
(3) a hospital providing outpatient care; or
(4) in a small community, a private physician;

for the treatment of persons suffering from or suspected of suffering from tuberculosis, the contacts of such persons, positive reactors, and associates of reactors.

As added by P.L.2-1993, SEC.29.

IC 16-46-9-2
Eradication programs

Sec. 2. A program of tuberculosis eradication includes all recognized medical and public health activities necessary to the finding, diagnosing, and treating of cases of tuberculosis. Such a program includes the following:

(1) The establishment of outpatient care centers.
(2) The provision of drugs and medications.
(3) The follow-up of suspected cases of tuberculosis and the contacts of individuals with tuberculosis.
(4) The follow-up of all cases and contacts for the purpose of assuring that such individuals remain under medical supervision.

As added by P.L.2-1993, SEC.29.

IC 16-46-9-3
Examination and treatment costs

Sec. 3. (a) Subject to subsection (b), the entire cost of the examination and treatment of a patient at an outpatient tuberculosis treatment center shall be paid by the county of residence of the patient if the patient is financially unable to do so.

(b) The entire cost of examination and treatment under subsection (a) shall be reduced by five dollars ($5) per examination and treatment. This amount represents a subsidy from the state in the interests of the control of tuberculosis and the maintenance of public health.

As added by P.L.2-1993, SEC.29.

IC 16-46-9-4
Grant procedure

Sec. 4. Grants made under this chapter shall be made under the

laws and rules governing the action of both state and local (municipal and county) governmental units in these matters.
As added by P.L.2-1993, SEC.29.

IC 16-46-9-5
Rules

Sec. 5. The state department may adopt rules under IC 4-22-2 not inconsistent with this chapter for the administration of this chapter.
As added by P.L.2-1993, SEC.29.

IC 16-46-9-6
Appropriations

Sec. 6. There is annually appropriated to the state department a sufficient amount from the state general fund for distribution to the counties under section 3 of this chapter.
As added by P.L.2-1993, SEC.29.

IC 16-46-10

Chapter 10. Local Health Maintenance Fund

IC 16-46-10-1

Local health maintenance fund established

Sec. 1. (a) The local health maintenance fund is established for the purpose of providing local boards of health with funds to provide public health services. The fund shall be administered by the state department and consists of:

(1) appropriations by the general assembly; and

(2) penalties paid and deposited in the fund under IC 6-8-11-17.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

(d) Money in the fund at the end of the state fiscal year does not revert to the state general fund.

As added by P.L.82-1993, SEC.3. Amended by P.L.92-1995, SEC.3.

IC 16-46-10-2

Funding to local boards of health

Sec. 2. (a) Except as provided in subsections (b) and (d), the state department shall provide funding each year from the local health maintenance fund under the following schedule to each local board of health whose application for funding is approved by the state department:

COUNTY POPULATION		AMOUNT OF GRANT
over -	499,999	$ 60,000
100,000 -	499,999	50,000
50,000 -	99,999	30,000
under -	50,000	20,000

(b) For purposes of determining the amount of a grant to a multiple county board of health, the state department shall regard each county of the multiple county health department as a separate county. A grant to a multiple county board of health must equal the total of grants that would be made to the separate counties based on the population of each county.

(c) A local board of health that desires to receive funding from the local health maintenance fund must file an application with the state department before May 1 of each year. The application must state how the funds will be spent. The state department may extend the deadline for filing an application upon a showing of good cause by the local board of health.

(d) If a county has more than one (1) local health department, the county fiscal body shall adopt an ordinance to allocate the funds provided to the county under subsection (a). This ordinance must

provide that each local board of health in the county must receive an allocation of funds granted under subsection (a). The county fiscal body shall file a copy of the ordinance with the state department before May 1 of each year.

(e) By June 1 of each year, the state department shall:

(1) allocate money in the local health maintenance fund (for distribution the following January) to each local board of health whose application is approved in accordance with the schedule in subsection (a); and

(2) determine how much money in the local health maintenance fund has not been applied for.

The state department may use the money that has not been applied for or otherwise allocated to fund joint plans entered into by two (2) or more local boards of health or by a multiple county board as provided in subsections (g) and (i).

(f) If two (2) or more local boards of health cooperate in providing any of the services set out in section 3 of this chapter, those boards of health shall file a joint plan that must be approved by the state department. The joint plan must specify the following:

(1) The services to be provided under the plan.

(2) The cost of each service to be provided under the plan.

(3) The percentage of the total cost of services to be provided under the joint plan by each local board of health.

(g) If two (2) or more local boards of health join together to provide services in accordance with a joint plan filed with the state department of health under subsection (f), and the state department determines that the services to be provided under the joint plan are eligible for funding from the local health maintenance fund, the state department shall grant (in addition to the funds provided to each county in which the local boards of health are located under subsection (a)) an amount not to exceed fifteen thousand dollars ($15,000) to fund the joint plan. The state department shall grant money to fund joint plans that most effectively accomplish the following goals in accordance with standards adopted by the state department:

(1) Benefit the greatest number of people.

(2) Provide services in a cost effective manner.

(3) Address the most serious health care needs of the area served.

(4) Provide additional public health services in a medically underserved or economically distressed area.

This money shall be allocated directly to each local board of health participating in the joint plan in the same percentages specified in the joint plan under subsection (f)(3).

(h) A multiple county health board may file a plan under this section to provide any of the services set out in section 3 of this chapter. If the state department determines that the services to be provided under the plan submitted by a multiple county health board are eligible for funding from the local health maintenance fund, the

state department shall grant (in addition to the funds provided under subsection (a) to each county in which the local boards of health are located) an amount not to exceed fifteen thousand dollars ($15,000) to fund the plan.

(i) Services funded under this section must be in addition to, and not in place of, services funded at the local level.

As added by P.L.82-1993, SEC.3.

IC 16-46-10-3

Use of funding by local boards of health

Sec. 3. (a) Funding provided a local board of health under section 2 of this chapter may be used by the local board to provide any of the following services:

(1) Animal and vector control.
(2) Communicable disease control, including immunizations.
(3) Food sanitation.
(4) Environmental health.
(5) Health education.
(6) Laboratory services.
(7) Maternal and child health services, including prenatal clinics and well-child clinics.
(8) Nutrition services.
(9) Public health nursing, including home nursing visitation and vision and hearing screening.
(10) Vital records.

(b) Money granted a local board of health from the local health maintenance fund may not be used for any purpose other than for the services listed in this section.

As added by P.L.82-1993, SEC.3.

IC 16-46-10-4

Provision of funded services; cost to recipient; use of fees

Sec. 4. (a) Except as provided in subsections (b) and (c), the services funded under this chapter shall be provided without cost to a recipient.

(b) If a recipient has insurance or any type of public indemnification that would in part pay for any services funded under this chapter, then the recipient shall assign the recipient's rights to that insurance or public indemnification to the local board of health. The insurer, upon notification from the local board of health, shall pay for those services covered under that recipient's insurance policy or public indemnification.

(c) The legislative body of the unit in which a local board of health has jurisdiction may adopt an ordinance that requires the local board of health to do either or both of the following:

(1) Charge individuals for services on a sliding fee schedule based on income that is adopted by the state board under rules adopted under IC 4-22-2.

(2) Charge corporations, partnerships, and other commercial concerns for services funded under this chapter.

(d) The fees for services collected under subsection (c) shall be used only for public health purposes and shall be used in addition to, and not in place of, funds allocated for public health purposes before the ordinance described in subsection (c) became effective.

As added by P.L.82-1993, SEC.3.

IC 16-46-10-5

Adoption of rules by state board

Sec. 5. The state board shall adopt rules under IC 4-22-2 necessary to carry out this chapter.

As added by P.L.82-1993, SEC.3.

