

## SENATE BILL No. 546

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 16-18-2; IC 16-21; IC 16-34-2-5.

**Synopsis:** Abortion matters. Amends the definition of "abortion clinic" as follows: (1) Refers to a health care provider instead of a freestanding entity. (2) Exempts from the definition of "abortion clinic" a health care provider that provides an abortion inducing drug for the purposes of inducing an abortion to fewer than five patients a year. (Current law exempts certain physician's offices.) Requires that a person seeking a waiver by the health commissioner from rules authorized by the hospital council must affirmatively demonstrate that the waiver will not adversely affect or increase any risk to the health, safety, or welfare of an existing or potential resident or patient. Includes reporting requirements for abortions that are performed using an abortion inducing drug. Removes language that prohibits the state department of health from exempting abortion clinics from certain licensure requirements.

**Effective:** July 1, 2015.

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## Messmer, Holdman

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January 14, 2015, read first time and referred to Committee on Health & Provider Services.

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First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## SENATE BILL No. 546

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

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

- 1 SECTION 1. IC 16-18-2-1.5, AS AMENDED BY P.L.136-2013,
- 2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2015]: Sec. 1.5. (a) "Abortion clinic", for purposes of
- 4 IC 16-21-2, means a **freestanding entity health care provider (as**
- 5 **defined in section 163(d)(1) of this chapter)** that:
- 6 (1) performs surgical abortion procedures; or
- 7 (2) beginning January 1, 2014, provides an abortion inducing
- 8 drug for the purpose of inducing an abortion.
- 9 (b) The term does not include the following:
- 10 (1) A hospital that is licensed as a hospital under IC 16-21-2.
- 11 (2) An ambulatory outpatient surgical center that is licensed as an
- 12 ambulatory outpatient surgical center under IC 16-21-2.
- 13 (3) ~~A physician's office as long as:~~
- 14 ~~(A) the surgical procedures performed at the physician's office~~
- 15 ~~are not primarily surgical abortion procedures; and~~
- 16 ~~(B) abortion inducing drugs are not the primarily dispensed or~~



1 prescribed drug at the physician's office.

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

6 SECTION 2. IC 16-18-2-163, AS AMENDED BY P.L.139-2014,  
 7 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 8 JULY 1, 2015]: Sec. 163. (a) "Health care provider", for purposes of  
 9 IC 16-21 and IC 16-41, means any of the following:

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

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

29 (3) A blood bank, community mental health center, community  
 30 mental retardation center, community health center, or migrant  
 31 health center.

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

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

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

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

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

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

42 (C) is determined to be eligible for coverage as a health care



1 provider under IC 34-18 for the corporation's, partnership's, or  
2 professional corporation's health care function.

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

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

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

- 13 (1) a licensed physician;
- 14 (2) a registered nurse;
- 15 (3) a licensed practical nurse;
- 16 (4) an advanced practice nurse;
- 17 (5) a certified nurse midwife;
- 18 (6) a paramedic;
- 19 (7) an emergency medical technician;
- 20 (8) an advanced emergency medical technician; or
- 21 (9) an emergency medical responder, as defined by section 109.8  
22 of this chapter.

