

SENATE BILL No. 359

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-18-2-123; IC 16-18-2-295; IC 16-25-1; IC 16-25-1.1; IC 16-27-1-10.

Synopsis: Hospice licensing. Provides for the licensing of hospices by the state department of health. (Current law provides for optional certification of a hospice by the state department of health.) Provides requirements a person must follow to obtain a hospice license. Requires the state department of health to adopt rules for hospice licensing that are based on federal regulations. 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 may receive a license. Allows the state department of health to conduct periodic inspections of a licensed hospice. Allows the state department of health to suspend or revoke the license of a hospice that:
(Continued next page)

Effective: January 1, 1999.

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January 8, 1998, read first time and referred to Committee on Health and Environmental Affairs.



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Digest Continued

(1) violates a standard or rule; (2) commits a violation of law; or (3) conducts a practice detrimental to the hospice's patients. Provides the procedure the state department must follow to suspend or revoke the license of a hospice. Repeals optional certification of hospice providers by the state department of health. Provides that a hospice that is certified under current state law or that has a certification under federal law is not required to apply for a license under state law until July 1, 1999. Makes conforming amendments.

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Introduced

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.

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SENATE BILL No. 359



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 16-18-2-295, 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~~ **licensed** under
5 ~~IC 16-25-1~~. **IC 16-25-1.1**.

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

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

- 13 (A) A physician.
- 14 (B) A psychotherapist.
- 15 (C) A dentist.



- 1 (D) A registered nurse.
 2 (E) A licensed practical nurse.
 3 (F) An optometrist.
 4 (G) A podiatrist.
 5 (H) A chiropractor.
 6 (I) A physical therapist.
 7 (J) A psychologist.
 8 (K) An audiologist.
 9 (L) A speech-language pathologist.
 10 (M) A dietitian.
 11 (N) An occupational therapist.
 12 (O) A respiratory therapist.
 13 (P) A pharmacist.
 14 (2) A hospital or facility licensed under IC 16-21-2 or IC 12-25 or
 15 described in IC 12-24-1 or IC 12-29.
 16 (3) A health facility licensed under IC 16-28-2.
 17 (4) A home health agency licensed under IC 16-27-1.
 18 (5) An employer of a certified emergency medical technician, a
 19 certified advanced emergency medical technician, or a certified
 20 paramedic.
 21 (c) "Provider", for purposes of IC 16-39-7-1, has the meaning set
 22 forth in IC 16-39-7-1(a).
 23 SECTION 2. IC 16-25-1.1 IS ADDED TO THE INDIANA CODE
 24 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 25 JANUARY 1, 1999]:
 26 **Chapter 1.1. Licensing of Hospices**
 27 **Sec. 1. The state department shall issue a license to a provider**
 28 **that meets the hospice program requirements of this chapter.**
 29 **Sec. 2. To obtain a license under this chapter, an applicant must**
 30 **satisfy the following requirements:**
 31 **(1) The applicant must submit an application on a form**
 32 **prescribed by the state department, showing the ability of the**
 33 **applicant to comply with the minimum standards for licensing**
 34 **required by this chapter and with the rules adopted under this**
 35 **chapter. The application must contain the following:**
 36 **(A) The name of the applicant.**
 37 **(B) The type of program to be operated.**
 38 **(C) The location of the program's operation.**
 39 **(D) The names of persons in charge of the program.**
 40 **(E) Other information required by the state department.**
 41 **(2) A hospice owned or operated by the applicant must meet**
 42 **the minimum standards for certification required by the**

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1 Medicare program (42 U.S.C. 1395 et seq.).

2 **Sec. 3. The state department may:**

3 (1) issue a license to an applicant without obtaining further
4 evidence; or

5 (2) hold a hearing on the application and conduct an
6 investigation to determine whether the license may be issued.

7 **Sec. 4. (a) If, after a hearing conducted under section 3(2) of this**
8 **chapter, the state department finds that an applicant is not in**
9 **compliance with this chapter or rules adopted under this chapter,**
10 **the state department shall notify the applicant in writing that the**
11 **state department denies issuance of a hospice license to the**
12 **applicant. The determination of the state department under this**
13 **subsection may be appealed under IC 4-21.5-5.**

14 (b) If, after a hearing conducted under section 3(2) of this
15 chapter, the state department finds that the hospice owned or
16 operated by the applicant complies with this chapter and rules
17 adopted under this chapter, the state department shall:

18 (1) approve the application; and

19 (2) issue a hospice license to the applicant.