IC 16-46-11

Chapter 11. Minority Health Initiatives

IC 16-46-11-1

Powers and duties of the state department of health and the office of minority health

Sec. 1. The office of minority health and the state department of health, in partnership with the Indiana Minority Health Coalition, Inc., shall do the following:

(1) Staff, coordinate, and assist in the implementation of the comprehensive health plan developed by the interagency state council on black and minority health established under IC 16-46-6.

(2) Expand, develop, and implement a community based state structure that is conducive to addressing the health disparities of the minority populations in Indiana.

(3) Monitor minority health progress.

(4) Establish policy.

(5) Fund minority health programs, research, and other initiatives.

(6) Provide the following through interdepartmental coordination:

(A) The data and technical assistance needs of the local minority health coalitions.

(B) Measurable minority health objectives to local minority health coalitions for the development of health intervention programs.

(7) Provide through the state health data center established by IC 16-19-10-3 minority health research and resource information addressing the following:

(A) Research within minority populations.

(B) A resource database that can be disseminated to local organizations interested in minority health.

(C) Racial and ethnic specific databases including morbidity, diagnostic groups, social/economic, education, and population.

(D) Attitude, knowledge, and belief information.

(8) Staff a minority health hotline that establishes linkages with other health and social service hotlines and local coalitions.

(9) Develop and implement an aggressive recruitment and retention program to increase the number of minorities in the health and social services professions.

(10) Develop and implement an awareness program that will increase the knowledge of health and social service providers to the special needs of minorities.

(11) Develop and implement culturally and linguistically appropriate health promotion and disease prevention programs that would emphasize avoiding the health risk factors for

conditions affecting minorities and incorporate an accessible, affordable, and acceptable early detection and intervention component.

(12) Provide the state support necessary to ensure the continued development of the existing minority health coalitions and to develop coalitions in other areas targeted for minority health intervention.

(13) Coordinate each of the counties with existing local minority health coalitions to:

(A) provide community planning and needs assessment assistance to the local minority health coalitions; and

(B) assist the local minority health coalitions in the development of local minority health intervention plans. The plans shall be developed to coincide with the state fiscal year.

(14) Establish a liaison between the department and the Indiana Minority Health Coalition, Inc., to:

(A) coordinate the state department of health resources needed for the development of local coalitions;

(B) provide assistance to and monitor the local coordinators in the development of local intervention plans;

(C) serve as the barometer to the state department of health on the minority health concerns of local coalitions;

(D) assist in coordinating the minority community input on state policies and programs;

(E) serve as the linkage with the state department of health and the local minority health coordinators; and

(F) monitor the progress of the fulfilling of their responsibilities.

(15) Provide funding, within the limits of appropriations, to support preventive health, education, and treatment programs in the minority communities that are developed, planned, and evaluated by approved organizations.

(16) Provide assistance to local communities to obtain funding for the development of a health care delivery system to meet the needs, gaps, and barriers identified in the local plans.

As added by P.L.278-1993(ss), SEC.30. Amended by P.L.242-2003, SEC.5; P.L.38-2010, SEC.5.

IC 16-46-11.1

Chapter 11.1. Commission on Health Care Interpreters and Translators

IC 16-46-11.1-1

"Commission"

Sec. 1. For purposes of this chapter, "commission" refers to the commission on health care interpreters and translators established by section 4 of this chapter.

As added by P.L.61-2004, SEC.4.

IC 16-46-11.1-2

"Health care interpreter"

Sec. 2. For purposes of this chapter, "health care interpreter" means a professional interpreter who works primarily in the field of health care facilitating the oral communication among a:

(1) provider;

(2) patient; and

(3) patient's family.

As added by P.L.61-2004, SEC.4.

IC 16-46-11.1-3

"Health care translator"

Sec. 3. For purposes of this chapter, "health care translator" means a professional translator who:

(1) works primarily in the field of health care; and

(2) specializes in the translation of written medical documents from one (1) language into another.

As added by P.L.61-2004, SEC.4.

IC 16-46-11.1-4

Establishment; staff

Sec. 4. The commission on health care interpreters and translators is established. The state department shall provide staff for the commission.

As added by P.L.61-2004, SEC.4.

IC 16-46-11.1-5

Members; appointment

Sec. 5. (a) The commission consists of the following fifteen (15) members:

(1) One (1) member representing the state department.

(2) One (1) member representing local health departments.

(3) One (1) member representing the medical profession.

(4) One (1) member representing postsecondary educational institutions in Indiana.

(5) Two (2) members representing patient advocacy groups.

(6) One (1) member representing community organizations.

(7) One (1) member representing interpreter professional associations.
(8) One (1) member representing translator professional associations.
(9) One (1) member representing hospitals.
(10) One (1) member representing the interagency state council on black and minority health.
(11) One (1) member representing the department of correction who is nominated by the commissioner of the department of correction.
(12) One (1) member representing the department of education who is nominated by the state superintendent of public instruction.
(13) One (1) member representing the office of Medicaid policy and planning who is nominated by the director of the office of Medicaid policy and planning.
(14) The executive director of the health professions bureau or the executive director's designee.

The state health commissioner shall appoint the members of the commission designated by subdivisions (1) through (13). The appointments made under this subsection must be made in a manner to maintain cultural and language diversity.

(b) The state health commissioner shall designate:
(1) one (1) member as chairperson of the commission; and
(2) one (1) member as vice chairperson of the commission.

(c) Except for the member of the commission designated by subsection (a)(14), a member is appointed to a term of two (2) years or until a successor is appointed. A member may be reappointed to an unlimited number of terms.

(d) Except for the member of the commission designated by subsection (a)(14), if a member:
(1) resigns;
(2) dies; or
(3) is removed from the commission;

before the expiration of the member's term, the state health commissioner shall appoint a new member to serve for the remainder of the term.

(e) The expenses of the commission shall be paid from funds appropriated to the state department.

(f) Each member of the commission who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(g) The affirmative votes of a majority of the members appointed to the commission are required for the commission to take action on any measure.

(h) The commission shall meet quarterly or on the call of the chairperson.

As added by P.L.61-2004, SEC.4. Amended by P.L.2-2007, SEC.196.

IC 16-46-11.1-6

Powers and duties

Sec. 6. The commission shall do the following:

(1) Write bylaws concerning the operation of the commission.

(2) Define the terms "health care interpreter" and "health care translator".

(3) Review and determine the proper level of regulation or oversight that Indiana should have over health care interpreters and health care translators practicing in Indiana.

(4) Recommend the level and type of education necessary to perform the job of:

(A) a health interpreter; and

(B) a health care translator.

(5) Recommend standards that health care interpreters and health care translators should meet in order to practice in Indiana.

As added by P.L.61-2004, SEC.4.

IC 16-46-12

Chapter 12. Bone Marrow and Organ Donations

IC 16-46-12-1

"Fund" defined

Sec. 1. As used in this chapter, "fund" refers to the bone marrow and organ donor fund established by section 2 of this chapter.

As added by P.L.81-2002, SEC.3.

IC 16-46-12-2

Bone marrow and organ donor fund

Sec. 2. (a) The bone marrow and organ donor fund is established for the purposes under section 3 of this chapter. The department shall administer the fund.

(b) Expenses of administering the fund shall be paid from money in the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

As added by P.L.81-2002, SEC.3.

IC 16-46-12-3

Purposes of fund

Sec. 3. The department shall use money in the fund to:

(1) establish a program; or

(2) provide grants to programs;

to provide free human leukocyte antigen (HLA) testing, which is administered to place an individual on a national bone marrow donor registry and provide free testing to place an individual on a national human organ donor registry.

As added by P.L.81-2002, SEC.3.

IC 16-46-12-4

Rules

Sec. 4. The department may adopt rules under IC 4-22-2 to administer this chapter.

