

SENATE BILL No. 406

DIGEST OF SB 406 (Updated February 2, 1998 8:58 pm - DI 88)

Citations Affected: IC 16-18; IC 16-21; IC 16-28; IC 16-29; noncode.

Synopsis: Moratorium on long term care beds. Removes the power of the Indiana health facilities council to adopt rules to implement the certificate of need law. Provides a three year moratorium on the creation of additional comprehensive long term care beds. Prohibits a hospital from converting certain acute care beds to comprehensive long term care beds for three years. Prohibits the Indiana health facilities council or the state department of health from recommending or approving additional comprehensive care beds until July 1, 2001. Exempts comprehensive care beds owned, operated, or sponsored by certain religious and fraternal organizations.

Effective: July 1, 1998.

Johnson

January 12, 1998, read first time and referred to Committee on Planning and Public Services.
January 27, 1998, amended, reported favorably — Do Pass.
February 2, 1998, read second time, amended, ordered engrossed.

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Reprinted
February 3, 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 *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

SENATE BILL No. 406

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 16-18-2-67 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 67. (a) "**Comprehensive**
3 **care bed**", for purposes of ~~IC 16-29-1~~, has the meaning set forth in
4 ~~IC 16-29-1-1~~.

5 (b) "**Comprehensive care bed**", for purposes of IC 16-29-2, has the
6 meaning set forth in IC 16-29-2-1.

7 SECTION 2. IC 16-21-1-9 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 9. (a) ~~Except as~~
9 ~~provided in IC 16-29-1-11~~; The executive board may, upon
10 recommendation by the state health commissioner and for good cause,
11 waive a rule:

- 12 (1) adopted under this chapter; or
13 (2) that may be waived under IC 16-28 for a specified time for a
14 hospital based health facility or a hospital licensed under this
15 article.
16 (b) Disapproval of waiver requests requires executive board action.
17 (c) A waiver may not adversely affect the health, safety, and welfare

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of the residents or patients.

SECTION 3. IC 16-28-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 7. The council shall do the following:

(1) Propose the adoption of rules by the department under IC 4-22-2 governing the following:

(A) Health and sanitation standards necessary to protect the health, safety, security, rights, and welfare of patients.

(B) Qualifications of applicants for licenses issued under this article to assure the proper care of patients.

(C) Operation, maintenance, management, equipment, and construction of facilities required to be licensed under this article if jurisdiction is not vested in any other state agency.

(D) Manner, form, and content of the license, including rules governing disclosure of ownership interests.

(E) Levels of medical staffing and medical services in cooperation with the office of Medicaid policy and planning, division of family and children, and other agencies authorized to pay for the services.

(2) Recommend to the fire prevention and building safety commission fire safety rules necessary to protect the health, safety, security, rights, and welfare of patients.

(3) Classify health facilities in health care categories.

(4) Encourage the development of social and habilitative programs in health facilities, as recommended by the community residential facilities council.

(5) Act as an advisory body for the division, commissioner, and state department.

~~(6) Adopt rules under IC 4-22-2, as provided in IC 16-29-1-13.~~

SECTION 4. IC 16-29-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. ~~Notwithstanding IC 16-29-1,~~ A hospital licensed under IC 16-21-2 may convert:

~~(1) beginning January 1, 1986,~~ not more than thirty (30) acute care beds to skilled care comprehensive long term care beds; and

~~(2) beginning June 1, 1989,~~ not more than an additional twenty (20) acute care beds to either intermediate care comprehensive long term care beds or skilled care comprehensive long term care beds;

that are to be certified for participation in a state or federal reimbursement program, including programs under Title XVIII or Title XIX of the Social Security Act (42 U.S.C. 1395 et seq. or 42 U.S.C. 1396 et seq.), if those beds will function essentially as beds licensed

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1 under IC 16-28.

2 SECTION 5. [EFFECTIVE JULY 1, 1998] (a) This SECTION
3 does not apply to the following:

4 (1) Comprehensive care beds for which a certificate of need is
5 approved before July 1, 1998.

6 (2) Comprehensive care beds that are:

7 (A) owned, operated, or sponsored by a religious
8 organization that:

9 (i) is an Indiana nonprofit corporation;

10 (ii) was exempt, by virtue of the religious organization's
11 status as a religious organization, from gross income
12 taxation under IC 6-2.1-3-20 before January 1, 1987;

13 (iii) is operated for bona fide religious purposes; and

14 (iv) is not controlled, owned, or operated by a hospital
15 licensed under IC 16-21-2; or

16 (B) owned or operated by an Indiana nonprofit
17 corporation that is owned by a religious organization
18 described in clause (A);

19 if the comprehensive care beds are used to serve members of
20 the religious organization.

