

January 23, 1998

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## HOUSE BILL No. 1249

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DIGEST OF HB 1249 (Updated January 22, 1998 12:12 pm - DI 77)

**Citations Affected:** IC 5-14; IC 12-26; IC 16-18; IC 16-25; IC 16-27; noncode.

**Synopsis:** Hospice licensing. Provides for the regulation of hospices by the state department of health. Provides requirements a person must follow to obtain a hospice license. Provides that a hospice license is valid for one year. Requires the state department of health to adopt rules for hospice licensure. Requires the state department of health to charge an annual hospice license fee of \$100 for each hospice owned or operated by a licensee. Provides that the state department of health may conduct a hearing to determine whether a hospice should receive a license. Exempts certain individuals and facilities from having to obtain a hospice license. Makes it a Class A misdemeanor for a person to provide hospice services or advertise the operation of a hospice without having obtained a hospice license from the state department of health. Requires the state department of health to conduct periodic inspections of a licensed hospice. Requires the state department of

(Continued next page)

**Effective:** January 1, 1999.

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**Kruzan, C. Brown, Goeglein,  
Scholer, Hasler, Budak**

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January 13, 1998, read first time and referred to Committee on Public Health.  
January 22, 1998, amended, reported — Do Pass.

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Digest Continued

health to investigate a hospice about which the state department of health receives a complaint from a hospice patient or a hospice patient's family. Allows the state department of health to sanction a hospice that: (1) violates a standard or rule; (2) commits a violation of law; or (3) conducts a practice detrimental to the hospice's patients. Requires the state department of health to contact the attorney general with evidence of an unlicensed hospice. Requires the attorney general to seek an injunction to enjoin a violation committed by a hospice and to prosecute a person who operates or advertises a hospice without a license. Repeals optional certification of hospice providers by the state department of health. Makes conforming amendments.

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January 23, 1998

Second Regular Session 110th General Assembly (1998)

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 1997 General Assembly.

## HOUSE BILL No. 1249

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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 5-14-3-2, AS AMENDED BY P.L.50-1995,  
2 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JANUARY 1, 1999]: Sec. 2. As used in this chapter:  
4 "Copy" includes transcribing by handwriting, photocopying,  
5 xerography, duplicating machine, duplicating electronically stored data  
6 onto a disk, tape, drum, or any other medium of electronic data storage,  
7 and reproducing by any other means.  
8 "Direct cost" means one hundred five percent (105%) of the sum of  
9 the cost of:  
10 (1) the initial development of a program, if any;  
11 (2) the labor required to retrieve electronically stored data; and  
12 (3) any medium used for electronic output;  
13 for providing a duplicate of electronically stored data onto a disk, tape,  
14 drum, or other medium of electronic data retrieval under section 8(g)  
15 of this chapter, or for reprogramming a computer system under section

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- 1 6(c) of this chapter.
- 2 "Electronic map" means copyrighted data provided by a public
- 3 agency from an electronic geographic information system.
- 4 "Enhanced access" means the inspection of a public record by a
- 5 person other than a governmental entity and that:
- 6 (1) is by means of an electronic device other than an electronic
- 7 device provided by a public agency in the office of the public
- 8 agency; or
- 9 (2) requires the compilation or creation of a list or report that does
- 10 not result in the permanent electronic storage of the information.
- 11 "Facsimile machine" means a machine that electronically transmits
- 12 exact images through connection with a telephone network.
- 13 "Inspect" includes the right to do the following:
- 14 (1) Manually transcribe and make notes, abstracts, or memoranda.
- 15 (2) In the case of tape recordings or other aural public records, to
- 16 listen and manually transcribe or duplicate, or make notes,
- 17 abstracts, or other memoranda from them.
- 18 (3) In the case of public records available:
- 19 (A) by enhanced access under section 3.5 of this chapter; or
- 20 (B) to a governmental entity under section 3(c)(2) of this
- 21 chapter;
- 22 to examine and copy the public records by use of an electronic
- 23 device.
- 24 (4) In the case of electronically stored data, to manually transcribe
- 25 and make notes, abstracts, or memoranda or to duplicate the data
- 26 onto a disk, tape, drum, or any other medium of electronic
- 27 storage.
- 28 "Investigatory record" means information compiled in the course of
- 29 the investigation of a crime.
- 30 "Patient" has the meaning set out in IC 16-18-2-272(c).
- 31 "Person" means an individual, a corporation, a limited liability
- 32 company, a partnership, an unincorporated association, or a
- 33 governmental entity.
- 34 "Provider" has the meaning set out in ~~IC 16-18-2-295(b)~~
- 35 **IC 16-18-2-295(a)** and includes employees of the state department of
- 36 health or local boards of health who create patient records at the
- 37 request of another provider or who are social workers and create
- 38 records concerning the family background of children who may need
- 39 assistance.
- 40 "Public agency" means the following:
- 41 (1) Any board, commission, department, division, bureau,
- 42 committee, agency, office, instrumentality, or authority, by