As added by P.L.81-2002, SEC.3.

IC 16-46-13
Chapter 13. Small Employer Wellness Programs

IC 16-46-13-1
Rules concerning small employer wellness programs

Sec. 1. (a) The state department shall adopt rules under IC 4-22-2 to establish:

(1) minimum standards for use by a small employer in establishing a wellness program to improve the health of employees of the small employer; and

(2) criteria and a process for certification of a small employer's wellness program that meets the minimum standards established under subdivision (1) as a qualified wellness program for purposes of IC 6-3.1-31.2.

(b) The minimum standards established under subsection (a) must include a requirement that a wellness program provide rewards for employee:

(1) appropriate weight loss;

(2) smoking cessation; and

(3) pursuit of preventative health care services.

As added by P.L.218-2007, SEC.44.

IC 16-46-13-2
Certification of small employer wellness programs

Sec. 2. (a) A small employer may submit to the state department for certification a wellness program developed by the small employer.

(b) The state department shall review and, based on the criteria established under section 1 of this chapter, make a determination of whether to certify a wellness program submitted under subsection (a) as a qualified wellness program.

(c) If a wellness program is certified by the state department, the state department shall provide to the small employer a certificate reflecting that the wellness program is a qualified wellness program for purposes of IC 6-3.1-31.2.

As added by P.L.218-2007, SEC.44.

IC 16-46-14

Chapter 14. Safety PIN (Protecting Indiana's Newborns) Grant Program

IC 16-46-14-1

Safety PIN grant program established

Sec. 1. The safety PIN (protecting Indiana's newborns) grant program is established. The state department shall administer the program.

As added by P.L.125-2015, SEC.1.

IC 16-46-14-2

Safety PIN grant fund established; nonreversion; transfer of money appropriated to the fund

Sec. 2. (a) The safety PIN (protecting Indiana's newborns) grant fund is established for the purpose of distributing money for the reducing infant mortality grant program. The fund shall be administered by the state department.

(b) The fund consists of:

(1) money appropriated for the program or to the fund by the general assembly;

(2) money received from state or federal grants or programs; and

(3) gifts, money, and donations received from any other source, including transfers from other funds or accounts.

(c) The expenses of administering the fund shall be paid from money in the fund.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from the investments shall be deposited in the fund.

(e) Money in the fund at the end of the state fiscal year does not revert to the state general fund or to any other fund in the case of an appropriation made to the program from a fund other than the state general fund. In addition, if there is an appropriation for the program for a state fiscal year, the money appropriated shall be transferred to the fund at the beginning of the state fiscal year for which the appropriation is made.

As added by P.L.125-2015, SEC.1. Amended by P.L.204-2016, SEC.30.

IC 16-46-14-3

Grant proposals; requirements; initial award of 60%

Sec. 3. (a) A person seeking a grant under this chapter must submit a proposal to the state department.

(b) A proposal for a grant under this chapter must include the following:

(1) The targeted area.

(2) Measurable behavioral or secondary outcomes within the target area.

(3) A proposed specific reduction in the rate of infant mortality among the targeted area that is measurable based on available information to the state department.

(4) The time frame in which to achieve the reduction described in subdivision (3).

(c) The state department shall determine whether to approve a grant proposal. If the state department approves a proposal, the initial award amount shall not exceed sixty percent (60%) of the total grant amount approved for the proposal. The state department shall distribute the remaining amount of the approved grant to the grantee when the state department determines that the reduction in the infant mortality rate among the proposal's targeted area has been achieved within the time frame specified in the grant proposal.

As added by P.L.125-2015, SEC.1. Amended by P.L.204-2016, SEC.31.

IC 16-46-14-4

Preferences in awarding grants; development of regions

Sec. 4. (a) In awarding grants under this chapter, the state department shall give preference to proposals that seek to do any of the following:

(1) Improve access and coordination through outreach and follow-up services for pregnant women and fathers who are at risk of not receiving prenatal care and support.

(2) Incentivize at-risk pregnant women and fathers to obtain prenatal care and support.

(3) Decrease smoking rates among pregnant women and fathers.

(4) Promote evidence based home visitation by a trained provider or coordinator.

(5) Incentivize collaboration between health care providers and other human services providers in providing outreach to at-risk pregnant women and fathers.

(6) Address the issue of infant mortality on a regional basis.

(b) The state department shall develop regions for purposes of subsection (a)(6).

As added by P.L.125-2015, SEC.1.

IC 16-46-14-5

Rules

Sec. 5. The state department may adopt necessary rules under IC 4-22-2 to implement this chapter.

As added by P.L.125-2015, SEC.1.

IC 16-47

ARTICLE 47. AGGREGATE PURCHASING OF PRESCRIPTION DRUGS

IC 16-47-1

Chapter 1. State Aggregate Prescription Drug Purchasing Program

IC 16-47-1-0.1

Application of certain amendments to chapter

Sec. 0.1. The following amendments to this chapter apply as follows:

(1) The addition of section 5(a)(1) of this chapter by P.L.50-2004 applies to a health benefit plan described in section 2(1) and 2(2) of this chapter, as added by P.L.50-2004, established, entered into, delivered, amended, or renewed after December 31, 2004.

(2) The addition of section 5(a)(2) of this chapter by P.L.50-2004 applies to a health benefit plan described in section 2(3) of this chapter, as added by P.L.50-2004, on the date that the health benefit plan is established, entered into, delivered, amended, or renewed after December 31, 2004.

As added by P.L.220-2011, SEC.325. Amended by P.L.121-2016, SEC.22.

IC 16-47-1-1

"Department"

Sec. 1. As used in this chapter, "department" refers to the state personnel department.

As added by P.L.50-2004, SEC.5.

IC 16-47-1-2

"Health benefit plan"

Sec. 2. As used in this chapter, "health benefit plan" refers to the following:

(1) A self-insurance program established under IC 5-10-8-7(b) to provide group health coverage.

(2) A contract with a prepaid health care delivery plan that is entered into or renewed under IC 5-10-8-7(c).

(3) A plan through which a state educational institution arranges for coverage of the cost of health care services (as defined in IC 27-13-1-18) provided to employees of the state educational institution.

As added by P.L.50-2004, SEC.5. Amended by P.L.2-2007, SEC.197; P.L.121-2016, SEC.23.

IC 16-47-1-3

"Program"

Sec. 3. As used in this chapter, "program" refers to the aggregate prescription drug purchasing program established under this chapter.
As added by P.L.50-2004, SEC.5.

IC 16-47-1-4
Establishing, implementing, and maintaining program

Sec. 4. (a) The department, with the approval of the budget agency, shall establish, implement, and maintain an aggregate prescription drug purchasing program through which terms are negotiated related to the purchase of prescription drugs by:

(1) an entity described in section 5(a) or 5(b) of this chapter; or
(2) an individual who is covered under a health benefit plan that includes a prescription drug benefit.

(b) The budget agency may contract with a pharmacy benefit manager or other person to conduct the negotiations of the program established under subsection (a).

(c) The terms and conditions of the program are subject to the approval of the budget agency.
As added by P.L.50-2004, SEC.5.

IC 16-47-1-5
Application; participation in program

Sec. 5. (a) This subsection does not apply to prescription drugs that are dispensed through an onsite clinic. The following shall participate in the program:

(1) The department, for a health benefit plan:
(A) described in section 2(1) or 2(2) of this chapter; and
(B) that provides coverage for prescription drugs.
(2) After June 30, 2011, a state educational institution, for a health benefit plan:
(A) described in section 2(3) of this chapter; and
(B) that provides coverage for prescription drugs;
unless the budget agency determines that the state educational institution's participation in the program would not result in an overall financial benefit to the state educational institution. The budget agency may delay compliance with this subdivision to a date after July 1, 2011, that is determined by the budget agency to allow for the orderly transition from another program.

