



March 19, 1999

ENGROSSED HOUSE BILL No. 1663

DIGEST OF HB 1663 (Updated March 4, 1999 2:01 pm - DI 77)

Citations Affected: IC 16-18; IC 16-28.

Synopsis: Nurse aide registry. Provides that after July 1, 1999 an ambulatory outpatient surgical center, home health agency, hospice program, or hospital may not hire a nurse aide convicted of a certain crime or who has committed an act that has been entered into the state nurse aide registry. Allows the state department of health to impose a fine not to exceed \$5,000 for a violation of a provision of the health facilities law. Requires that if a health care facility has knowledge of a court action against a health care facility employee that would indicate an unfitness to serve as a health service employee, the health care facility must report the information to the state nurse aide registry or the appropriate licensing authority. Allows the state department of health to adopt rules.

Effective: July 1, 1999.

Moses

(SENATE SPONSOR — MILLER)

January 21, 1999, read first time and referred to Committee on Public Health.
February 24, 1999, reported — Do Pass.
March 4, 1999, read second time, amended, ordered engrossed.
March 5, 1999, engrossed.
March 8, 1999, read third time, passed. Yeas 95, nays 0.

SENATE ACTION

March 11, 1999, read first time and referred to Committee on Health and Provider Services.
March 18, 1999, amended, reported favorably — Do Pass.

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March 19, 1999

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

ENGROSSED HOUSE BILL No. 1663

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 16-18-2-161 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 161. (a) "Health care
3 facility" includes:

- 4 (1) hospitals licensed under IC 16-21-2, private mental health
5 institutions licensed under IC 12-25, and tuberculosis hospitals
6 established under IC 16-11-1 (**before its repeal**);
7 (2) health facilities licensed under IC 16-28; and
8 (3) rehabilitation facilities and kidney disease treatment centers.

9 (b) "**Health care facility**", for purposes of IC 16-28-13, has the
10 meaning set forth in IC 16-28-13-0.5.

11 SECTION 2. IC 16-28-9-6 IS ADDED TO THE INDIANA CODE
12 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
13 1, 1999]: **Sec. 6. The state department may impose a fine not to
14 exceed five thousand dollars (\$5,000) for a violation of a provision
15 of this chapter.**

16 SECTION 3. IC 16-28-13-0.5 IS ADDED TO THE INDIANA
17 CODE AS A **NEW SECTION** TO READ AS FOLLOWS

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1 [EFFECTIVE JULY 1, 1999]: **Sec. 0.5. As used in this chapter,**
 2 **"health care facility" includes the following:**

- 3 (1) **An ambulatory outpatient surgical center licensed under**
 4 **IC 16-21-2.**
 5 (2) **A health facility licensed under IC 16-28-2 or IC 16-28-3.**
 6 (3) **A home health agency licensed under IC 16-27-1.**
 7 (4) **A hospice program certified under IC 16-25-1.**
 8 (5) **A hospital licensed under IC 16-21-2.**

9 SECTION 4. IC 16-28-13-1 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) As used in this
 11 chapter, "nurse aide" means an individual who provides nursing or
 12 nursing related services to residents in the following:

- 13 (1) A health facility.
 14 (2) A hospital based health facility.
 15 (3) **An ambulatory outpatient surgical center licensed under**
 16 **IC 16-21-2. Under this subdivision, the term applies to an**
 17 **individual who was employed by the center after July 1, 1999.**
 18 (4) **A home health agency licensed under IC 16-27-1. Under**
 19 **this subdivision, the term applies to an individual who was**
 20 **employed by the agency after July 1, 1999.**
 21 (5) **A hospice program certified under IC 16-25-1. Under this**
 22 **subdivision, the term applies to an individual who was**
 23 **employed by the program after July 1, 1999.**
 24 (6) **A hospital licensed under IC 16-21-2. Under this**
 25 **subdivision, the term applies to an individual who was**
 26 **employed by the hospital after July 1, 1999.**

27 (b) The term does not include the following:

- 28 (1) A licensed health professional (as defined in IC 25-1-9-3).
 29 (2) A registered dietician.
 30 (3) An individual who volunteers to provide nursing or nursing
 31 related services without pay.

32 SECTION 5. IC 16-28-13-2 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) As used in this
 34 chapter, "other unlicensed employee" means an employee of a health
 35 facility or a hospital based health facility who is not licensed (as
 36 defined in IC 25-1-9-3) by a board (as defined in IC 25-1-9-1).

