



April 6, 1999

**ENGROSSED
SENATE BILL No. 526**

DIGEST OF SB 526 (Updated March 30, 1999 8:22 pm - DI 77)

Citations Affected: IC 2-5; IC 16-28; noncode.

Synopsis: Changes references to the senate planning and public services committee. Allows an allegation of a breach to be made orally. Requires state department of health survey inspectors to categorize each breach by a health facility into one of four categories described in federal law. Requires the state department to investigate all allegations of a breach. Increases the amount of fines that the commissioner of the state department of health may impose for breaches by health facilities.
(Continued next page)

Effective: Upon passage; July 1, 1999.

Miller, Lewis, Simpson

(HOUSE SPONSORS — BROWN C, FRIZZELL, HASLER, BECKER, DAY)

January 19, 1999, read first time and referred to Committee on Health and Provider Services.

February 25, 1999, amended, reported favorably — Do Pass.

March 2, 1999, read second time, ordered engrossed.

March 3, 1999, engrossed.

March 4, 1999, read third time, passed. Yeas 44, nays 3.

HOUSE ACTION

March 10, 1999, read first time and referred to Committee on Public Health.

April 5, 1999, amended, reported — Do Pass.

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ES 526—LS 7382/DI 77+



Digest Continued

Allows the state department of health to deduct from any fine the amount of funds expended by the health facility to retain a consultant or other health care professional approved by the state department of health to assist the health facility in correcting a breach. Specifies that the commissioner may impose a penalty for each violation or repeat of a violation. Limits to 90 the total number of consecutive days that the commissioner may suspend new admissions to a health facility. Requires a patient's representative to be notified if certain breaches occur. Provides that the state department of health may not collect fines under both state and federal law from certain health facilities. Establishes the health facilities interim committee. Makes a conforming amendment.

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April 6, 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 SENATE BILL No. 526

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 2-5-23-5 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 1999]: Sec. 5. The commission has the
3 following voting membership:
4 (1) The members of the senate ~~planning health~~ and ~~public~~
5 **provider** services committee.
6 (2) The members of the house public health committee.
7 SECTION 2. IC 2-5-23-13 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 13. (a) The chairman
9 of the senate ~~planning health~~ and ~~public service provider services~~
10 committee is the chairman of the commission beginning May 1 of
11 odd-numbered years and vice chairman beginning May 1 of
12 even-numbered years.
13 (b) The chairman of the house public health committee is the
14 chairman of the commission beginning May 1 of even-numbered years
15 and vice chairman beginning May 1 of odd-numbered years.

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1 SECTION 3. IC 16-28-3-3 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. If a health facility is
 3 in breach of this article or rules adopted under this article by ~~offenses~~
 4 **Level 4 breaches** or patterns of ~~deficiencies~~ **Level 3 breaches**
 5 detrimental to the best interests of the public, the patients, or the health
 6 facility profession, the only type of license that may be issued to the
 7 health facility is a probationary license.

8 SECTION 4. IC 16-28-4-1 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. A person who
 10 believes that this article or ~~rules a rule~~ adopted under this article ~~have~~
 11 **has** been breached may file an allegation of breach with the state
 12 department. The allegation ~~must may~~ be **made orally or** in writing.
 13 ~~unless the breach complained of is an offense or a deficiency. The~~
 14 **state department shall reduce** an oral allegation of breach ~~shall be~~
 15 **reduced** to writing. ~~by the state department:~~

16 SECTION 5. IC 16-28-4-2 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. The division shall
 18 promptly investigate ~~the following:~~

19 ~~(1) A written each~~ allegation of breach received under this
 20 chapter.