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1 whatever name designated, exercising any part of the executive,  
2 administrative, judicial, or legislative power of the state.

3 (2) Any:

4 (A) county, township, school corporation, city, or town, or any  
5 board, commission, department, division, bureau, committee,  
6 office, instrumentality, or authority of any county, township,  
7 school corporation, city, or town;

8 (B) political subdivision (as defined by IC 36-1-2-13); or

9 (C) other entity, or any office thereof, by whatever name  
10 designated, exercising in a limited geographical area the  
11 executive, administrative, judicial, or legislative power of the  
12 state or a delegated local governmental power.

13 (3) Any entity or office that is subject to:

14 (A) budget review by either the state board of tax  
15 commissioners or the governing body of a county, city, town,  
16 township, or school corporation; or

17 (B) an audit by the state board of accounts.

18 (4) Any building corporation of a political subdivision that issues  
19 bonds for the purpose of constructing public facilities.

20 (5) Any advisory commission, committee, or body created by  
21 statute, ordinance, or executive order to advise the governing  
22 body of a public agency, except medical staffs or the committees  
23 of any such staff.

24 (6) Any law enforcement agency, which means an agency or a  
25 department of any level of government that engages in the  
26 investigation, apprehension, arrest, or prosecution of alleged  
27 criminal offenders, such as the state police department, the police  
28 or sheriff's department of a political subdivision, prosecuting  
29 attorneys, members of the excise police division of the alcoholic  
30 beverage commission, conservation officers of the department of  
31 natural resources, and the security division of the state lottery  
32 commission.

33 (7) Any license branch staffed by employees of the bureau of  
34 motor vehicles commission under IC 9-16.

35 (8) The state lottery commission, including any department,  
36 division, or office of the commission.

37 (9) The Indiana gaming commission established under IC 4-33,  
38 including any department, division, or office of the commission.

39 (10) The Indiana horse racing commission established by IC 4-31,  
40 including any department, division, or office of the commission.

41 "Public record" means any writing, paper, report, study, map,  
42 photograph, book, card, tape recording, or other material that is

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1 created, received, retained, maintained, used, or filed by or with a  
 2 public agency and which is generated on paper, paper substitutes,  
 3 photographic media, chemically based media, magnetic or machine  
 4 readable media, electronically stored data, or any other material,  
 5 regardless of form or characteristics.

6 "Standard-sized documents" includes all documents that can be  
 7 mechanically reproduced (without mechanical reduction) on paper  
 8 sized eight and one-half (8 1/2) inches by eleven (11) inches or eight  
 9 and one-half (8 1/2) inches by fourteen (14) inches.

10 "Trade secret" has the meaning set forth in IC 24-2-3-2.

11 "Work product of an attorney" means information compiled by an  
 12 attorney in reasonable anticipation of litigation and includes the  
 13 attorney's:

- 14 (1) notes and statements taken during interviews of prospective  
 15 witnesses; and
- 16 (2) legal research or records, correspondence, reports, or  
 17 memoranda to the extent that each contains the attorney's  
 18 opinions, theories, or conclusions.

19 This definition does not restrict the application of any exception under  
 20 section 4 of this chapter.

21 SECTION 2. IC 12-26-2-5, AS AMENDED BY P.L.6-1995,  
 22 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 23 JANUARY 1, 1999]: Sec. 5. (a) This section applies under the  
 24 following statutes:

- 25 (1) IC 12-26-6.
- 26 (2) IC 12-26-7.
- 27 (3) IC 12-26-12.
- 28 (4) IC 12-26-15.

29 (b) A petitioner may be represented by counsel.

30 (c) The court may appoint counsel for a petitioner upon a showing  
 31 of the petitioner's indigency and the court shall pay for such counsel if  
 32 appointed.