(b) The following may participate in the program:

(1) A state agency other than the department that:
(A) purchases prescription drugs; or
(B) arranges for the payment of the cost of prescription drugs.
(2) A local unit (as defined in IC 5-10-8-1).
(3) The Indiana comprehensive health insurance association established under IC 27-8-10.

(c) The state Medicaid program may not participate in the program under this chapter.

As added by P.L.50-2004, SEC.5. Amended by P.L.173-2007, SEC.3; P.L.229-2011, SEC.166; P.L.46-2015, SEC.1; P.L.121-2016, SEC.24.

IC 16-47-1-6
Approval of request for proposals by budget agency

Sec. 6. A request for proposal and the award of a contract under this chapter is subject to the approval of the budget agency.
As added by P.L.50-2004, SEC.5.

IC 16-47-1-7
Prohibition on importing drugs in violation of federal law

Sec. 7. The program may not include the purchase of prescription drugs imported into the United States in violation of federal law.
As added by P.L.50-2004, SEC.5.

IC 16-47-1-8
Voluntary participation by pharmaceutical manufacturers; prohibition on penalizing manufacturers

Sec. 8. (a) Participation in the program by a pharmaceutical manufacturer is voluntary.

(b) The state may not:

(1) require prior authorization for a prescription drug in the state Medicaid program under IC 12-15; or

(2) otherwise penalize a pharmaceutical manufacturer;

because the pharmaceutical manufacturer is not participating in the program.
As added by P.L.50-2004, SEC.5.

IC 16-47-1-9
Confidentiality of information

Sec. 9. Any information, including prescription drug prices and discounts, provided to the state or the state's contractor under this chapter is confidential and is exempt from disclosure under IC 5-14-3.
As added by P.L.50-2004, SEC.5.

IC 16-47-1-10
Negotiations by drug stores to participate in program

Sec. 10. A drug store may negotiate prescription drug prices and discounts with a pharmaceutical manufacturer to participate in the program.
As added by P.L.50-2004, SEC.5.

IC 16-47-2

Chapter 2. Multi-state Prescription Drug Aggregate Purchasing Program

IC 16-47-2-1

Authority to enter into multi-state agreement to purchase or reimburse for prescription drugs

Sec. 1. The state, with the approval of the governor, may enter into agreements with other states to jointly purchase prescription drugs in aggregate or provide for reimbursement of the cost of prescription drugs purchased in aggregate to reduce the prescription drug costs for the state and for Indiana residents covered under this chapter.

As added by P.L.50-2004, SEC.5.

IC 16-47-2-2

Prohibition on Medicaid program participating in program

Sec. 2. The state Medicaid program may not participate in a program entered into under this chapter.

As added by P.L.50-2004, SEC.5.

IC 16-47-2-3

Prohibition on purchasing imported prescription drugs in violation of federal law

Sec. 3. The program described in this chapter may not include the purchase of prescription drugs imported into the United States in violation of federal law.

As added by P.L.50-2004, SEC.5.

IC 16-47-2-4

Voluntary participation in program by pharmaceutical manufacturers; prohibition on penalizing manufacturers

Sec. 4. (a) Participation in the program described in this chapter by a pharmaceutical manufacturer is voluntary.

(b) The state may not participate in a program described in this chapter that:

(1) requires prior authorization of a prescription drug in the state Medicaid program under IC 12-15; or

(2) otherwise penalizes a pharmaceutical manufacturer;

because a pharmaceutical manufacturer does not participate in the program.

As added by P.L.50-2004, SEC.5.

IC 16-47-2-5

Confidentiality of information

Sec. 5. Any information, including prescription drug prices and discounts, provided to the state or to the state's contractor under this chapter is confidential and is exempt from disclosure under

IC 5-14-3.
As added by P.L.50-2004, SEC.5.

IC 16-48

ARTICLE 48. OTHER HEALTH CARE PROVIDERS AND SERVICES

IC 16-48-1

Chapter 1. Anatomic Pathology Services

IC 16-48-1-0.5

Application and construction of chapter

Sec. 0.5. (a) This chapter may not be construed to apply to an anatomic pathology service that is:

(1) billed to a hospital by a clinical laboratory; or

(2) billed by the hospital for an inpatient or outpatient facility of the hospital.

(b) This chapter may not be construed to prohibit a physician who has performed the anatomic pathology service on a patient sample from billing a patient or payer for the histological processing of the sample if the histological processing is performed by another physician or a clinical laboratory. The physician who performed the anatomic pathology service may combine the cost for the histological processing of the sample and for the anatomic pathology service for billing purposes, but may not add a fee for the histological processing of the sample.

As added by P.L.3-2013, SEC.1.

IC 16-48-1-1

"Anatomic pathology service"

Sec. 1. As used in this chapter, "anatomic pathology service" means any of the following performed by a physician or under the supervision of a physician on a sample taken from a human body:

(1) Histopathology or surgical pathology, meaning the gross and microscopic examination and histologic processing of organ tissue.

(2) Cytopathology, meaning the microscopic examination of cells from the following:

(A) Fluids.

(B) Aspirates.

(C) Washings.

(D) Brushings.

(E) Smears.

(3) Hematology, meaning the microscopic evaluation of bone marrow aspirates and biopsies, and peripheral blood smears when the attending or treating physician or technologist requests that a blood smear be reviewed by a pathologist.

(4) Subcellular pathology and molecular pathology, meaning the assessment of a specimen for detection, localization, measurement, or analysis of protein or nucleic acid targets.

(5) Blood banking services performed by pathologists.
As added by P.L.222-2011, SEC.1.

IC 16-48-1-2
"Physician"
Sec. 2. As used in this chapter, "physician" includes a physician group practice.
As added by P.L.222-2011, SEC.1.

IC 16-48-1-3
"Provider"
Sec. 3. As used in this chapter, "provider" means a health care provider or a clinical laboratory.
As added by P.L.222-2011, SEC.1.

IC 16-48-1-4
"Second opinion"
Sec. 4. As used in this chapter, "second opinion" means consultation, histologic processing, or additional testing performed on a sample by a second provider after an anatomic pathology service is performed on the sample by a first provider.
As added by P.L.222-2011, SEC.1.

IC 16-48-1-5
Billing, claims, demand for payment for anatomic pathology service; second opinion
Sec. 5. (a) Except as provided in subsection (b), a provider shall not present a bill, claim, or other demand for payment for an anatomic pathology service unless the anatomic pathology service was performed:
(1) within the provider's office;
(2) by a physician or under the direct supervision of a physician; and
(3) in accordance with Section 353 of the federal Public Health Service Act (42 U.S.C. 263a).
(b) If a sample taken from a human body is sent:
(1) by a provider that has performed an anatomic pathology service; and
(2) to a second provider for a second opinion;
the provider described in subdivision (1) may present a bill, claim, or other demand for payment for the second opinion.
As added by P.L.222-2011, SEC.1.

IC 16-48-1-6
Recipient of bill, claim, other demand for payment for anatomic pathology service
Sec. 6. (a) Except as provided in subsection (b), a bill, claim, or other demand for payment permitted by section 5 of this chapter may

be presented only to the following:

(1) The patient.

(2) The patient's insurer or other third party payer.

(3) A government agency, or another agency or organization, that serves as a payment source on behalf of the patient.

(4) The hospital, health clinic, public health clinic, or rural health clinic.

(b) If a provider described in section 5(b)(1) of this chapter presents a bill, claim, or other demand for payment for a second opinion as permitted by section 5(b) of this chapter, the second provider may bill the provider described in section 5(b)(1) for the second opinion.

As added by P.L.222-2011, SEC.1.

IC 16-48-1-7

Violations

Sec. 7. A person is not required to reimburse a provider for charges or claims submitted in violation of this chapter.