21 ~~(2) An oral allegation of breach that the director, in the director's~~
 22 ~~discretion, believes to have merit.~~

23 SECTION 6. IC 16-28-5-1 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. The executive board
 25 shall adopt rules under IC 4-22-2 to ~~classify each rule adopted by the~~
 26 ~~executive board to govern a health facility under this article~~ **define**
 27 **each level of breach as provided in subdivisions (1) through (4) of**
 28 **this section. The state survey inspectors shall determine under this**
 29 **article, with the concurrence of the director, the classification of a**
 30 **breach** into one (1) of the following categories:

31 ~~(1) An offense, which presents a substantial probability that death~~
 32 ~~or a life-threatening condition will result. Level 4 - immediate~~
 33 **jeopardy to patient health or safety (as described in 42 CFR**
 34 **488.404).**

35 ~~(2) A deficiency, which presents an immediate or a direct, serious~~
 36 ~~adverse effect on the health, safety, security, rights, or welfare of~~
 37 ~~a patient. Level 3 - actual harm (as described in 42 CFR~~
 38 **488.404).**

39 ~~(3) A noncompliance, which presents an indirect threat to the~~
 40 ~~health, safety, security, rights, or welfare of a patient. Level 2 - no~~
 41 **actual harm with potential for more than minimal harm (as**
 42 **described in 42 CFR 488.404).**

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1 (4) ~~A nonconformance, which is any other classified breach not~~
 2 ~~covered by subdivision (1), (2), or (3):~~ **Level 1 - no actual harm**
 3 **with potential for minimal harm (as described in 42 CFR**
 4 **488.404).**

5 SECTION 7. IC 16-28-5-4 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) The
 7 commissioner shall impose the following remedies for breaches of this
 8 article or a rule adopted under this article:

9 (1) ~~For an offense, a Level 4 breach,~~ the remedies specified in
 10 subsection (b)(1) ~~through (b)(2): and (b)(3).~~ The commissioner
 11 may also impose the remedy specified in subsection ~~(b)(3): (b)(4).~~

12 **(2) For a Level 4 breach that is a repeat of the same Level 4**
 13 **breach within a fifteen (15) month period, the remedies**
 14 **specified in subsection (b)(1) through (b)(2). The**
 15 **commissioner may also impose the remedies specified in**
 16 **subsection (b)(4).**

17 ~~(2) (3) For a deficiency, Level 3 breach,~~ the remedies specified
 18 in subsection (b)(1). The commissioner may also impose the
 19 remedies specified in subsection ~~(b)(4): (b)(5).~~

20 ~~(3) (4) For a Level 3 breach that is a repeat of the same deficiency~~
 21 **Level 3 breach** within a fifteen (15) month period, the remedies
 22 specified in subsection (b)(1) ~~through (b)(2): and (b)(3).~~ The
 23 commissioner may also impose the remedy specified in
 24 subsection ~~(b)(3): (b)(4).~~

25 ~~(4) (5) For a noncompliance, Level 2 breach,~~ the remedies
 26 specified in subsection ~~(b)(5) (b)(7) through (b)(6): (b)(8).~~

27 ~~(5) (6) For a breach that is a repeat of the same noncompliance~~
 28 **Level 2 breach** within a fifteen (15) month period, the remedies
 29 specified in subsection (b)(1). The commissioner may also impose
 30 the remedies specified in subsection ~~(b)(4): (b)(6).~~

31 ~~(6) (7) For a nonconformance, Level 1 breach,~~ the remedies
 32 specified in subsection ~~(b)(5): (b)(7).~~

33 ~~(7) For a breach that is a repeat of the same nonconformance~~
 34 ~~within a fifteen (15) month period, the remedies specified in~~
 35 ~~subsection (b)(5) through (b)(6):~~

36 (b) The remedies for breaches of this article or rules adopted under
 37 this article are as follows:

38 (1) ~~Issuance of an order for immediate correction of the breach:~~
 39 **Submission of an acceptable plan of correction by the health**
 40 **facility.**

41 (2) **Imposition of a fine not to exceed thirty thousand dollars**
 42 **(\$30,000) or suspension of new admissions to the health**