33 (d) A petitioner, including a petitioner who is a health care provider  
 34 under ~~IC 16-18-2-295(b)~~, **IC 16-18-2-295(a)**, in the petitioner's  
 35 individual capacity or as a corporation is not required to be represented  
 36 by counsel. If a petitioner who is a corporation elects not to be  
 37 represented by counsel, the individual representing the corporation at  
 38 the commitment hearing must present the court with written  
 39 authorization from:

- 40 (1) an officer;
- 41 (2) a director;
- 42 (3) a principal; or



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1 (4) a manager;  
 2 of the corporation that authorizes the individual to represent the interest  
 3 of the corporation in the proceedings.

4 (e) The petitioner is required to prove by clear and convincing  
 5 evidence that:

6 (1) the individual is mentally ill and either dangerous or gravely  
 7 disabled; and

8 (2) detention or commitment of that individual is appropriate.

9 SECTION 3. IC 16-18-2-19 IS AMENDED TO READ AS  
 10 FOLLOWS [EFFECTIVE JANUARY 1, 1999]: Sec. 19. (a)  
 11 **"Applicant", for purposes of IC 16-25, has the meaning set forth**  
 12 **in IC 16-25-1.1-2.**

13 (b) "Applicant", for purposes of IC 16-26-2, has the meaning set  
 14 forth in IC 16-26-2-1.

15 SECTION 4. IC 16-18-2-177.1 IS ADDED TO THE INDIANA  
 16 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 17 [EFFECTIVE JANUARY 1, 1999]: Sec. 177.1. **"Hospice", for**  
 18 **purposes of IC 16-25, has the meaning set forth in IC 16-25-1.1-3.**

19 SECTION 5. IC 16-18-2-177.2 IS ADDED TO THE INDIANA  
 20 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 21 [EFFECTIVE JANUARY 1, 1999]: Sec. 177.2. **"Hospice program",**  
 22 **for purposes of IC 16-25, has the meaning set forth in**  
 23 **IC 16-25-1.1-4.**

24 SECTION 6. IC 16-18-2-177.3 IS ADDED TO THE INDIANA  
 25 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 26 [EFFECTIVE JANUARY 1, 1999]: Sec. 177.3. **"Hospice program**  
 27 **patient", for purposes of IC 16-25, has the meaning set forth in**  
 28 **IC 16-25-1.1-5.**

29 SECTION 7. IC 16-18-2-177.4 IS ADDED TO THE INDIANA  
 30 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 31 [EFFECTIVE JANUARY 1, 1999]: Sec. 177.4. **"Hospice services"**  
 32 **for purposes of IC 16-25, has the meaning set forth in**  
 33 **IC 16-25-1.1-6.**

34 SECTION 8. IC 16-18-2-190.5 IS ADDED TO THE INDIANA  
 35 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 36 [EFFECTIVE JANUARY 1, 1999]: Sec. 190.5. **"Inpatient unit", for**  
 37 **purposes of IC 16-25, has the meaning set forth in IC 16-25-1.1-7.**

38 SECTION 9. IC 16-18-2-191.5 IS ADDED TO THE INDIANA  
 39 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 40 [EFFECTIVE JANUARY 1, 1999]: Sec. 191.5. **"Interdisciplinary**  
 41 **team", for purposes of IC 16-25, has the meaning set forth in**  
 42 **IC 16-25-1.1-8.**



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1 SECTION 10. IC 16-18-2-295, AS AMENDED BY P.L.188-1995,  
 2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 3 JANUARY 1, 1999]: Sec. 295. (a) "Provider", for purposes of  
 4 IC 16-25, means a hospice program certified under IC 16-25-1.

5 (b) "Provider", for purposes of IC 16-39 except for IC 16-39-7 and  
 6 for purposes of IC 16-41-1 through IC 16-41-9, means any of the  
 7 following:

8 (1) An individual (other than an individual who is an employee or  
 9 a contractor of a hospital, a facility, or an agency described in  
 10 subdivision (2) or (3)) who is licensed, registered, or certified as  
 11 a health care professional, including the following:

- 12 (A) A physician.
- 13 (B) A psychotherapist.
- 14 (C) A dentist.
- 15 (D) A registered nurse.
- 16 (E) A licensed practical nurse.
- 17 (F) An optometrist.
- 18 (G) A podiatrist.
- 19 (H) A chiropractor.
- 20 (I) A physical therapist.
- 21 (J) A psychologist.
- 22 (K) An audiologist.
- 23 (L) A speech-language pathologist.
- 24 (M) A dietitian.
- 25 (N) An occupational therapist.
- 26 (O) A respiratory therapist.
- 27 (P) A pharmacist.