37 (b) **The term does not include an employee of an ambulatory**
 38 **outpatient surgical center, a home health agency, a hospice**
 39 **program, or a hospital who is not licensed (as defined in**
 40 **IC 25-1-9-3) by a board (as defined in IC 25-1-9-1).**

41 SECTION 6. IC 16-28-13-3 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) A health care

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1 facility a ~~hospital based health facility~~; or an entity in the business of
 2 contracting to provide nurse aides or other unlicensed employees for a
 3 health ~~care facility or hospital based health facility~~ may not knowingly
 4 employ a person as a nurse aide or other unlicensed employee if **one**
 5 **(1) or more of the following conditions exist:**

6 **(1) The person has been convicted of any of the following:**

7 ~~(1)~~ **(A)** A sex crime (IC 35-42-4).

8 ~~(2)~~ **(B)** Exploitation of an endangered adult (IC 35-46-1-12).

9 ~~(3)~~ **(C)** Failure to report battery, neglect, or exploitation of an
 10 endangered adult (IC 35-46-1-13).

11 ~~(4)~~ **(D)** Theft (IC 35-43-4), if the person's conviction for theft
 12 occurred less than five (5) years before the individual's
 13 employment application date, **except as provided in**
 14 **IC 16-27-2-5(a)(5).**

15 ~~(5)~~ **(E)** Murder (IC 35-42-1-1).

16 ~~(6)~~ **(F)** Voluntary manslaughter (IC 35-42-1-3).

17 ~~(7)~~ **(G)** Involuntary manslaughter (IC 35-42-1-4) within the
 18 previous five (5) years.

19 ~~(8)~~ **(H)** Felony battery within the previous five (5) years.

20 ~~(9)~~ **(I)** A felony offense relating to controlled substances
 21 within the previous five (5) years.

22 **(2) The person:**

23 **(A) has abused, neglected, or mistreated a patient or**
 24 **misappropriated a patient's property; and**

25 **(B) had a finding entered into the state nurse aide registry.**

26 (b) A person who knowingly or intentionally applies for a job as a
 27 nurse aide or other unlicensed employee at:

28 (1) a health **care** facility; **or**

29 (2) a ~~hospital based health facility~~; **or**

30 ~~(3)~~ an entity in the business of contracting to provide nurse aides
 31 or other unlicensed employees for a health **care** facility; **or**
 32 ~~hospital based health facility~~;

33 after a conviction of one (1) or more of the offenses listed in subsection
 34 (a) commits a Class A infraction.

35 SECTION 7. IC 16-28-13-4 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) Except as
 37 provided in subsection (b), a person who:

38 (1) operates **or administers** a health **care** facility; **or**

39 (2) ~~administers~~ a ~~hospital based health facility~~; **or**

40 ~~(3)~~ operates an entity in the business of contracting to provide
 41 nurse aides or other unlicensed employees for a health **care**
 42 facility; **or** ~~hospital based health facility~~;

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1 shall apply within three (3) business days from the date a person is
 2 employed as a nurse aide or other unlicensed employee for a copy of
 3 the person's **state nurse aide registry report from the state**
 4 **department and a** limited criminal history from the Indiana central
 5 repository for criminal history information under IC 5-2-5 or another
 6 source allowed by law.

7 (b) A

8 (†) health **care** facility ~~or~~

9 (‡) ~~hospital based health facility;~~

10 is not required to apply for the **state nurse aide registry report and**
 11 **limited criminal history** required by subsection (a) if the health **care**
 12 **facility or hospital based health facility** contracts to use the services of
 13 a nurse aide or other unlicensed employee who is employed by an
 14 entity in the business of contracting to provide nurse aides or other
 15 unlicensed employees to health **care** facilities. ~~and hospital based~~
 16 ~~health facilities.~~

17 SECTION 8. IC 16-28-13-5 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. A person who:

19 (1) operates ~~or administers~~ a health **care** facility; ~~or~~

20 (2) ~~administers a hospital based health facility;~~ ~~or~~

21 (‡) operates an entity in the business of contracting to provide
 22 nurse aides or other unlicensed employees for a health **care**
 23 ~~facility;~~ ~~or hospital based health facility;~~

24 may not employ a person as a nurse aide or other unlicensed employee
 25 after receipt of the person's **state nurse aide registry report if that**
 26 **person's report indicates that the person committed an offense**
 27 **under section (3)(a)(2) of this chapter and has been placed on the**
 28 **state nurse aide registry, or after receipt of the** limited criminal
 29 history if that person's limited criminal history indicates that the person
 30 has been convicted of any of the offenses described in ~~section 3(a)~~
 31 **section 3(a)(1)** of this chapter.