- 1 **facility for a period not to exceed forty-five (45) days, or both.**
 2 ~~(2)~~ **(3)** Imposition of a fine not to exceed ~~ten~~ **twenty** thousand
 3 dollars ~~(\$10,000)~~ **(\$20,000)** or suspension of new admissions to
 4 the health facility for a period not to exceed forty-five (45) days,
 5 or both.
 6 ~~(3)~~ **(4)** Revocation by the director of the health facility's license
 7 or issuance of a probationary license.
 8 ~~(4)~~ **(5)** Imposition of a fine not to exceed ~~five ten~~ thousand dollars
 9 ~~(\$5,000)~~ **(\$10,000)** or suspension of new admissions to the health
 10 facility for a period not to exceed thirty (30) days, or both.
 11 **(6) Imposition of a fine not to exceed five thousand dollars**
 12 **(\$5,000) or suspension of new admissions to the health facility**
 13 **for a period not to exceed thirty (30) days, or both.**
 14 ~~(5)~~ **(7)** A requirement that the health facility comply with any plan
 15 of correction approved or directed under section 7 of this chapter.
 16 ~~(6)~~ **(8)** If the health facility is found to have a pattern of breach,
 17 the commissioner may suspend new admissions to the health
 18 facility for a period not to exceed fifteen (15) days or impose a
 19 fine not to exceed ~~one two~~ thousand dollars ~~(\$1,000);~~ **(\$2,000)**, or
 20 both.
 21 **(c) The commissioner may deduct from a fine imposed upon the**
 22 **health facility money expended by the health facility to retain a**
 23 **consultant or other health care professional approved by the**
 24 **director to assist the health facility in correcting a breach of this**
 25 **article or a rule adopted under this article.**
 26 ~~(e)~~ **(d)** If a breach is immediately corrected and the commissioner
 27 has imposed remedies under subsection (b)(2) **or (b)(3)**, the
 28 commissioner may waive not more than fifty percent (50%) of the fine
 29 imposed and reduce the number of days for suspension of new
 30 admissions by one-half (1/2).
 31 ~~(d)~~ **(e)** The commissioner may, with the concurrence of a licensed
 32 physician, impose the following:
 33 (1) For an omission of care or an act that does not fall within a
 34 classification of a **rule breach** under this section and that the
 35 facility should reasonably have known would present a substantial
 36 probability that death or a life threatening condition will result,
 37 one (1) or any combination of the remedies specified in
 38 subsection (b)(1), ~~through (b)(3):~~ **(b)(2), and (b)(4).**
 39 (2) For an omission of care or an act that:
 40 (A) does not fall within a classification of a **rule breach** under
 41 this section; and
 42 (B) the facility should reasonably have known would result in



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1 an immediate or a direct, serious adverse effect on the health,
 2 safety, security, rights, or welfare of a patient;
 3 the remedies specified in subsection (b)(1) or ~~(b)(4)~~; **(b)(5)**, or
 4 both.

5 **(f) This section does not limit the authority of the commissioner**
 6 **to impose a fine or suspend new admissions to the health facility**
 7 **for each omission of care or act or repeat of an omission or act.**

8 **(g) The commissioner may renew an order suspending**
 9 **admissions issued under this section for successive periods.**
 10 **However, the suspension of new admissions to a health facility**
 11 **under a renewed order may not exceed ninety (90) consecutive**
 12 **days.**

13 SECTION 8. IC 16-28-5-11 IS ADDED TO THE INDIANA CODE
 14 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 15 1, 1999]: **Sec. 11. For a health facility that is certified for**
 16 **participation in Medicare under 42 U.S.C. 1395 et seq. or Medicaid**
 17 **under 42 U.S.C. 1396 et seq., the state department may not collect**
 18 **both a fine under this article and a civil monetary penalty under 42**
 19 **CFR 488.**

20 SECTION 9. IC 16-28-5-12 IS ADDED TO THE INDIANA CODE
 21 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 22 1, 1999]: **Sec. 12. (a) This section applies to a:**

- 23 **(1) Level 4 breach;**
 24 **(2) Level 3 breach; and**
 25 **(3) Level 2 breach that is a repeat of the same Level 2 breach**
 26 **within a fifteen (15) month period.**

27 **(b) If the state department determines that a health facility has**
 28 **committed a breach described in subsection (a), the state**
 29 **department shall provide to the health facility a letter of**
 30 **notification to patients and their legal representatives.**

31 **(c) The letter required under subsection (b) must include**
 32 **information concerning:**

- 33 **(1) the determination of the breach; and**
 34 **(2) any orders imposed for the breach.**

35 SECTION 10. IC 16-28-5-13 IS ADDED TO THE INDIANA
 36 CODE AS A NEW SECTION TO READ AS FOLLOWS
 37 [EFFECTIVE JULY 1, 1999]: **Sec. 13. (a) A health facility that**
 38 **receives letters from the state department under section 12 of this**
 39 **chapter shall send to each patient and the legal representative of**
 40 **each patient a copy of the letter of notification under section 12(b)**
 41 **of this chapter.**

42 **(b) The health facility shall bear the cost of duplicating and**

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1 sending the letters required under this section.