28 (2) A hospital or facility licensed under IC 16-21-2 or IC 12-25 or  
 29 described in IC 12-24-1 or IC 12-29.

30 (3) A health facility licensed under IC 16-28-2.

31 (4) A home health agency licensed under IC 16-27-1.

32 (5) An employer of a certified emergency medical technician, a  
 33 certified advanced emergency medical technician, or a certified  
 34 paramedic.

35 (e) (b) "Provider", for purposes of IC 16-39-7-1, has the meaning set  
 36 forth in IC 16-39-7-1(a).

37 SECTION 11. IC 16-18-2-351.5 IS ADDED TO THE INDIANA  
 38 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 39 [EFFECTIVE JANUARY 1, 1999]: **Sec. 351.5. "Terminal illness",**  
 40 **for purposes of IC 16-25, has the meaning set forth in**  
 41 **IC 16-25-1.1-10.**

42 SECTION 12. IC 16-25-1.1 IS ADDED TO THE INDIANA CODE

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1 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
2 JANUARY 1, 1999]:

3 **Chapter 1.1. Definitions**

4 **Sec. 1. The definitions in this chapter apply throughout this  
5 article.**

6 **Sec. 2. "Applicant" means a person that applies for a license  
7 under IC 16-25-2.**

8 **Sec. 3. (a) "Hospice" means a person or health care provider  
9 that:**

10 (1) owns or operates a hospice program or facility, or both;  
11 and

12 (2) uses an interdisciplinary team directed by a licensed  
13 physician to provide a program of planned and continuous  
14 care for hospice program patients and their families.

15 **(b) The term includes a program that provides:**

16 (1) a continuum of medical or nursing care and other hospice  
17 services to hospice program patients that complies with:

18 (A) the:

19 (i) conditions of participation for inpatient units under  
20 42 U.S.C. 1395 et seq.; and

21 (ii) accreditation standards as provided under 42 U.S.C.  
22 1395x(dd)(2); and

23 (B) standards adopted under this article; and

24 (2) hospice services to hospice program patients and complies  
25 with standards adopted under this article.

26 **Sec. 4. (a) "Hospice program" means a specialized form of  
27 interdisciplinary health care that is designed to alleviate the  
28 physical, emotional, social, and spiritual discomforts of an  
29 individual who is experiencing the last phase of a terminal illness  
30 or disease.**

31 **(b) The term does not include services provided by a hospital, a  
32 health facility, an ambulatory outpatient surgical center, or a home  
33 health agency unless the entity has a distinct hospice program.**

34 **Sec. 5. "Hospice program patient" means a terminally ill patient  
35 who:**

36 (1) has been diagnosed by a licensed physician as having a  
37 terminal illness;

38 (2) is expected to die from the terminal illness within six (6)  
39 months after diagnosis; and

40 (3) receives hospice services from a hospice program.

41 **Sec. 6. "Hospice services" means:**

42 (1) palliative care for the physical, psychological, social,

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1 spiritual, and other special needs of a hospice program patient  
 2 during the final stages of a hospice program patient's terminal  
 3 illness; and

4 (2) care for the psychological, social, spiritual, and other  
 5 needs of the hospice program patient's family before and after  
 6 the hospice program patient's death.

7 **Sec. 7. "Interdisciplinary team" means a group of individuals**  
 8 **that includes a licensed physician, a registered nurse, a social**  
 9 **worker, and a counselor.**

10 **Sec. 8. "Terminal illness" means a life threatening illness with**  
 11 **a limited prognosis.**

12 SECTION 13. IC 16-25-2 IS ADDED TO THE INDIANA CODE  
 13 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 14 JANUARY 1, 1999]:

15 **Chapter 2. Licensure of Hospices**

16 **Sec. 1. (a) This chapter does not apply to a facility licensed**  
 17 **under IC 16-21 if the facility:**

18 (1) meets the minimum standards to be licensed as a hospice  
 19 under this article; or

20 (2) is certified as a hospice under the Medicare program (42  
 21 U.S.C. 1395 et seq.).

22 (b) A facility described in subsection (a) may apply for a hospice  
 23 license under this chapter.

