

**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**Repealed**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 Repealed by P.L.156-2011, SEC.41; P.L.197-2011, SEC.153.)*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**Repealed**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 Repealed by P.L.156-2011, SEC.41; P.L.197-2011, SEC.153.)*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**Repealed**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 Repealed by P.L.156-2011, SEC.41; P.L.197-2011, SEC.153.)*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**Repealed**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 Repealed by P.L.156-2011, SEC.41; P.L.197-2011, SEC.153.)*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**Repealed**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 Repealed by P.L.156-2011, SEC.41; P.L.197-2011, SEC.153.)*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**Repealed**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 Repealed by P.L.156-2011, SEC.41; P.L.197-2011, SEC.153.)*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**Repealed**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 Repealed by P.L.156-2011, SEC.41; P.L.197-2011, SEC.153.)*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 assault 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.*