20 **Sec. 5. The state department shall charge an annual hospice**
21 **license fee of one hundred dollars (\$100) for each hospice owned or**
22 **operated by a provider.**

23 **Sec. 6. A license issued under this chapter expires on the later of**
24 **the following:**

25 (1) One (1) year after the date of issue.

26 (2) The date the provider's Medicare certification expires.

27 **Sec. 7. The state department may conduct an inspection of each**
28 **hospice owned or operated by a provider licensed under this**
29 **chapter at reasonable times to determine if the hospice complies**
30 **with this chapter and rules adopted under this chapter.**

31 **Sec. 8. The state department may suspend or revoke a license**
32 **issued under this chapter on any of the following grounds:**

33 (1) A violation by the hospice of a provision of this chapter or
34 a rule adopted under this chapter.

35 (2) Permitting, aiding, or abetting the commission in a
36 violation of law by the hospice.

37 (3) A conduct or practice by the hospice that the state
38 department finds is detrimental to the welfare of the hospice's
39 patients.

40 **Sec. 9. The following procedure governs the suspension or**
41 **revocation of a license under section 8 of this chapter:**

42 (1) The state department shall file a complaint stating the

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1 grounds for the proposed action. The state department shall
2 schedule a hearing on the complaint.

3 (2) A provider must be given at least thirty (30) days written
4 notice of the time and place for a hearing on a complaint. This
5 notice must be sent by certified mail to the provider at the
6 address shown in the provider's most recent license
7 application. The provider may be represented by legal counsel
8 at the hearing.

9 (3) The hearing officer may recommend to the executive
10 board after the hearing that the executive board take the
11 action proposed by the state department.

12 (4) If the hearing officer recommends suspending a hospice
13 license, the hearing officer may also recommend the
14 conditions the holder of the suspended hospice license must
15 meet during the suspension that will entitle the holder of the
16 suspended license to reinstatement of the license.

17 (5) If the hearing officer recommends either suspending or
18 revoking the license, the executive board shall enter an order
19 accordingly. The order must contain a statement describing
20 the grounds for suspending or revoking the license.

21 (6) The hearing officer may, after a hearing, take the matter
22 under advisement and recommend to the executive board
23 requirements the owner or operator of the hospice must
24 satisfy to avoid license suspension or revocation. The
25 executive board shall enter an order accordingly and notify
26 the provider of the order by certified mail. If the provider
27 complies with the order to the hearing officer's satisfaction,
28 the hearing officer shall notify the executive board. The
29 executive board shall then enter an order showing compliance
30 and dismissing the matter.

31 **Sec. 10.** A person aggrieved by the action of the state
32 department under sections 8 and 9 of this chapter may appeal the
33 action under IC 4-21.5-5.

34 **Sec. 11.** An entity may not use the word "hospice" in its title
35 unless the entity meets all the requirements of:

- 36 (1) federal conditions of participation as a hospice under 42
37 U.S.C. 1395 et seq.; and
38 (2) this chapter.

39 **Sec. 12.** The state department shall adopt rules under IC 4-22-2
40 to carry out this chapter. The rules adopted under this section must
41 be based on the federal conditions of participation for Medicare
42 certified hospices under 42 CFR 418 et seq.

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1 SECTION 3. IC 16-27-1-10 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JANUARY 1, 1999]: Sec. 10. This chapter
 3 does not prohibit the provision of:

- 4 (1) hospice care by a hospice ~~program certified under IC 16-25-1;~~
 5 **provider licensed under IC 16-25-1.1;**
 6 (2) homemaker services;
 7 (3) companion services; or
 8 (4) any other services;

9 for which a license is not required.

10 SECTION 4. THE FOLLOWING ARE REPEALED [EFFECTIVE
 11 JANUARY 1, 1999]: IC 16-18-2-123; IC 16-25-1.

12 SECTION 5. [EFFECTIVE JANUARY 1, 1999] (a) **A hospice**
 13 **that:**

- 14 (1) **is certified under IC 16-25-1 (before its repeal); or**
 15 (2) **has a certification from the Medicare program;**
 16 **is not required to apply for a license under IC 16-25-1.1, as added**
 17 **by this act.**

18 (b) **This SECTION expires July 1, 1999.**

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