24 **Sec. 2. A license issued under this chapter authorizes the owner**  
 25 **or operator of a hospice to provide hospice services.**

26 **Sec. 3. To obtain a license under this chapter, an applicant must**  
 27 **satisfy the following requirements:**

28 (1) The hospice owned or operated by the applicant must:

29 (A) meet the minimum standards for certification under  
 30 the Medicare program (42 U.S.C. 1395 et seq.) and comply  
 31 with the regulations for hospices adopted under 42 CFR  
 32 418.1 et seq.; or

33 (B) be certified by the Medicare program.

34 (2) The applicant shall comply with all rules adopted by the  
 35 state department under IC 16-25-3.

36 **Sec. 4. The state department may waive the requirements for**  
 37 **licensing under section 3 of this chapter for an applicant if:**

38 (1) the applicant is accredited as a hospice by the Joint  
 39 Commission on Accreditation of Healthcare Organizations,  
 40 the Community Health Accreditation Program, or another  
 41 accrediting organization approved by the state department;

42 (2) the state department finds that the accrediting

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1 organization has standards that are equivalent to or exceed  
 2 the requirements for licensing under this chapter; and  
 3 (3) the applicant pays the applicable fee under IC 16-25-4.  
 4 **Sec. 5. (a) An applicant shall submit an application for a hospice**  
 5 **license on a form prescribed by the state department.**  
 6 **(b) The applicant shall attach to the application evidence of the**  
 7 **applicant's ability to comply with the:**  
 8 **(1) minimum standards established for licensure; and**  
 9 **(2) rules adopted;**  
 10 **under this article.**  
 11 **(c) The application must contain the following information:**  
 12 **(1) The applicant's name.**  
 13 **(2) The type of hospice the applicant will own or operate.**  
 14 **(3) The location of the hospice owned or operated by the**  
 15 **applicant.**  
 16 **(4) The name of the individual or individuals responsible for**  
 17 **the day to day operation of the hospice owned or operated by**  
 18 **the applicant.**  
 19 **(5) Other information required under rules adopted by the**  
 20 **state department under this article.**  
 21 **Sec. 6. The state department may:**  
 22 **(1) issue a license to an applicant without obtaining further**  
 23 **evidence; or**  
 24 **(2) hold a hearing on the application and conduct an**  
 25 **investigation to determine whether the license may be issued.**  
 26 **Sec. 7. (a) If, after a hearing conducted under section 6(2) of this**  
 27 **chapter, the state department finds that the applicant is not in**  
 28 **compliance with this article or rules adopted under this article, the**  
 29 **state department shall notify the applicant in writing that the state**  
 30 **department denies issuance of a hospice license to the applicant.**  
 31 **(b) If, after a hearing conducted under section 6(2) of this**  
 32 **chapter, the state department finds that the hospice owned or**  
 33 **operated by the applicant complies with this article and rules**  
 34 **adopted under this article, the state department shall:**  
 35 **(1) approve the application; and**  
 36 **(2) issue a hospice license to the applicant.**  
 37 **Sec. 8. A license issued under this chapter expires one (1) year**  
 38 **after the date of issuance.**  
 39 **Sec. 9. The owner or operator of a hospice is not required to**  
 40 **obtain a hospice license for an administrative support site where**  
 41 **the hospice performs only administrative and other support**  
 42 **functions.**

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1           **Sec. 10.** The following are not required to obtain a hospice  
2 license under this chapter:

3           (1) A hospital, a health facility, an ambulatory outpatient  
4 surgical center, or a home health agency that provides  
5 services in accordance with the routine delivery of care to  
6 terminally ill patients admitted to the hospital, health facility,  
7 ambulatory outpatient surgical center, or home health agency,  
8 unless the hospital, health facility, ambulatory outpatient  
9 surgical center, or home health agency has a distinct hospice  
10 program.

11           (2) A health facility that provides hospice services under a  
12 contract with a hospice that is licensed under this chapter.

13           (3) An employee of a hospice licensed under this chapter who:  
14           (A) provides hospice services only as an employee of the  
15 license holder; and  
16           (B) does not receive compensation for providing the  
17 services, other than wages from the license holder.

18           **Sec. 11.** A person may not:

19           (1) provide hospice services; or  
20           (2) represent to the public that the person provides hospice  
21 services;

22 unless the person holds a license issued by the state department  
23 under this chapter for each place of business owned or operated by  
24 the person as a hospice.