As added by P.L.222-2011, SEC.1.

IC 16-48-1-8

License or certification; consequences for violation

Sec. 8. If a provider violates this chapter, the state entity that has jurisdiction over licensing or certification of the provider may revoke, suspend, or refuse to renew the license or certification of the provider.

As added by P.L.222-2011, SEC.1.

IC 16-48-1-9

Assignment of benefits not required

Sec. 9. This chapter does not require assignment of benefits for an anatomic pathology service.

As added by P.L.222-2011, SEC.1.

IC 16-49

ARTICLE 49. CHILD FATALITY REVIEWS

IC 16-49-1

Chapter 1. Definitions

IC 16-49-1-1

Application of definitions

Sec. 1. The definitions in this chapter apply throughout this article.

As added by P.L.119-2013, SEC.3.

IC 16-49-1-2

"Child"

Sec. 2. "Child" means an individual less than eighteen (18) years of age.

As added by P.L.119-2013, SEC.3.

IC 16-49-1-3

"Child fatality committee"

Sec. 3. "Child fatality committee" means a child fatality committee established under IC 16-49-2-1.

As added by P.L.119-2013, SEC.3.

IC 16-49-1-4

"County child fatality review team"

Sec. 4. "County child fatality review team" means a child fatality review team established by a child fatality committee under IC 16-49-2 for a county.

As added by P.L.119-2013, SEC.3.

IC 16-49-1-5

"Emergency medical services"

Sec. 5. "Emergency medical services" means the provision of emergency ambulance services or other services, including extrication and rescue services, used in serving an individual's need for immediate medical care in order to prevent loss of life or aggravation of physiological or psychological illness or injury.

As added by P.L.119-2013, SEC.3.

IC 16-49-1-6

"Local child fatality review team"

Sec. 6. "Local child fatality review team" refers to a county or regional child fatality review team established by a child fatality committee under IC 16-49-2.

As added by P.L.119-2013, SEC.3.

IC 16-49-1-7

"Mental health provider"

Sec. 7. "Mental health provider" means any of the following:

(1) A registered nurse or licensed practical nurse licensed under IC 25-23.

(2) A clinical social worker licensed under IC 25-23.6-5.

(3) A marriage and family therapist licensed under IC 25-23.6-8.

(4) A psychologist licensed under IC 25-33.

(5) A school psychologist licensed by the Indiana state board of education.

As added by P.L.119-2013, SEC.3.

IC 16-49-1-8

"Regional child fatality review team"

Sec. 8. "Regional child fatality review team" means a child fatality review team established by a child fatality committee under IC 16-49-2 for a region consisting of more than one (1) county.

As added by P.L.119-2013, SEC.3.

IC 16-49-1-9

"State child fatality review coordinator"

Sec. 9. "State child fatality review coordinator" refers to the state child fatality review coordinator employed by the state department under IC 16-49-5-1.

As added by P.L.119-2013, SEC.3.

IC 16-49-1-10

"Statewide child fatality review committee"

Sec. 10. "Statewide child fatality review committee" refers to the statewide child fatality review committee established by IC 16-49-4-1.

As added by P.L.119-2013, SEC.3.

IC 16-49-2

Chapter 2. Establishing Local Child Fatality Review Teams

IC 16-49-2-1

Child fatality committee established in each county; membership

Sec. 1. A child fatality committee is established in each county and consists of the following members:

(1) The prosecuting attorney of the county or a representative of the prosecuting attorney.

(2) The county coroner or a deputy coroner of the county representing the county coroner.

(3) A representative from:

(A) a county health department established under IC 16-20-2;

(B) a health and hospital corporation established under IC 16-22-8; or

(C) a multiple county health department established under IC 16-20-3;

that is located in or serves the county.

(4) A representative from the department of child services.

(5) A representative of law enforcement from the county.

As added by P.L.119-2013, SEC.3.

IC 16-49-2-2

Meetings; chairperson

Sec. 2. (a) The child fatality committee shall meet for the first meeting of the child fatality committee at the call of the prosecuting attorney of the county, or the prosecuting attorney's representative.

(b) The child fatality committee members shall select a chairperson at the first meeting.

(c) The child fatality committee shall meet at the call of the chairperson for all meetings after the first meeting.

As added by P.L.119-2013, SEC.3.

IC 16-49-2-3

Duties of the child fatality committees

Sec. 3. The child fatality committee shall do the following:

(1) Determine whether to establish a:

(A) county child fatality review team; or

(B) regional child fatality review team;

for the county.

(2) Appoint members to the local child fatality review team in accordance with the member requirements established under this chapter.

(3) Determine whether the local child fatality review team will enter into a written agreement with another local child fatality review team to receive, upon request, services, guidance, and expertise from the other local child fatality review team.

As added by P.L.119-2013, SEC.3.

IC 16-49-2-4
Local child fatality review teams; membership; required members or written agreement; pathologist member or agreement

Sec. 4. (a) A local child fatality review team consists of the following members:

(1) The prosecuting attorney of the county or a representative of a prosecuting attorney from the area served by the local child fatality review team.

(2) A county coroner or a deputy coroner from the area served by the local child fatality review team.

(3) A representative from:

(A) a county health department established under IC 16-20-2;

(B) a health and hospital corporation established under IC 16-22-8; or

(C) a multiple county health department established under IC 16-20-3;

that is located in or serves the area served by the local child fatality review team.

(4) A representative from the department of child services.

(5) A representative of law enforcement from the area served by the local child fatality review team.

(6) A representative from a school district in the area served by the local child fatality review team.

(b) In addition to the members under subsection (a), a local child fatality review team shall:

(1) have as a member of the local child fatality review team:

(A) a pediatrician or family practice physician;

(B) a representative from an emergency medical services provider;

(C) a representative from a fire department or volunteer fire department (as defined in IC 36-8-12-2); and

(D) a mental health provider; or

(2) enter into a written agreement with another local child fatality review team for the provision of services, guidance, and expertise of a person listed in subdivision (1)(A) through (1)(D) who is a member of that local child fatality review team.

(c) In addition to the members under subsection (a), a local child fatality review team shall have:

(1) a member on the team who is a pathologist with forensic experience who is licensed to practice medicine in Indiana and who, if feasible, is certified by the American Board of Pathology in forensic pathology; or

(2) an agreement with a pathologist described in subdivision (1) for the provision of the pathologist's services and expertise, as needed by the local child fatality review team.

As added by P.L.119-2013, SEC.3.

IC 16-49-2-5
Local child fatality review teams; additional members

Sec. 5. A local child fatality review team may have additional members from the following categories:

(1) A representative of a hospital located in the area served by the local child fatality review team.

(2) A representative from a juvenile or probate court in the area served by the local child fatality review team.

(3) Other representatives requested to serve as members by the:

(A) child fatality committee; or

(B) local child fatality review team.

(4) A representative from the department of natural resources who lives or works in the area served by the local child fatality review team.

(5) A representative from Prevent Child Abuse Indiana (an organization for the prevention of child abuse) who lives or works in the area served by the local child fatality review team.

(6) One (1) of the following:

(A) A court appointed special advocate who provides court appointed special advocate services in the area served by the local child fatality review team.

(B) A guardian ad litem who provides guardian ad litem services in the area served by the local child fatality review team.

As added by P.L.119-2013, SEC.3.

IC 16-49-2-6
Regional local child fatality review team; more than one member allowed

Sec. 6. If the local child fatality review team is a regional child fatality review team, more than one (1) of each of the members listed in section 4 of this chapter may serve on the local child fatality review team if each of the members represents a different county served by the local child fatality review team.

As added by P.L.119-2013, SEC.3.