21 (3) Comprehensive care beds that are owned, operated, or
22 sponsored by a fraternal organization that:

23 (A) was exempt from gross income taxation under
24 IC 6-2.1-3-21 before January 1, 1987; and

25 (B) owned, operated, or sponsored a health facility licensed
26 under IC 16-10-4 (before its repeal on July 1, 1993) on
27 December 31, 1986;

28 if the comprehensive care beds are used to serve members of
29 the fraternal organization.

30 (b) As used in this SECTION, "comprehensive care bed" means
31 a bed in a health facility, hospital, or other facility that:

32 (1) is licensed or is to be licensed under IC 16-28-2;

33 (2) functions essentially as a bed licensed under IC 16-28-2; or

34 (3) is used solely for an individual who falls into one (1) of the
35 following categories:

36 (A) An individual who is:

37 (i) medically stable twelve (12) to twenty-four (24) hours
38 each day; and

39 (ii) ventilator dependent.

40 (B) An individual who is medically stable and:

41 (i) brain or high spinal cord traumatized; or

42 (ii) has a major progressive neuromuscular disease.



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- 1 **(C) An individual who is infected by the human**
- 2 **immunodeficiency virus (HIV).**
- 3 **(c) Notwithstanding IC 16-29-2, the:**
- 4 **(1) Indiana health facilities council may not recommend; and**
- 5 **(2) state department of health may not recommend or**
- 6 **approve;**
- 7 **a certificate of need for additional comprehensive care beds or the**
- 8 **certification of comprehensive care beds.**
- 9 **(d) Comprehensive care beds may not be added or constructed.**
- 10 **(e) Notwithstanding IC 16-29-3-1, beds in a health facility,**
- 11 **hospital, or other facility may not be converted to comprehensive**
- 12 **care beds.**
- 13 **(f) This SECTION expires July 1, 2001.**

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COMMITTEE REPORT

Mr. President: The Senate Committee on Planning and Public Services, to which was referred Senate Bill 406, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 16-18-2-67 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 67. (a) "~~Comprehensive care bed~~", for purposes of ~~IC 16-29-1~~, has the meaning set forth in ~~IC 16-29-1-1~~.

~~(b)~~ "Comprehensive care bed", for purposes of IC 16-29-2, has the meaning set forth in IC 16-29-2-1."

Page 2, line 26, delete "not".

Page 2, run in lines 26 and 28.

Page 2, line 28, reset in roman "(1)".

Page 2, line 28, reset in roman "not more than thirty (30)".

Page 2, line 29, reset in roman "skilled care".

Page 2, line 29, reset in roman "and".

Page 2, line 30, reset in roman "(2)".

Page 2, line 30, reset in roman "not more than an additional twenty".

Page 2, reset in roman lines 31 through 36.

Page 2, line 37, reset in roman "1396 et seq.),".

Page 2, delete lines 39 through 40.

Page 3, line 17, delete "The" and insert "**Notwithstanding IC 16-29-2, the**".

Page 3, line 24, delete "Beds" and insert "**Notwithstanding IC 16-29-3-1, beds**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to Senate Bill 406 as introduced.)

JOHNSON, Chairperson

Committee Vote: Yeas 7, Nays 2.

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SENATE MOTION

Mr. President: I move that Senate Bill 406 be amended to read as follows:

Page 1, line 2, strike "(a)".

Page 2, line 32, after "convert" insert ":".

Page 2, line 34, before "and" insert ";".

(Reference is to Senate Bill 406 as printed January 28, 1998.)

JOHNSON

 SENATE MOTION

Mr. President: I move that Senate Bill 46 be amended to read as follows:

Page 1, line 2, strike "(a)".

Page 2, line 32, after "convert" insert ":".

Page 2, line 34, before "and" insert ";".

Page 3, line 3, after "to" insert "**the following**:".

Page 3, line 3, delete "comprehensive", begin a new line block indented and insert:

"(1) Comprehensive".

Page 3, between lines 4 and 5, begin a new line block indented and insert:

"(2) Comprehensive care beds that are:

(A) owned, operated, or sponsored by a religious organization that:

(i) is an Indiana nonprofit corporation;

(ii) was exempt, by virtue of the religious organization's status as a religious organization, from gross income taxation under IC 6-2.1-3-20 before January 1, 1987;

(iii) is operated for bona fide religious purposes; and

(iv) is not controlled, owned, or operated by a hospital licensed under IC 16-21-2; or

(B) owned or operated by an Indiana nonprofit corporation that is owned by a religious organization described in clause (A);

if the comprehensive care beds are used to serve members of the religious organization.

(3) Comprehensive care beds that are owned, operated, or sponsored by a fraternal organization that:

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**(A) was exempt from gross income taxation under IC 6-2.1-3-21 before January 1, 1987; and
(B) owned, operated, or sponsored a health facility licensed under IC 16-10-4 (before its repeal on July 1, 1993) on December 31, 1986;
if the comprehensive care beds are used to serve members of the fraternal organization."**

(Reference is to Senate Bill 406 as printed January 28, 1998.)

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