25           **Sec. 12.** A person that is not licensed to own or operate a hospice  
26 under this chapter may not use:

27           (1) the word "hospice" in a title or description of a facility, an  
28 organization, a program, a service provider, or a service; or  
29           (2) any words, letters, abbreviations, or insignia indicating or  
30 implying that the person holds a license to provide hospice  
31 services.

32           SECTION 14. IC 16-25-3 IS ADDED TO THE INDIANA CODE  
33 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
34 JANUARY 1, 1999]:

35           **Chapter 3. Rules and Grievance Procedures**

36           **Sec. 1.** The state department shall adopt rules under IC 4-22-2  
37 to do the following:

38           (1) Establish minimum standards for patient care provided by  
39 a hospice to ensure compliance by a hospice with:  
40           (A) the requirements of this article;  
41           (B) the minimum standards of participation for hospices  
42 contained in 42 U.S.C. 1395 et seq.; and

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(C) federal regulations promulgated under 42 CFR 418.1 et seq.

(2) Establish procedures for issuing, renewing, denying, or revoking the hospice license of the owner or operator of a hospice, including the:

(A) form and content of the license; and

(B) collection of the annual license fee specified in IC 16-25-4.

**Sec. 2. A person aggrieved by an action of the state department under this article may appeal the action under IC 4-21.5-5.**

SECTION 15. IC 16-25-4 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]:

**Chapter 4. Hospice License Fees**

**Sec. 1. Except as provided in section 3 of this chapter, the state department shall charge an annual hospice license fee of one hundred dollars (\$100) for each hospice owned or operated by a hospice license holder.**

**Sec. 2. The fees collected by the state department under section 1 of this chapter shall be used by the state department to pay for the administrative costs of the hospice licensing program under this article.**

SECTION 16. IC 16-25-5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]:

**Chapter 5. Penalties and Enforcement Actions**

**Sec. 1. The state department shall at least annually conduct an inspection of each hospice owned or operated by a person licensed under IC 16-25-2 at reasonable times to determine if the hospice complies with this article and rules adopted under this article.**

**Sec. 2. If a hospice licensed under IC 16-25-2 is also subject to state department inspections under any other law, the state department shall conduct all inspections simultaneously.**

**Sec. 3. (a) The state department may take any of the following actions against the owner or operator of a hospice on any of the grounds listed in subsection (b):**

- (1) Issue a letter of correction.
- (2) Issue a probationary license.
- (3) Conduct a resurvey.
- (4) Deny renewal of a license.
- (5) Suspend a license.
- (6) Revoke a license.

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(7) Impose a civil penalty in an amount not to exceed ten thousand dollars (\$10,000).

(b) The state department may take any action listed under subsection (a) against the owner or operator of a hospice on any of the following grounds:

- (1) A violation by the hospice of a provision of this article or a rule adopted under this article.
- (2) The permitting, aiding, or abetting the commission of a violation of law by the hospice.
- (3) A conduct or practice by the hospice that the state department finds is detrimental to the welfare of the hospice's patients.

**Sec. 4. The following procedure governs an action taken by the state department under section 3 of this chapter:**

- (1) The state department shall file a complaint stating the grounds for the proposed action. The state department shall schedule a hearing on the complaint.
- (2) The owner or operator of the hospice must be given at least thirty (30) days written notice of the time and place for a hearing on the complaint. This notice must be sent by certified mail to the hospice at the address shown in the hospice's most recent license application. The owner or operator of the hospice may be represented by legal counsel at the hearing.
- (3) The hearing officer may recommend to the executive board after the hearing that the executive board take the action proposed by the state department.
- (4) If the hearing officer recommends suspending a hospice license, the hearing officer may also recommend the conditions the holder of the suspended hospice license must meet during the suspension that will entitle the holder of the suspended license to reinstatement of the license.
- (5) If the hearing officer recommends either suspending or revoking the license, the executive board shall enter an order accordingly. The order must contain a statement describing the grounds for suspending or revoking the license.
- (6) The hearing officer may, after a hearing, take the matter under advisement and recommend to the executive board requirements the owner or operator of the hospice must satisfy to avoid license suspension or revocation. The executive board shall enter an order accordingly and notify the owner or operator of the hospice of the order by certified

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mail. If the owner or operator of the hospice complies with the order to the hearing officer's satisfaction, the hearing officer shall notify the executive board. The executive board shall then enter an order showing compliance and dismissing the matter.

