

Second Regular Session 111th General Assembly (2000)

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 1999 General Assembly.

HOUSE ENROLLED ACT No. 1124

AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 2-5-23-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 5. The commission has the following voting membership:

- (1) The members of the senate ~~planning health~~ and ~~public provider~~ services committee.
- (2) The members of the house public health committee.

SECTION 2. IC 2-5-23-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 13. (a) The chairman of the senate ~~planning health~~ and ~~public service provider services~~ committee is the chairman of the commission beginning May 1 of odd-numbered years and vice chairman beginning May 1 of even-numbered years.

(b) The chairman of the house public health committee is the chairman of the commission beginning May 1 of even-numbered years and vice chairman beginning May 1 of odd-numbered years.

SECTION 3. IC 16-21-2-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 15. (a) 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.

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(b) A hospital subject to this section must have in place policies that govern immediate response to inpatient medical emergencies. These policies shall address the following:

(1) The composition of the hospital's inpatient emergency response team, which shall be a collaborative, interdisciplinary body with at least one (1) member who:

(A) has successfully completed advanced cardiac life support training; and

(B) is not staffing the hospital's emergency department while on duty as a member of the inpatient emergency response team.

(2) The location and contents of all emergency response carts for purposes of maintaining optimal efficiency and response time to inpatient emergencies.

(3) The annual education and training requirements for inpatient emergency response team members. These requirements shall be consistent with accreditation specifications or other nationally recognized standards.

Implementation of this subsection is subject to survey by the state department.

SECTION 4. IC 16-28-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE SEPTEMBER 1, 2000]: Sec. 3. If a health facility is in breach of this article or rules adopted under this article by offenses **Level 4 breaches** or patterns of deficiencies **Level 3 breaches** detrimental to the best interests of the public, the patients, or the health facility profession, the only type of license that may be issued to the health facility is a probationary license.

SECTION 5. IC 16-28-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. A person who believes that this article or ~~rules~~ **a rule** adopted under this article ~~have~~ **has** been breached may file an allegation of breach with the state department. The allegation ~~must~~ **may** be **made orally or** in writing. ~~unless the breach complained of is an offense or a deficiency. The state department shall reduce~~ an oral allegation of breach ~~shall be reduced to writing. by the state department.~~

SECTION 6. IC 16-28-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. The division shall promptly investigate ~~the following:~~

(1) ~~A written~~ **each** allegation of breach received under this chapter.

(2) ~~An oral~~ allegation of breach that the director, in the director's discretion, believes to have merit.



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SECTION 7. IC 16-28-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE SEPTEMBER 1, 2000]: Sec. 1. The executive board shall adopt rules under IC 4-22-2 to ~~classify each rule adopted by the executive board to govern a health facility under this article~~ **define each level of breach of this article or rules adopted under this article as provided in subdivisions (1) through (4). The state survey inspectors shall determine under this article, with the concurrence of the director, the classification of a breach** into one (1) of the following categories, **each of which is described in 42 CFR 488.404:**

- (1) ~~An offense, which presents a substantial probability that death or a life-threatening condition will result.~~ **(1) Level 4 - immediate jeopardy to patient health or safety.**
- (2) ~~A deficiency, which presents an immediate or a direct, serious adverse effect on the health, safety, security, rights, or welfare of a patient.~~ **(2) Level 3 - actual harm.**
- (3) ~~A noncompliance, which presents an indirect threat to the health, safety, security, rights, or welfare of a patient.~~ **(3) Level 2 - no actual harm with potential for more than minimal harm.**
- (4) ~~A nonconformance, which is any other classified breach not covered by subdivision (1), (2), or (3).~~ **(4) Level 1 - no actual harm with potential for minimal harm.**

SECTION 8. IC 16-28-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE SEPTEMBER 1, 2000]: Sec. 4. (a) The commissioner shall impose the following remedies for ~~breaches a breach~~ of this article or a rule adopted under this article:

- (1) ~~For an offense, a Level 4 breach,~~ the remedies specified in subsection (b)(1) through (b)(2). The commissioner may also impose **either of the remedy remedies** specified in subsection (b)(3).
- (2) ~~For a deficiency, Level 3 breach,~~ the ~~remedies~~ **remedy** specified in subsection (b)(1). The commissioner may also impose the remedies specified in subsection (b)(4).
- (3) ~~For a breach that is a repeat of the same deficiency~~ **Level 3 breach** within a fifteen (15) month period, the remedies specified in subsection (b)(1) through (b)(2). The commissioner may also impose **either of the remedy remedies** specified in subsection (b)(3).
- (4) ~~For a noncompliance, Level 2 breach,~~ the remedies specified in subsection (b)(5) through (b)(6).
- (5) ~~For a breach that is a repeat of the same noncompliance~~ **Level 2 breach** within a fifteen (15) month period, the ~~remedies~~



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remedy specified in subsection (b)(1). The commissioner may also impose the remedies specified in subsection (b)(4).

(6) For a ~~nonconformance~~, **Level 1 breach**, the ~~remedies~~ **remedy** specified in subsection (b)(5).

(7) For a breach that is a repeat of the same ~~nonconformance~~ **Level 1 breach** within a fifteen (15) month period, the remedies specified in subsection (b)(5) through (b)(6).

(b) The remedies for ~~breaches~~ **a breach** of this article or ~~rules~~ **a rule** adopted under this article are as follows:

- (1) Issuance of an order for immediate correction of the breach.
- (2) Imposition of a fine not to exceed ten thousand dollars (\$10,000) or suspension of new admissions to the health facility for a period not to exceed forty-five (45) days, or both.
- (3) Revocation by the director of the health facility's license or issuance of a probationary license.
- (4) Imposition of a fine not to exceed five thousand dollars (\$5,000) or suspension of new admissions to the health facility for a period not to exceed thirty (30) days, or both.
- (5) A requirement that the health facility comply with any plan of correction approved or directed under section 7 of this chapter.
- (6) If the health facility is found to have a pattern of breach, the commissioner may suspend new admissions to the health facility for a period not to exceed fifteen (15) days or impose a fine not to exceed one thousand dollars (\$1,000), or both.

(c) If a breach is immediately corrected and the commissioner has imposed remedies under subsection (b)(2), the commissioner may waive not more than fifty percent (50%) of the fine imposed and reduce the number of days for suspension of new admissions by one-half (1/2).

(d) The commissioner may, with the concurrence of a licensed physician, impose the following:

- (1) For an omission of care or an act that does not fall within a classification of a ~~rule~~ **breach** under this section and that the facility should reasonably have known would present a substantial probability that death or a life threatening condition will result, one (1) or any combination of the remedies specified in subsection (b)(1) through (b)(3).
- (2) For an omission of care or an act that:
 - (A) does not fall within a classification of a ~~rule~~ **breach** under this section; and
 - (B) the facility should reasonably have known would result in an immediate or a direct, serious adverse effect on the health, safety, security, rights, or welfare of a patient;



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the remedies specified in subsection (b)(1) or (b)(4), or both.

SECTION 9. IC 16-28-5-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 11. For a health facility that is certified for participation in Medicare under 42 U.S.C. 1395 et seq. or Medicaid under 42 U.S.C. 1396 et seq., the state department may not collect both a fine under this article and a civil monetary penalty under 42 CFR 488.**

SECTION 10. IC 16-28-11-1, AS AMENDED BY P.L.218-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 1. (a) Except as provided in IC 16-28-1-11, and ~~IC 16-28-7-4~~, fines or fees required to be paid under this article shall be paid directly to the director, who shall deposit the ~~fines or fees~~ in the state general fund.**

(b) Except as provided in IC 16-28-7-4, fines required to be paid under this article shall be paid directly to the director, who shall deposit the fines as follows:

- (1) Fifty percent (50%) in the state general fund.**
- (2) Fifty percent (50%) in the quality improvement and education fund established by section 4 of this chapter.**

SECTION 11. IC 16-28-11-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 4. (a) The quality improvement and education fund is established. The state department shall administer the fund.**

(b) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

(c) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(d) The state department shall use the money in the fund for the following purposes:

- (1) Education or training programs conducted or approved by the state department.**
- (2) Development of best practice guidelines and clinical protocols.**
- (3) Clinical research and other activities designed to improve the quality of care provided in health facilities.**

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Approved: _____

Governor of the State of Indiana

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