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

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

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



- 1 (4) A health maintenance organization (as defined in  
2 IC 27-13-1-19).
- 3 (5) A health care organization whose members, shareholders, or  
4 partners are health care providers under subdivision (1).
- 5 (6) A corporation, partnership, or professional corporation not  
6 otherwise specified in this subsection that:
- 7 (A) provides health care as one (1) of the corporation's,  
8 partnership's, or professional corporation's functions;
- 9 (B) is organized or registered under state law; and
- 10 (C) is determined to be eligible for coverage as a health care  
11 provider under IC 34-18 for the corporation's, partnership's, or  
12 professional corporation's health care function.
- 13 (7) A person that is designated to maintain the records of a person  
14 described in subdivisions (1) through (6).
- 15 (e) "Health care provider", for purposes of IC 16-45-4, has the  
16 meaning set forth in 47 CFR 54.601(a).
- 17 SECTION 3. IC 16-21-1-9, AS AMENDED BY P.L.197-2011,  
18 SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
19 JULY 1, 2015]: Sec. 9. (a) The state health commissioner may, for  
20 good cause shown, waive a rule:
- 21 (1) adopted under this chapter; or
- 22 (2) that may be waived under IC 16-28 for a specified time for a  
23 hospital based health facility or a hospital licensed under this  
24 article.
- 25 (b) A waiver may not **be granted unless the requesting party**  
26 **affirmatively demonstrates that the waiver will not** adversely affect  
27 **or increase any risk to** the health, safety, ~~and~~ **or** welfare of ~~the~~  
28 **existing or potential** residents or patients.
- 29 SECTION 4. IC 16-21-2-2.5, AS AMENDED BY P.L.136-2013,  
30 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
31 JULY 1, 2015]: Sec. 2.5. (a) The state department shall adopt rules  
32 under IC 4-22-2 to do the following concerning birthing centers and  
33 abortion clinics:
- 34 (1) Establish minimum license qualifications.
- 35 (2) Establish the following requirements:
- 36 (A) Sanitation standards.
- 37 (B) Staff qualifications.
- 38 (C) Necessary emergency equipment.
- 39 (D) Procedures to provide emergency care.
- 40 (E) Quality assurance standards.
- 41 (F) Infection control.
- 42 (3) Prescribe the operating policies, supervision, and maintenance



1 of medical records.

2 (4) Establish procedures for the issuance, renewal, denial, and  
3 revocation of licenses under this chapter. The rules adopted under  
4 this subsection must address the following:

5 (A) The form and content of the license.

6 (B) The collection of an annual license fee.

7 (5) Prescribe the procedures and standards for inspections.

8 ~~(b) The state department may not exempt an abortion clinic from the~~  
9 ~~requirements described in subsection (a) or the licensure requirements~~  
10 ~~set forth in an administrative rule, including physical plant~~  
11 ~~requirements. This subsection applies to a person applying for a license~~  
12 ~~as an abortion clinic after December 31, 2013.~~

13 ~~(c)~~ **(b)** A person who knowingly or intentionally:

14 (1) operates a birthing center or an abortion clinic that is not  
15 licensed under this chapter; or

16 (2) advertises the operation of a birthing center or an abortion  
17 clinic that is not licensed under this chapter;

18 commits a Class A misdemeanor.

19 SECTION 5. IC 16-34-2-5, AS AMENDED BY P.L.6-2012,  
20 SECTION 120, IS AMENDED TO READ AS FOLLOWS  
21 [EFFECTIVE JULY 1, 2015]: Sec. 5. (a) Every ~~medical facility where~~  
22 ~~abortions may be performed~~ **health care provider who performs a**  
23 **surgical abortion or provides, prescribes, administers, or dispenses**  
24 **an abortion inducing drug for the purposes of inducing an abortion**  
25 **shall be supplied with forms report the performance of the abortion**  
26 **or the provision, prescribing, administration, or dispensing of an**  
27 **abortion inducing drug on a form** drafted by the state department, the  
28 purpose and function of which shall be the improvement of maternal  
29 health and life through the compilation of relevant maternal life and  
30 health factors and data, and a further purpose and function shall be to  
31 monitor all abortions performed in Indiana to assure the abortions are  
32 done only under the authorized provisions of the law. ~~Such forms~~ **For**  
33 **each abortion performed and abortion inducing drug provided,**  
34 **prescribed, administered, or dispensed, the report shall include,**  
35 among other things, the following:

36 (1) The age of the ~~woman who is aborted.~~ **patient.**

37 (2) The ~~place where~~ **date and location** the abortion is was  
38 performed **or the abortion inducing drug was provided,**  
39 **prescribed, administered, or dispensed.**

40 (3) The **health care provider's** full name and address, **including**  
41 **the name** of the physicians performing the abortion **or providing,**  
42 **prescribing, administering, or dispensing the abortion**



1 **inducing drug.**

2 (4) The name of the father if known.