32 SECTION 9. IC 16-28-13-6 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. (a) A person who:

34 (1) operates ~~or administers~~ a health **care** facility; ~~or~~

35 (2) ~~administers a hospital based health facility;~~ ~~or~~

36 (‡) operates an entity in the business of contracting to provide
 37 nurse aides or other unlicensed employees for a health **care**
 38 ~~facility;~~ ~~or hospital based health facility;~~

39 is responsible for the payment of fees under IC 5-2-5-7 and other fees
 40 required to process a **state nurse aide registry report and a** limited
 41 criminal history under section 4 of this chapter.

42 (b) A health **care** facility ~~a hospital based health facility;~~ or an entity

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1 in the business of contracting to provide nurse aides or other unlicensed
 2 employees for a health **care** facility ~~or hospital based health facility~~
 3 may require a person who applies to the health **care** facility ~~hospital~~
 4 ~~based health facility~~; or entity for employment as a nurse aide or other
 5 unlicensed employee:

6 (1) to pay the cost of fees described in subsection (a) to the health
 7 **care** facility ~~hospital based health facility~~; or entity at the time the
 8 person submits an application for employment; or

9 (2) to reimburse the health **care** facility ~~hospital based health~~
 10 ~~facility~~; or entity for the cost of fees described in subsection (a).

11 SECTION 10. IC 16-28-13-7 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. The application of
 13 this chapter to a health **care** facility ~~a hospital based health facility~~; or
 14 an entity in the business of contracting to provide nurse aides or other
 15 unlicensed employees for a health **care** facility ~~or hospital based health~~
 16 ~~facility~~ is limited to an individual:

17 (1) who is employed by:

18 (A) a health **care** facility; **or**

19 (B) a ~~hospital based health facility~~;

20 ~~(C) a hospital licensed under IC 16-21; or~~

21 ~~(D) an entity in the business of contracting to provide nurse~~
 22 ~~aides or other unlicensed employees for a health **care** facility;~~
 23 ~~or hospital based health facility; and~~

24 (2) whose employment or responsibilities are limited to activities
 25 primarily performed within a health **care** facility. ~~or hospital~~
 26 ~~based health facility.~~

27 SECTION 11. IC 16-28-13-10 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. A person:

29 (1) who:

30 (A) operates **or administers** a health **care** facility; **or**

31 (B) ~~administers a hospital based health facility; or~~

32 ~~(C) operates an entity in the business of contracting to provide~~
 33 ~~nurse aides or other unlicensed employees for a health **care**~~
 34 ~~facility; or hospital based health facility; and~~

35 (2) who knowingly or intentionally violates section 4 or 5 of this
 36 chapter;

37 commits a Class A infraction.

38 SECTION 12. IC 16-28-13-11 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 11. (a) Each:

40 (1) health **care** facility; **and**

41 (2) ~~hospital based health facility; and~~

42 ~~(3) entity in the business of contracting to provide nurse aides or~~

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1 other unlicensed employees for a health **care** facility; ~~or hospital~~
 2 ~~based health facility;~~
 3 shall maintain a personnel record for each nurse aide and other
 4 unlicensed employee employed by the health **care** facility ~~hospital~~
 5 ~~based health facility;~~ or entity that includes the nurse aide's or other
 6 unlicensed employee's **state nurse aide registry report and** limited
 7 criminal history required by section 4 of this chapter.

8 (b) The personnel records of each
 9 ~~(1) health care facility and~~
 10 ~~(2) hospital based health facility~~
 11 shall be available for inspection by the state department to assure
 12 compliance with this chapter.