2 SECTION 11. IC 16-28-5-14 IS ADDED TO THE INDIANA
3 CODE AS A NEW SECTION TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 1999]: **Sec. 14. The state department may
5 adopt rules to implement this chapter.**

6 SECTION 12. [EFFECTIVE UPON PASSAGE] (a) **As used in this
7 SECTION, "committee" refers to the interim study committee on
8 health facilities established by subsection (d).**

9 (b) **As used in this SECTION, "health facility" has the meaning
10 set forth in IC 16-18-2-167.**

11 (c) **As used in this SECTION, "state department" refers to the
12 state department of health established by IC 16-19.**

13 (d) **The interim study committee on health facilities is
14 established to study the following:**

15 (1) **The establishment of minimum staffing levels and training
16 levels for the employees of health facilities. Areas of training
17 to be studied must include the special needs of individuals
18 with Alzheimer's disease and other related disorders.**

19 (2) **Possible alternatives for changing the method of
20 investigation and resolution of complaints involving health
21 facilities by the state department.**

22 (3) **Other topics assigned by the legislative council.**

23 (e) **The committee consists of the following members:**

24 (1) **Two (2) members of the house of representatives
25 appointed by the speaker of the house of representatives. The
26 members appointed under this subdivision may not be
27 members of the same political party.**

28 (2) **Two (2) members of the senate appointed by the president
29 pro tempore of the senate. The members appointed under this
30 subdivision may not be members of the same political party.**

31 (3) **Three (3) members at large appointed by the governor.
32 The members appointed under this subdivision may not have
33 a financial interest in a health facility or represent the
34 interests of health facilities or health facility residents. Not
35 more than two (2) members appointed under this subsection
36 may be members of the same political party.**

37 (4) **One (1) member appointed by the governor who is a
38 resident of a health facility.**

39 (5) **One (1) member appointed by the governor who is
40 affiliated with advocacy groups for residents of health
41 facilities.**

42 (6) **Two (2) members appointed by the governor who are**

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- 1 family members of health facility residents.
- 2 (7) One (1) member appointed by the governor who is
- 3 affiliated with operators of health facilities.
- 4 (8) The commissioner of the state department or the
- 5 commissioner's designee.
- 6 The governor shall make the appointments required by
- 7 subdivisions (3) through (7) before June 1, 1999.
- 8 (f) The chairman of the legislative council shall designate a
- 9 legislative member of the committee to serve as chairman of the
- 10 committee.
- 11 (g) Seven (7) members of the committee constitute a quorum.
- 12 (h) The affirmative votes of at least seven (7) members of the
- 13 committee are required for the committee to take any action,
- 14 including the approval of a final report.
- 15 (i) Each legislative member and each lay member of the
- 16 committee is entitled to receive the same per diem, mileage, and
- 17 travel allowances paid to individuals serving as legislative and lay
- 18 members, respectively, on interim study committees established by
- 19 the legislative council.
- 20 (j) The legislative services agency shall provide the staff support
- 21 necessary for the operation of the committee.
- 22 (k) The committee shall submit a report to the legislative council
- 23 by November 1, 1999.
- 24 (l) The committee shall operate under the rules and procedures
- 25 of the legislative council.
- 26 (m) This SECTION expires January 1, 2000.
- 27 SECTION 13. [EFFECTIVE UPON PASSAGE] The state
- 28 department of health and the long term care ombudsman office
- 29 established under IC 12-10-13-7:
- 30 (1) shall develop; and
- 31 (2) may periodically revise;
- 32 uniform forms to carry out the requirements of IC 16-28-5-12, as
- 33 added by this act.
- 34 SECTION 14. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 526, 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 16-28-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. If a health facility is in breach of this article or rules adopted under this article by ~~offenses~~ **Level 4 breaches** or patterns of ~~deficiencies~~ **Level 3 breaches** detrimental to the best interests of the public, the patients, or the health facility profession, the only type of license that may be issued to the health facility is a probationary license.