IC 16-49-2-7
Report to state child fatality review coordinator required

Sec. 7. Not later than ninety (90) days after the first meeting of the child fatality committee, the prosecuting attorney of the county or prosecuting attorney's representative shall submit a report to the state child fatality review coordinator that includes the following information:

(1) Whether the child fatality committee established a:

(A) county child fatality review team; or

(B) regional child fatality review team.

(2) The names and contact numbers of all of the members of the local child fatality review team.

(3) Whether the child fatality committee will or has entered into a written agreement described under section 3(3) of this chapter.

(4) Any assistance the child fatality committee would like from the state child fatality review coordinator in forming the local child fatality review team.

As added by P.L.119-2013, SEC.3. Amended by P.L.2-2014, SEC.80.

IC 16-49-3

Chapter 3. Local Child Fatality Review Teams

IC 16-49-3-1

Meetings; chairperson

Sec. 1. (a) The local child fatality review team shall meet for the first meeting of the local child fatality review team at the call of a prosecuting attorney or prosecuting attorney's representative.

(b) The members of a local child fatality review team shall elect a member to serve as the chairperson at the first meeting.

(c) The members of the local child fatality review team shall meet at the call of the chairperson for all meetings after the first meeting.

As added by P.L.119-2013, SEC.3.

IC 16-49-3-2

Requirements for members; individuals attending meeting; confidentiality statement requirements; vacancy on team

Sec. 2. (a) After an individual becomes a member of a local child fatality review team and before the member participates in a review of a child fatality, the member shall:

(1) sign a confidentiality statement prepared by the state child fatality review coordinator under IC 16-49-5-2;

(2) review the purpose and goal of the local child fatality review team; and

(3) review the data collection form developed by the state child fatality review coordinator under IC 16-49-5-2.

(b) Any individuals who are invited by the chairperson to attend a meeting of a local child fatality review team shall sign a confidentiality statement prepared by the state child fatality review coordinator under IC 16-49-5-2.

(c) A local child fatality review team may:

(1) appoint additional members to the local child fatality review team as provided in IC 16-49-2-5; and

(2) if there is a vacancy on the local child fatality review team, appoint an individual to fill the vacancy.

As added by P.L.119-2013, SEC.3.

IC 16-49-3-3

Review; records and information; not subject to subpoena or discovery or admissible as evidence

Sec. 3. (a) A local child fatality review team:

(1) shall review the death of a child whose death incident occurred in the area served by the local child fatality review team and may review the death of a child whose death occurred in the area served by the local child fatality review team if:

(A) the death of the child is:

(i) sudden;

(ii) unexpected;

(iii) unexplained; or
(iv) assessed by the department of child services for alleged abuse or neglect that resulted in the death of the child; or
(B) the coroner in the area where the death occurred determines that the cause of the death of the child is:
(i) undetermined; or
(ii) the result of a homicide, suicide, or accident; and
(2) may, at its discretion, review the near fatality of a child whose incident or injury occurred in the area served by the local child fatality review team.

(b) In conducting a child fatality review under subsection (a), the local child fatality review team may review all applicable records and information related to the death or near fatality of the child, including the following:
(1) Records held by the:
(A) local or state health department; and
(B) department of child services.
(2) Medical records.
(3) Law enforcement records.
(4) Autopsy reports.
(5) Records of the coroner.
(6) Mental health reports.

(c) Except as otherwise provided under this article, information and records acquired by the local child fatality review team in the exercise of its duties under this chapter are confidential and exempt from disclosure.

(d) Records, information, documents, and reports acquired or produced by a local child fatality review team are not:
(1) subject to subpoena or discovery; or
(2) admissible as evidence;
in any judicial or administrative proceeding. Information that is otherwise discoverable or admissible from original sources is not immune from discovery or use in any proceeding merely because the information was presented during proceedings before a local child fatality review team.

As added by P.L.119-2013, SEC.3. Amended by P.L.208-2015, SEC.10; P.L.29-2016, SEC.5.

IC 16-49-3-4
Review death certificate

Sec. 4. The local child fatality review team shall review the death certificate of a child received from a local health officer to determine if the local child fatality review team is required to review the death of the child as required under section 3 of this chapter.

As added by P.L.119-2013, SEC.3.

IC 16-49-3-5

Records from hospitals, physicians, coroners, law enforcement officers, or mental health professionals; immunity from liability

Sec. 5. (a) Subject to IC 34-30-15, if the local child fatality review team requests records from a hospital, physician, coroner, law enforcement officer, or mental health professional regarding a death that the local child fatality review team is reviewing, the hospital, physician, coroner, law enforcement officer, or mental health professional shall provide the requested records to the local child fatality review team.

(b) A person who provides records in accordance with subsection (a) in good faith is not subject to liability in:

(1) a civil;
(2) an administrative;
(3) a disciplinary; or
(4) a criminal;

action that might otherwise be imposed as a result of such disclosure.

As added by P.L.119-2013, SEC.3.

IC 16-49-3-6

Review of death; requirements

Sec. 6. In reviewing the death of a child under this chapter, the local child fatality review team shall:

(1) identify the factors that surrounded or contributed to the death of the child;
(2) determine whether similar deaths could be prevented in the future;
(3) if applicable, identify:
  (A) agencies and entities that should be involved; and
  (B) any other resources that should be used;

to adequately prevent future deaths of children; and

(4) if applicable, identify solutions to improve practice and policy and enhance coordination.

As added by P.L.119-2013, SEC.3.

IC 16-49-3-7

Prepare and release report; identifying information excluded; review data confidential; joint report

Sec. 7. (a) Before July 1 each year, a local child fatality review team shall prepare and submit to the state child fatality review coordinator a report that must include the following information:

(1) A summary of the data collected regarding the reviews conducted by the local child fatality review team in the previous calendar year.
(2) Actions recommended by the local child fatality review team to prevent injuries to children and child deaths in the area served by the local child fatality review team.
(3) Solutions proposed for system inadequacies.

(b) A report released under this section may not contain

identifying information relating to the fatalities reviewed by the local child fatality review team.

(c) Except as otherwise provided in this article, review data concerning a child fatality is confidential and may not be released.

(d) A local child fatality review team may prepare and release a joint report for the report required by subsection (a) with another child fatality review team if the local child fatality review team reviewed fewer than two (2) child fatalities in the previous calendar year.

As added by P.L.119-2013, SEC.3. Amended by P.L.2-2014, SEC.81; P.L.29-2016, SEC.6.

IC 16-49-3-8

Meetings open; executive sessions; confidentiality statements

Sec. 8. (a) Except as provided in subsection (b), meetings of a local child fatality review team are open to the public.

(b) Meetings of a local child fatality review team that involve confidential records or identifying information regarding the death of a child that is confidential under state or federal law must be held as executive sessions.

(c) If an executive session is held under subsection (b), each invitee who:

(1) attends a meeting of the local child fatality review team; and

(2) is not a member of the local child fatality review team;

shall sign a confidentiality statement prepared by the state child fatality review coordinator under IC 16-49-5-2. The chairperson of the local child fatality review team shall keep all confidentiality statements signed under this subsection.

As added by P.L.119-2013, SEC.3.

IC 16-49-3-9

Discussion of confidential matters; applicable laws; immunity from liability

Sec. 9. Members of a local child fatality review team and individuals who attend a meeting of a local child fatality review team as invitees of the chairperson:

(1) may discuss among themselves confidential matters that are before the local child fatality review team;

(2) are bound by all applicable laws regarding the confidentiality of matters reviewed by the local child fatality review team; and

(3) except when acting:

(A) with malice;

(B) in bad faith; or

(C) with negligence;

are immune from any civil or criminal liability that might otherwise be imposed as a result of sharing among themselves confidential matters that are before the local child fatality

review team.
As added by P.L.119-2013, SEC.3.

IC 16-49-3-10
Duties of chairperson

Sec. 10. The chairperson of a local child fatality review team or the chairperson's designee shall do the following:

(1) Prepare the agenda for each meeting.

