

## **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 16-21-2-2.5**

##### **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) The state department may not exempt an abortion clinic from the requirements described in subsection (a) or the licensure requirements set forth in an administrative rule, including physical

plant requirements. This subsection applies to a person applying for a license as an abortion clinic after December 31, 2013.

(c) 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.*

### **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**

#### **Administration of chapter**

Sec. 4. The state department shall administer this chapter with the advice of the council.

*As added by P.L.2-1993, SEC.4.*

### **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.*