SECTION 2. IC 16-28-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. The executive board shall adopt rules under IC 4-22-2 to ~~classify each rule adopted by the executive board to govern a health facility under this article~~ **define each level of breach as provided in subdivisions (1) through (4) of this section. The state survey inspectors shall determine under this article, with the concurrence of the director, the classification of a breach** into one (1) of the following categories:

- (1) ~~An offense, which presents a substantial probability that death or a life-threatening condition will result.~~ **Level 4 - immediate jeopardy to patient health or safety (as described in 42 CFR 488.404).**
- (2) ~~A deficiency, which presents an immediate or a direct, serious adverse effect on the health, safety, security, rights, or welfare of a patient.~~ **Level 3 - actual harm (as described in 42 CFR 488.404).**
- (3) ~~A noncompliance, which presents an indirect threat to the health, safety, security, rights, or welfare of a patient.~~ **Level 2 - no actual harm with potential for more than minimal harm (as described in 42 CFR 488.404).**
- (4) ~~A nonconformance, which is any other classified breach not covered by subdivision (1), (2), or (3).~~ **Level 1 - no actual harm with potential for minimal harm (as described in 42 CFR 488.404)."**

Page 1, delete lines 5 through 17, begin a new line block indented and insert:

- "(1) For an ~~offense~~, a **Level 4 breach**, the remedies specified in



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subsection (b)(1) ~~through (b)(2):~~ **and (b)(3)**. The commissioner may also impose the remedy specified in subsection ~~(b)(3):~~ **(b)(4)**.
(2) For a Level 4 breach that is a repeat of the same Level 4 breach within a fifteen (15) month period, the remedies specified in subsection (b)(1) through (b)(2). The commissioner may also impose the remedies specified in subsection (b)(4).

~~(2) (3) For a deficiency, Level 3 breach,~~ the remedies specified in subsection (b)(1). The commissioner may also impose the remedies specified in subsection ~~(b)(4):~~ **(b)(5)**.

~~(3) (4) For a Level 3 breach that is a repeat of the same deficiency~~ **Level 3 breach** within a fifteen (15) month period, the remedies specified in subsection (b)(1) ~~through (b)(2):~~ **and (b)(3)**. The commissioner may also impose the remedy specified in subsection ~~(b)(3):~~ **(b)(4)**.

~~(4) (5) For a noncompliance, Level 2 breach,~~ the remedies specified in subsection ~~(b)(5) (b)(7) through (b)(6):~~ **(b)(8)**.

~~(5) (6) For a breach that is a repeat of the same noncompliance~~ **Level 2 breach** within a fifteen (15) month period, the remedies specified in subsection (b)(1). The commissioner may also impose the remedies specified in subsection ~~(b)(4):~~ **(b)(6)**.

~~(6) (7) For a nonconformance, Level 1 breach,~~ the remedies specified in subsection ~~(b)(5):~~ **(b)(7)**.

~~(7) For a breach that is a repeat of the same nonconformance within a fifteen (15) month period, the remedies specified in subsection (b)(5) through (b)(6):"~~

Page 2, delete lines 1 through 8.

Page 2, delete lines 11 through 26, begin a new line block indented and insert:

"(1) Issuance of an order for immediate correction of the breach:
Submission of an acceptable plan of correction by the health facility.

(2) Imposition of a fine not to exceed thirty thousand dollars (\$30,000) or suspension of new admissions to the health facility for a period not to exceed forty-five (45) days, or both.

~~(2) (3) Imposition of a fine not to exceed ten twenty thousand dollars (\$10,000) (\$20,000) or suspension of new admissions to the health facility for a period not to exceed forty-five (45) days, or both.~~

~~(3) (4) Revocation by the director of the health facility's license or issuance of a probationary license.~~

~~(4) (5) Imposition of a fine not to exceed five ten thousand dollars~~



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~~(\$5,000)~~ **(\$10,000)** or suspension of new admissions to the health facility for a period not to exceed thirty (30) days, or both.