(2) Provide notices of meetings to all members of the local child fatality review team.

(3) Maintain confidentiality forms signed in accordance with sections 2(a)(1) and 8(c) of this chapter.

(4) Ensure all new members of the child fatality review team and invitees sign the confidentiality forms as required under sections 2(a)(1) and 8(c) of this chapter.

(5) Record all review data regarding the death of a child using the data collection tools provided by the state child fatality review coordinator and enter the information into the electronic data collection system.

(6) Attend training on the data collection tools.

(7) Serve as a liaison between the local child fatality review team and the:

(A) statewide child fatality review committee; and

(B) state child fatality review coordinator.

(8) Ensure compliance with section 8 of this chapter.

(9) Upon the conclusion of a review of a child fatality, destroy all records, information, and documents obtained by the local child fatality review team under section 5 of this chapter.

As added by P.L.119-2013, SEC.3.

IC 16-49-3-11
Department of child services; access to data

Sec. 11. The department of child services shall have access to all data submitted by a local child fatality review team, including access to the electronic data collection system, to assist the department of child services in preparing the report required under IC 31-25-2-24.
As added by P.L.119-2013, SEC.3.

IC 16-49-3-12
Confidentiality of records

Sec. 12. A local child fatality review team is subject to the confidentiality provisions of IC 31-33-18 applying to records held by the local child fatality review team.
As added by P.L.119-2013, SEC.3.

IC 16-49-3-13
Discussions, determinations, conclusions, and recommendations privileged; not subject to subpoena or discovery or admissible as

evidence

Sec. 13. The discussions, determinations, conclusions, and recommendations of a local child fatality review team, or its members, concerning a review of a child fatality at a meeting of the local child fatality review team:

(1) are privileged; and

(2) are not:

(A) subject to subpoena or discovery; or

(B) admissible as evidence;

in any judicial or administrative proceeding.

As added by P.L.119-2013, SEC.3.

IC 16-49-4

Chapter 4. Statewide Child Fatality Review Committee

IC 16-49-4-1

Statewide child fatality review committee established

Sec. 1. The statewide child fatality review committee is established to:

(1) identify similarities, trends, and factual patterns concerning the deaths of children in Indiana;

(2) create strategies and make recommendations for the prevention of injuries to and deaths of children;

(3) provide expertise, consultation, guidance, and training to local child fatality review teams; and

(4) advise and educate the legislature, governor, and public on the status of child fatalities in Indiana.

As added by P.L.119-2013, SEC.3.

IC 16-49-4-2

Committee members

Sec. 2. The statewide child fatality review committee consists of the following members appointed by the governor:

(1) A coroner or deputy coroner.

(2) A representative from the state department who:

(A) is a licensed physician; and

(B) specializes in injury prevention.

(3) A representative of a:

(A) local health department established under IC 16-20-2; or

(B) multiple county health department established under IC 16-20-3.

(4) A pediatrician.

(5) A representative of law enforcement who has experience in investigating child deaths.

(6) A representative from an emergency medical services provider.

(7) The director or a representative of the department of child services.

(8) A representative of a prosecuting attorney who has experience in prosecuting child abuse.

(9) A pathologist who is:

(A) certified by the American Board of Pathology in forensic pathology; and

(B) licensed to practice medicine in Indiana.

(10) A mental health provider.

(11) A representative of a child abuse prevention program.

(12) A representative of the department of education.

(13) An epidemiologist.

(14) The state child fatality review coordinator.

(15) At the discretion of the department of child services

ombudsman, a representative of the office of the department of child services ombudsman established by IC 4-13-19-3.

As added by P.L.119-2013, SEC.3.

IC 16-49-4-3

Confidentiality statements

Sec. 3. All members of the statewide child fatality review committee and any individuals invited to attend a meeting of the statewide child fatality review committee shall sign a confidentiality statement prepared by the state child fatality review coordinator.

As added by P.L.119-2013, SEC.3.

IC 16-49-4-4

Duties of committee

Sec. 4. The statewide child fatality review committee shall do the following:

(1) Compile and analyze data recorded by local child fatality review teams in reviewing child fatalities.

(2) Review child mortality records and examine all other records relevant to child fatalities in Indiana.

(3) Assist efforts by local child fatality review teams by:

(A) overseeing the creation of standardized forms and protocols necessary for the review of child deaths;

(B) providing expertise by answering questions related to a child's death that a local child fatality review team is reviewing;

(C) establishing and sponsoring training programs for members of local child fatality review teams; and

(D) providing, upon request of a local child fatality review team, expertise in creating local prevention strategies.

(4) Upon request by a local child fatality review team or the department of child services ombudsman established by IC 4-13-19-3, assist in or conduct a review of the death of a child as provided under section 5 of this chapter.

(5) Create strategies and make recommendations for the safety of children and prevention of serious injuries or deaths of children.

As added by P.L.119-2013, SEC.3.

IC 16-49-4-5

Assisting local child fatality review team; records from hospitals, physicians, coroners, law enforcement officers, or mental health professionals; immunity from liability; confidential; not subject to subpoena or discovery or admissible as evidence

Sec. 5. (a) Upon request by a local child fatality review team or the department of child services ombudsman established by IC 4-13-19-3, the statewide child fatality review committee shall assist a local child fatality review team or conduct a review of the

death of a child that occurred in Indiana if:

(1) the death of the child is:

(A) sudden;

(B) unexpected;

(C) unexplained; or

(D) assessed by the department of child services for alleged abuse or neglect that resulted in the death of the child; or

(2) the coroner in the area in which the child's death occurred determines that the cause of the death of the child is:

(A) undetermined; or

(B) the result of a homicide, suicide, or accident.

(b) In conducting a child fatality review under subsection (a), the statewide child fatality review committee may review all applicable records and information related to the death of the child, including the following:

(1) Records held by the:

(A) local or state health department; and

(B) department of child services.

(2) Medical records.

(3) Law enforcement records.

(4) Autopsy reports.

(5) Records of the coroner.

(6) Mental health reports.

(c) Subject to IC 34-30-15, if the statewide child fatality review committee requests records from a hospital, physician, coroner, law enforcement officer, or mental health professional regarding a death that the statewide child fatality review committee is investigating, the hospital, physician, coroner, law enforcement officer, or mental health professional shall provide the requested records to the statewide child fatality review committee.

(d) A person who provides records in accordance with subsection (c) in good faith is not subject to liability in:

(1) a civil;

(2) an administrative;

(3) a disciplinary; or

(4) a criminal;

action that might otherwise be imposed as a result of such disclosure.

(e) Except as otherwise provided in this article, information and records acquired by the statewide child fatality review committee in the exercise of its duties under this chapter are confidential and exempt from disclosure.

(f) Records, information, documents, and reports acquired or produced by the statewide child fatality review committee are not:

(1) subject to subpoena or discovery; or

(2) admissible as evidence;

in any judicial or administrative proceeding. Information that is otherwise discoverable or admissible from original sources is not immune from discovery or use in any proceeding merely because the

information was presented during proceedings before the statewide child fatality review committee.
As added by P.L.119-2013, SEC.3.

IC 16-49-4-6
Review of death; requirements

Sec. 6. In reviewing the death of a child under this chapter, the statewide child fatality review committee shall:

(1) identify the factors that surrounded or contributed to the death of the child;

(2) determine whether similar deaths could be prevented in the future;

(3) if applicable, identify:

(A) agencies and entities that should be involved; and

(B) any other resources that should be used;

to adequately prevent future deaths of children; and

(4) if applicable, identify solutions to improve practice and policy and enhance coordination.

As added by P.L.119-2013, SEC.3.

IC 16-49-4-7
Chairperson

Sec. 7. (a) The chairperson of the statewide child fatality review committee shall be selected by the governor.