3 (5) The age of the father, or the approximate age of the father if  
4 the father's age is unknown.

5 (6) The postfertilization age of the fetus, the manner in which the  
6 postfertilization age was determined, and, if after the earlier of the  
7 time the fetus obtains viability or the time the postfertilization age  
8 of the fetus is at least twenty (20) weeks, the medical reason for

9 **the performance of the abortion or the provision, prescribing,**  
10 **administration, or dispensing of the abortion inducing drug.**

11 (7) **For a surgical abortion,** the medical procedure ~~employed to~~  
12 ~~administer used for~~ the abortion and, if the ~~medical procedure~~  
13 ~~performed on a fetus who is was~~ viable or ~~has had~~ a  
14 postfertilization age of at least twenty (20) weeks:

15 (A) whether the ~~method of abortion used was a method that;~~  
16 **procedure,** in the reasonable judgment of a ~~physician, would~~  
17 **provide the health care provider, gave the fetus** the best  
18 opportunity ~~for the fetus~~ to survive; and

19 (B) the basis for the determination that the pregnant woman  
20 had a condition described in this chapter that required the  
21 abortion to avert the death of or serious impairment to the  
22 pregnant woman.

23 **(8) For a nonsurgical abortion, the precise drugs provided,**  
24 **prescribed, administered, or dispensed, and the means of**  
25 **delivery of the drugs to the patient.**

26 ~~(8)~~ **(9)** The mother's obstetrical history, including dates of other  
27 abortions, if any.

28 ~~(9)~~ **(10)** The results of pathological examinations if performed.

29 ~~(10)~~ **(11)** ~~Information as to~~ **For a surgical abortion,** whether the  
30 fetus was delivered alive, **and if so, how long the fetus lived.**

31 ~~(11)~~ **(12)** Records of all maternal deaths occurring ~~within the~~  
32 **health facility at the location** where the abortion was performed  
33 **or the abortion inducing drug was provided, prescribed,**  
34 **administered, or dispensed.**

35 ~~(12)~~ **(13)** The date of the ~~pregnancy termination: the form was~~  
36 **transmitted to the state department and, if applicable,**  
37 **separately to the department of child services.**

38 ~~(13)~~ The date the form was received by the state department:

39 (b) The **health care provider shall complete the** form provided for  
40 in subsection (a) ~~shall be completed by the physician performing the~~  
41 ~~abortion and shall be transmitted~~ **transmit the completed form to the**  
42 state department, **in the manner specified on the form,** not later than



1 July 30 for each abortion ~~performed~~ **occurring** in the first six (6)  
 2 months of that year and not later than January 30 for each abortion  
 3 ~~performed for~~ **occurring in** the last six (6) months of the preceding  
 4 year. However, if an abortion is ~~performed on for~~ a female who is less  
 5 than fourteen (14) years of age, the ~~physician performing the abortion~~  
 6 **health care provider** shall transmit the form to the state department of  
 7 health and **separately to** the department of child services within three  
 8 (3) days after the abortion is performed.

9 (c) The dates ~~in subsection (a)(12) and (a)(13)~~ **supplied on the**  
 10 **form** may not be redacted for any ~~use of the form.~~ **reason before the**  
 11 **form is transmitted as provided in this section.**

12 (d) Each failure to ~~file the completed~~ **complete or timely transmit**  
 13 **a form, on time** as required under this section, **for each abortion**  
 14 **performed or abortion inducing drug that was provided,**  
 15 **prescribed, administered, or dispensed,** is a Class B misdemeanor.

16 (e) Not later than June 30 of each year, the state department shall  
 17 compile a public report providing the following:

18 (1) Statistics for the previous calendar year from the information  
 19 submitted under this section.

20 (2) Statistics for previous calendar years compiled by the state  
 21 department under this subsection, with updated information for  
 22 the calendar year that was submitted to the state department after  
 23 the compilation of the statistics.

24 The state department shall ensure that no identifying information of a  
 25 pregnant woman is contained in the report.