(6) Imposition of a fine not to exceed five thousand dollars (\$5,000) or suspension of new admissions to the health facility for a period not to exceed thirty (30) days, or both.

~~(5)~~ **(7)** A requirement that the health facility comply with any plan of correction approved or directed under section 7 of this chapter.

~~(6)~~ **(8)** If the health facility is found to have a pattern of breach, the commissioner may suspend new admissions to the health facility for a period not to exceed fifteen (15) days or impose a fine not to exceed ~~one~~ **two** thousand dollars ~~(\$1,000); (\$2,000)~~, or both.

(c) The commissioner may deduct from a fine imposed upon the health facility money expended by the health facility to retain a consultant or other health care professional approved by the director to assist the health facility in correcting a breach of this article or a rule adopted under this article."

Page 2, line 27, strike "(c)" and insert "**(d)**".

Page 2, line 28, after "(b)(2)" delete "," and insert "**or (b)(3)**".

Page 2, line 31, strike "(d)" and insert "**(e)**".

Page 2, line 34, strike "rule" and insert "**breach**".

Page 2, line 38, after "(b)(1)" insert ",".

Page 2, line 38, strike "through (b)(3)." and insert "**(b)(2), and (b)(4)**".

Page 2, line 40, strike "rule" and insert "**breach**".

Page 3, line 3, strike "(b)(4)," and insert "**(b)(5)**".

Page 3, delete lines 4 through 10, begin a new paragraph and insert:
"(f) This section does not limit the authority of the commissioner to impose a fine or suspend new admissions to the health facility for each omission of care or act or repeat of an omission or act.

(g) The commissioner may renew an order suspending admissions issued under this section for successive periods. However, the suspension of new admissions to a health facility under a renewed order may not exceed ninety (90) consecutive days.

SECTION 3. IC 16-28-5-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 11. For a health facility that is certified for participation in Medicare under 42 U.S.C. 1395 et seq. or Medicaid under 42 U.S.C. 1396 et seq., the state department may not collect both a fine under this article and a civil monetary penalty under 42 CFR 488.**



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SECTION 4. IC 16-28-12-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 5. (a) The state department shall contract with an independent organization to operate the informal dispute resolution process required by 42 CFR 488.331.**

(b) The independent organization contracted by the state department under subsection (a) shall employ or contract with an interdisciplinary team consisting of one (1) or more of the following persons:

- (1) A registered nurse.**
- (2) A social worker.**
- (3) A dietician.**
- (4) A licensed administrator.**

(c) The state department shall assure that each member of the interdisciplinary team employed or contracted under subsection (b):

- (1) is knowledgeable about health facility operation; and**
- (2) receives training regarding:**
 - (A) federal survey and certification; and**
 - (B) state licensure requirements."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 526 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 8, Nays 0.

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SENATE MOTION

Mr. President: I move that Senator Lewis be added as second author of Senate Bill 526.

MILLER

SENATE MOTION

Mr. President: I move that Senator Simpson be added as coauthor of Senate Bill 526.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Senate Bill 526, 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 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 2-5-23-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. The commission has the following voting membership:

(1) The members of the senate ~~planning health~~ and ~~public provider~~ services committee.

(2) The members of the house public health committee.

SECTION 2. IC 2-5-23-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 13. (a) The chairman of the senate ~~planning health~~ and ~~public service provider services~~ committee is the chairman of the commission beginning May 1 of odd-numbered years and vice chairman beginning May 1 of even-numbered years.

(b) The chairman of the house public health committee is the chairman of the commission beginning May 1 of even-numbered years and vice chairman beginning May 1 of odd-numbered years."

Page 1, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 4. IC 16-28-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. A person who believes that this article or ~~rules a rule~~ adopted under this article ~~have~~ **has** been breached may file an allegation of breach with the state department. The allegation ~~must~~ **may** be **made orally or** in writing. ~~unless the breach complained of is an offense or a deficiency. The state department shall reduce~~ an oral allegation of breach ~~shall be reduced to writing. by the state department.~~

SECTION 5. IC 16-28-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. The division shall promptly investigate ~~the following:~~

(1) ~~A written each~~ allegation of breach received under this chapter.