(b) The statewide child fatality review committee shall meet at the call of the chairperson.

As added by P.L.119-2013, SEC.3.

IC 16-49-4-8
Duties of chairperson

Sec. 8. The chairperson of the statewide child fatality review committee shall do the following:

(1) Work with the state child fatality review coordinator to prepare the agenda for each meeting of the statewide child fatality review committee.

(2) Work with the state child fatality review coordinator to:

(A) prepare the annual report of the statewide child fatality review committee described in section 11 of this chapter; and

(B) ensure compliance with section 9 of this chapter.

(3) Upon the conclusion of a review of a child fatality, destroy all records, information, and documents obtained by the statewide child fatality review committee under section 5 of this chapter.

As added by P.L.119-2013, SEC.3.

IC 16-49-4-9
Meetings open; executive sessions; confidentiality statements

Sec. 9. (a) Except as provided in subsection (b), meetings of the statewide child fatality review committee are open to the public.

(b) A meeting of the statewide child fatality review committee that involves:

(1) confidential records; or

(2) identifying information regarding the death of a child that is confidential under state or federal law;

shall be held as an executive session.

(c) If a meeting is held as an executive session under subsection (b), each invitee who:

(1) attends the meeting; and

(2) is not a member of the statewide child fatality review committee;

shall sign a confidentiality statement prepared by the state child fatality review coordinator.

As added by P.L.119-2013, SEC.3.

IC 16-49-4-10

Discussion of confidential matters; applicable laws; immunity from liability

Sec. 10. Members of the statewide child fatality review committee and individuals who attend a meeting of the statewide child fatality review committee as invitees of the chairperson:

(1) may discuss among themselves confidential matters that are before the statewide child fatality review committee;

(2) are bound by all applicable laws regarding the confidentiality of matters reviewed by the statewide child fatality review committee; and

(3) except when acting:

(A) with malice;

(B) in bad faith; or

(C) with gross negligence;

are immune from any civil or criminal liability that might otherwise be imposed as a result of communicating among themselves about confidential matters that are before the statewide child fatality review committee.

As added by P.L.119-2013, SEC.3.

IC 16-49-4-11

Report; availability

Sec. 11. (a) The statewide child fatality review committee shall submit to the legislative council, governor, department of child services, state department, and commission on improving the status of children in Indiana on or before December 31 of each year a report that includes the following information:

(1) A summary of the data collected and reviewed by the statewide child fatality review committee in the previous calendar year.

(2) Trends and patterns that have been identified by the statewide child fatality review committee concerning deaths of children in Indiana.

(3) Recommended actions or resources to prevent future child fatalities in Indiana.

A report submitted under this section to the legislative council must be in an electronic format under IC 5-14-6.

(b) The statewide child fatality review committee shall provide a copy of a report submitted under this section to a member of the public upon request.

(c) The state department shall make the report available on the state department's Internet web site.

As added by P.L.119-2013, SEC.3.

IC 16-49-4-12

Report; identifying information excluded; review data confidential

Sec. 12. (a) A report released under this section 11 of this chapter may not contain identifying information relating to the fatalities reviewed by the statewide child fatality review committee or any local child fatality review team.

(b) Except as otherwise provided in this article, review data concerning a child fatality are confidential and may not be released.

As added by P.L.119-2013, SEC.3.

IC 16-49-4-13

Discussions, determinations, conclusions, and recommendations privileged; not subject to subpoena or discovery or admissible as evidence

Sec. 13. The discussions, determinations, conclusions, and recommendations of the statewide child fatality review committee or its members, concerning a review of a child fatality, at a meeting of the statewide child fatality review committee:

(1) are privileged; and

(2) are not:

(A) subject to subpoena or discovery; or

(B) admissible as evidence;

in any judicial or administrative proceeding.

As added by P.L.119-2013, SEC.3.

IC 16-49-4-14

Not entitled to compensation or per diem; entitled to mileage

Sec. 14. A member of the statewide child fatality review committee is not entitled to receive compensation or per diem but is entitled to receive mileage on the days on which the member is engaged in the business of the statewide child fatality review committee.

As added by P.L.119-2013, SEC.3.

IC 16-49-4-15
Confidentiality of records

Sec. 15. The statewide child fatality review committee is subject to the confidentiality provisions of IC 31-33-18 applying to records held by the statewide child fatality review committee.

As added by P.L.119-2013, SEC.3.

IC 16-49-5

Chapter 5. State Child Fatality Review Coordinator

IC 16-49-5-1

State child fatality review coordinator; employed by state department of health; duties

Sec. 1. The state department shall employ a state child fatality review coordinator to do the following:

(1) Assist the statewide child fatality review committee chairperson in establishing agendas for meetings of the statewide child fatality review committee.

(2) Coordinate information and materials for the meetings of the statewide child fatality review committee.

(3) Compile raw data for presentation to the statewide child fatality review committee.

(4) Contact the appropriate individuals if any issues with the electronic data collection system occur.

(5) Record information concerning child fatality reviews conducted by the statewide child fatality review committee in the electronic data collection system.

(6) Record and compile recommendations by the statewide child fatality review committee for the prevention of child fatalities and investigate available prevention resources.

(7) Work with the chairperson of the statewide child fatality review committee to prepare the annual report described in IC 16-49-4-11.

(8) Facilitate distribution of the annual report described in IC 16-49-4-11.

(9) Represent the state of Indiana at national meetings concerning child fatalities and child fatality reviews.

(10) Assist local child fatality review teams by:

(A) assisting with the establishment of local child fatality review teams;

(B) acting as a liaison between the statewide child fatality review committee and local child fatality review teams;

(C) creating and providing forms, including the data collection form described in section 2 of this chapter, for local child fatality review teams and the statewide child fatality review committee;

(D) developing protocols for meetings of and fatality reviews conducted by local child fatality review teams;

(E) providing data collection tools that include collecting and storing:

(i) identifying and nonidentifying information;

(ii) information concerning the circumstances surrounding the death of a child;

(iii) information concerning factors that contributed to the death of a child; and

(iv) information concerning findings and recommendations regarding the death of a child by the local child fatality review team;

(F) providing training on data collection and technical assistance for the electronic data collection system;

(G) providing information on the prevention of child fatalities; and

(H) obtaining death certificates for local child fatality review teams if necessary.

(11) Coordinate local or statewide training related to child fatality review.

(12) Maintain all confidentiality statements signed in accordance with IC 16-49-4-9.

(13) Attend meetings of the commission on improving the status of children in Indiana, established by IC 2-5-36-3, as requested by the chairperson of the commission.

As added by P.L.119-2013, SEC.3.

IC 16-49-5-2

Develop data collection and confidentiality forms

Sec. 2. (a) The state child fatality review coordinator shall develop a data collection form that includes:

(1) identifying and nonidentifying information;

(2) information regarding the circumstances surrounding a death;

(3) factors contributing to a death; and

(4) findings and recommendations that include the following information:

(A) Whether similar future deaths could be prevented.

(B) A list of:

(i) agencies and entities that should be involved; and

(ii) any other resources that should be used;

to adequately prevent future child deaths in the area.

(b) The state child fatality review coordinator shall develop a confidentiality form for use by the statewide child fatality review committee and local child fatality review teams.

As added by P.L.119-2013, SEC.3.

IC 16-49-5-3

Salary and expenses for training paid from funds appropriated to state department of health

Sec. 3. The following must be paid from funds appropriated to the state department:

(1) The salary of the state child fatality review coordinator.

(2) Expenses for any training for:

(A) the state child fatality review coordinator;

(B) members of the statewide child fatality review committee; and

(C) members of local child fatality review teams.

(3) Other expenses related to the duties of the state child fatality review coordinator.

As added by P.L.119-2013, SEC.3.