13 (c) An entity in the business of contracting to provide nurse aides or
 14 other unlicensed employees to health **care** facilities ~~and hospital based~~
 15 ~~health facilities~~ shall provide a copy of the **state nurse aide registry**
 16 **report and** limited criminal history obtained under section 4 of this
 17 chapter to each health **care** facility ~~and hospital based health facility~~ to
 18 which the entity provides a nurse aide or other unlicensed employee.
 19 If the entity fails to provide a copy of the **state nurse aide registry**
 20 **report and** limited criminal history to a health **care** facility, ~~or hospital~~
 21 ~~based health facility;~~ the health **care** facility ~~or hospital based health~~
 22 ~~facility~~ is not in violation of this chapter.

23 SECTION 13. IC 16-28-13-12 IS ADDED TO THE INDIANA
 24 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 25 [EFFECTIVE JULY 1, 1999]: **Sec. 12. If a health care facility has**
 26 **knowledge of an action in a court against an employee of the health**
 27 **care facility that would indicate unfitness for service as a nurse**
 28 **aide, other unlicensed employee, or other health care professional**
 29 **(as defined by IC 16-27-2-1), the health care facility shall report the**
 30 **information to the state nurse aide registry or the appropriate**
 31 **licensing authority.**

32 SECTION 14. IC 16-28-13-13 IS ADDED TO THE INDIANA
 33 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 34 [EFFECTIVE JULY 1, 1999]: **Sec. 13. The state department may**
 35 **adopt rules under IC 4-22-2 to implement this chapter.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1663, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

BROWN C, Chair

Committee Vote: yeas 13, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1663 be amended to read as follows:

Page 2, line 2, reset in roman "the following:".

Page 2, line 3, reset in roman "(1)".

Page 2, line 3, delete "a" and insert "A".

Page 2, line 3, delete "care".

Page 2, line 4, reset in roman "(2) A hospital based health facility.".

Page 2, between lines 4 and 5, begin a new line block indented and insert:

"(3) An ambulatory outpatient surgical center licensed under IC 16-21-2 and who was employed by the center after July 1, 1999.

(4) A home health agency licensed under IC 16-27-1 and who was employed by the agency after July 1, 1999.

(5) A hospice program certified under IC 16-25-1 and who was employed by the program after July 1, 1999.

(6) A hospital licensed under IC 16-21-2 and who was employed by the hospital after July 1, 1999."

Page 2, line 21, after "2." insert "(a)".

Page 2, line 23, delete "care".

Page 2, line 23, reset in roman "or a hospital based health facility".

Page 2, between lines 24 and 25, begin a new paragraph and insert:

"(b) The term does not include an employee of an ambulatory outpatient surgical center, a home health agency, a hospice program, or a hospital who is not licensed (as defined in IC 25-1-9-3) by a board (as defined in IC 25-1-9-1)."

Page 6, delete lines 18 through 19.

(Reference is to HB 1663 as printed February 25, 1999.)

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COMMITTEE REPORT

Mr. President: The Senate Committee on Health and Provider Services, to which was referred House Bill No. 1663, 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, line 10, delete "IC 16-28-13-1.5" and insert "**IC 16-28-13-0.5**".

Page 1, between lines 15 and 16, begin a new paragraph and insert:
 "SECTION 3. IC 16-28-13-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 0.5. As used in this chapter, "health care facility" includes the following:**

- (1) **An ambulatory outpatient surgical center licensed under IC 16-21-2.**
- (2) **A health facility licensed under IC 16-28-2 or IC 16-28-3.**
- (3) **A home health agency licensed under IC 16-27-1.**
- (4) **A hospice program certified under IC 16-25-1.**
- (5) **A hospital licensed under IC 16-21-2."**

Page 2, line 6, delete "and" and insert ". **Under this subdivision, the term applies to an individual**".

Page 2, line 8, delete "and" and insert ". **Under this subdivision, the term applies to an individual**".

Page 2, line 10, delete "and" and insert ". **Under this subdivision, the term applies to an individual**".

Page 2, line 12, delete "and" and insert ". **Under this subdivision, the term applies to an individual**".

Page 2, delete lines 19 through 28.

Page 3, line 10, delete "." and insert ", **except as provided in IC 16-27-2-5(a)(5)**".

Page 3, line 18, after "person" insert ":".

Page 3, line 18, before "has" begin a new line double block indented and insert:

"(A)".

Page 3, line 19, after "property" insert ";".

Page 3, line 19, before "had" begin a new line double block indented and insert:

"(B)".

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Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.

(Reference is to HB 1663 as reprinted March 5, 1999.)

MILLER, Chairperson

Committee Vote: Yeas 6, Nays 0.

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