Sec. 5. The state department shall investigate any hospice about which the state department receives a complaint from a hospice program patient or a member of a hospice program patient's family.

Sec. 6. A person that knowingly or intentionally:

- (1) owns or operates a hospice; or
- (2) advertises the operation of a hospice;

without a license issued under this article commits a Class A misdemeanor.

Sec. 7. (a) The state department shall investigate a report of an unlicensed hospice and report the department's findings to the attorney general.

(b) The attorney general, upon receiving a report of an unlicensed hospice, shall:

- (1) seek an injunction in the circuit or superior court with jurisdiction in the county where the alleged unlicensed hospice is located; or
- (2) prosecute the violation under section 6 of this chapter.

SECTION 17. IC 16-27-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: Sec. 10. This chapter does not prohibit the provision of:

- (1) hospice care by a hospice program certified under IC 16-25-1; provider licensed under IC 16-25-2;
- (2) homemaker services;
- (3) companion services; or
- (4) any other services;

for which a license is not required.

SECTION 18. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 1999]: IC 16-18-2-123; IC 16-18-2-177; IC 16-18-2-178; IC 16-25-1.

SECTION 19. [EFFECTIVE JANUARY 1, 1999] (a) Notwithstanding IC 16-25-3, as added by this act, the state department of health shall carry out the duties imposed upon it under IC 16-25, as amended by this act, under interim written guidelines approved by the state health commissioner and published in the Indiana Register.

(b) This SECTION expires on the earlier of the following:

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- 1           **(1) The date rules are adopted under IC 16-25-3, as added by**
- 2           **this act.**
- 3           **(2) January 1, 2000.**

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1249, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 6, delete lines 37 through 41.

Page 8, delete lines 12 through 17.

Page 8, line 18, delete "8" and insert "7".

Page 8, line 20, after "worker," insert "and".

Page 8, line 20, delete ", and one (1) or more hospice volunteers, all of" and insert ".".

Page 8, delete lines 21 through 26.

Page 8, line 27, delete "10" and insert "8".

Page 8, between lines 32 and 33, begin a new paragraph and insert:  
**"Sec. 1. (a) This chapter does not apply to a facility licensed under IC 16-21 if the facility:**

**(1) meets the minimum standards to be licensed as a hospice under this article; or**

**(2) is certified as a hospice under the Medicare program (42 U.S.C. 1395 et seq.).**

**(b) A facility described in subsection (a) may apply for a hospice license under this chapter."**

Page 8, line 33, delete "1" and insert "2".

Page 8, line 35, delete "2" and insert "3".

Page 8, line 37, delete "have" and insert ":".

Page 8, delete lines 38 through 42, begin a new line double block indented and insert:

**"(A) meet the minimum standards for certification under the Medicare program (42 U.S.C. 1395 et seq.) and comply with the regulations for hospices adopted under 42 CFR 418.1 et seq.; or**

**(B) be certified by the Medicare program."**

Page 9, delete lines 1 through 27.

Page 9, line 28, delete "(6)" and insert "(2)".

Page 9, line 30, delete "3" and insert "4".

Page 9, line 31, delete "2" and insert "3".

Page 9, line 40, delete "4" and insert "5".

Page 10, line 15, delete "5" and insert "6".

Page 10, line 20, delete "6" and insert "7".

Page 10, line 20, delete "5(2)" and insert "6(2)".

Page 10, line 25, delete "5(2)" and insert "6(2)".

Page 10, line 31, delete "7" and insert "8".

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Page 10, line 33, delete "8" and insert "9".

Page 10, line 37, delete "9" and insert "10".

Page 11, line 12, delete "10" and insert "11".

Page 11, line 19, delete "11" and insert "12".

Page 11, line 37, delete "adopted" and insert "**promulgated**".

Page 11, line 37, delete "42 U.S.C. 1395" and insert "**42 CFR 418.1**".

Page 12, line 13, delete "The state department may waive payment by a hospice" and insert "**The fees collected by the state department under section 1 of this chapter shall be used by the state department to pay for the administrative costs of the hospice licensing program under this article.**".

Page 12, delete lines 14 through 16.

Page 12, line 27, delete "may" and insert "**shall**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to House Bill 1249 as introduced.)

CRAWFORD, Chair

Committee Vote: yeas 12, nays 1.

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