(2) ~~An oral allegation of breach that the director, in the director's discretion, believes to have merit."~~

Page 4, delete lines 32 through 42, begin a new paragraph and insert:

"SECTION 9. IC 16-28-5-12 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY

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1, 1999]: **Sec. 12. (a) This section applies to a:**

- (1) Level 4 breach;**
- (2) Level 3 breach; and**
- (3) Level 2 breach that is a repeat of the same Level 2 breach within a fifteen (15) month period.**

(b) If the state department determines that a health facility has committed a breach described in subsection (a), the state department shall provide to the health facility a letter of notification to patients and their legal representatives.

(c) The letter required under subsection (b) must include information concerning:

- (1) the determination of the breach; and**
- (2) any orders imposed for the breach.**

SECTION 10. IC 16-28-5-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 13. (a) A health facility that receives letters from the state department under section 12 of this chapter shall send to each patient and the legal representative of each patient a copy of the letter of notification under section 12(b) of this chapter.

(b) The health facility shall bear the cost of duplicating and sending the letters required under this section.

SECTION 11. IC 16-28-5-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 14. The state department may adopt rules to implement this chapter.

SECTION 13. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "committee" refers to the interim study committee on health facilities established by subsection (d).

(b) As used in this SECTION, "health facility" has the meaning set forth in IC 16-18-2-167.

(c) As used in this SECTION, "state department" refers to the state department of health established by IC 16-19.

(d) The interim study committee on health facilities is established to study the following:

- (1) The establishment of minimum staffing levels and training levels for the employees of health facilities. Areas of training to be studied must include the special needs of individuals with Alzheimer's disease and other related disorders.**
- (2) Possible alternatives for changing the method of investigation and resolution of complaints involving health facilities by the state department.**



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- (3) Other topics assigned by the legislative council.**
- (e) The committee consists of the following members:**
 - (1) Two (2) members of the house of representatives appointed by the speaker of the house of representatives. The members appointed under this subdivision may not be members of the same political party.**
 - (2) Two (2) members of the senate appointed by the president pro tempore of the senate. The members appointed under this subdivision may not be members of the same political party.**
 - (3) Three (3) members at large appointed by the governor. The members appointed under this subdivision may not have a financial interest in a health facility or represent the interests of health facilities or health facility residents. Not more than two (2) members appointed under this subsection may be members of the same political party.**
 - (4) One (1) member appointed by the governor who is a resident of a health facility.**
 - (5) One (1) member appointed by the governor who is affiliated with advocacy groups for residents of health facilities.**
 - (6) Two (2) members appointed by the governor who are family members of health facility residents.**
 - (7) One (1) member appointed by the governor who is affiliated with operators of health facilities.**
 - (8) The commissioner of the state department or the commissioner's designee.**

The governor shall make the appointments required by subdivisions (3) through (7) before June 1, 1999.

(f) The chairman of the legislative council shall designate a legislative member of the committee to serve as chairman of the committee.

(g) Seven (7) members of the committee constitute a quorum.

(h) The affirmative votes of at least seven (7) members of the committee are required for the committee to take any action, including the approval of a final report.

(i) Each legislative member and each lay member of the committee is entitled to receive the same per diem, mileage, and travel allowances paid to individuals serving as legislative and lay members, respectively, on interim study committees established by the legislative council.

(j) The legislative services agency shall provide the staff support necessary for the operation of the committee.



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(k) The committee shall submit a report to the legislative council by November 1, 1999.

(l) The committee shall operate under the rules and procedures of the legislative council.

(m) This SECTION expires January 1, 2000.

SECTION 14. [EFFECTIVE UPON PASSAGE] The state department of health and the long term care ombudsman office established under IC 12-10-13-7:

(1) shall develop; and

(2) may periodically revise;

uniform forms to carry out the requirements of IC 16-28-5-12, as added by this act.

SECTION 15. An emergency is declared for this act."

Delete page 5.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 526 as printed February 26, 1999.)

BROWN C, Chair

Committee Vote: yeas 12, nays 0.

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