



February 2, 1999

HOUSE BILL No. 1528

DIGEST OF HB 1528 (Updated January 28, 1999 10:17 am - DI 77)

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

Synopsis: Hospice licensure and approval. Establishes requirements for hospice licensure and approval. Provides that a hospice license or approval is valid for one year. Requires the state department of health to charge an annual hospice license or approval fee of \$100. Provides for a provisional license or approval for a hospice program operating before July 1, 1999. Requires a survey by the state department of health to determine whether a hospice program not operating before July 1, 1999, should receive a license or approval. Provides for a survey by the state department of health to determine whether a hospice should receive a license or approval. Exempts certain individuals from hospice licensure and approval. Requires the state department of health to provide recommendations to the general assembly regarding the frequency with which hospices should be inspected. Makes it a Class A misdemeanor for a person to represent to the public that the person
(Continued next page)

Effective: July 1, 1999.

Brown C, Kruzan, Goeglein, Dillon

January 19, 1999, read first time and referred to Committee on Public Health.
February 1, 1999, amended, reported — Do Pass.

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offers hospice services or to provide hospice services without a hospice license or approval. Requires the state department of 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. Requires the state department of health to establish and maintain a statewide, toll free number to receive complaints. Allows the state department of health to sanction a hospice that: (1) violates a standard; (2) commits a violation of law; or (3) conducts a practice detrimental to the hospice's patients. Requires the state department of health to notify the attorney general if the state department of health has evidence of an unlicensed or unapproved hospice. Allows the attorney general to seek an injunction and to prosecute a person that operates a hospice without a license or approval. Requires the owner or operator of a licensed or approved hospice program to obtain a limited criminal history of each employee of the hospice program who will provide hospice services. Requires each licensed or approved hospice program to provide a written disclosure to each potential patient that includes the following: (1) A description of available services. (2) A description of the hospice program's internal complaint resolution process. (3) A notice that the patient has the right to refuse any component of the services offered by the hospice program. (4) A statement that a hospice employee may provide extra services to a patient or the patient's family. (5) A toll free number that the patient or a member of the patient's family may use to report problems regarding the hospice program. Repeals optional certification of hospice providers by the state department of health. Makes conforming amendments.

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February 2, 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.

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HOUSE BILL No. 1528

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

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1 "Electronic map" means copyrighted data provided by a public
2 agency from an electronic geographic information system.

3 "Enhanced access" means the inspection of a public record by a
4 person other than a governmental entity and that:

5 (1) is by means of an electronic device other than an electronic
6 device provided by a public agency in the office of the public
7 agency; or

8 (2) requires the compilation or creation of a list or report that does
9 not result in the permanent electronic storage of the information.

10 "Facsimile machine" means a machine that electronically transmits
11 exact images through connection with a telephone network.

12 "Inspect" includes the right to do the following:

13 (1) Manually transcribe and make notes, abstracts, or memoranda.

14 (2) In the case of tape recordings or other aural public records, to
15 listen and manually transcribe or duplicate, or make notes,
16 abstracts, or other memoranda from them.

17 (3) In the case of public records available:

18 (A) by enhanced access under section 3.5 of this chapter; or

19 (B) to a governmental entity under section 3(c)(2) of this
20 chapter;

21 to examine and copy the public records by use of an electronic
22 device.

23 (4) In the case of electronically stored data, to manually transcribe
24 and make notes, abstracts, or memoranda or to duplicate the data
25 onto a disk, tape, drum, or any other medium of electronic
26 storage.

27 "Investigatory record" means information compiled in the course of
28 the investigation of a crime.

29 "Patient" has the meaning set out in IC 16-18-2-272(c).

30 "Person" means an individual, a corporation, a limited liability
31 company, a partnership, an unincorporated association, or a
32 governmental entity.

33 "Provider" has the meaning set out in ~~IC 16-18-2-295(b)~~
34 **IC 16-18-2-295(a)** and includes employees of the state department of
35 health or local boards of health who create patient records at the
36 request of another provider or who are social workers and create
37 records concerning the family background of children who may need
38 assistance.

39 "Public agency" means the following:

40 (1) Any board, commission, department, division, bureau,
41 committee, agency, office, instrumentality, or authority, by
42 whatever name designated, exercising any part of the executive,

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1 administrative, judicial, or legislative power of the state.

2 (2) Any:

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

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

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

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

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

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

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

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

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

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

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

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

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

40 "Public record" means any writing, paper, report, study, map,
41 photograph, book, card, tape recording, or other material that is
42 created, received, retained, maintained, used, or filed by or with a

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1 public agency and which is generated on paper, paper substitutes,
2 photographic media, chemically based media, magnetic or machine
3 readable media, electronically stored data, or any other material,
4 regardless of form or characteristics.

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

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

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

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

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

20 SECTION 2. IC 12-26-2-5 IS AMENDED TO READ AS
21 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) This section
22 applies under the following statutes:

- 23 (1) IC 12-26-6.
- 24 (2) IC 12-26-7.
- 25 (3) IC 12-26-12.
- 26 (4) IC 12-26-15.

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

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

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

- 38 (1) an officer;
- 39 (2) a director;
- 40 (3) a principal; or
- 41 (4) a manager;

42 of the corporation that authorizes the individual to represent the interest



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1 of the corporation in the proceedings.

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

4 (1) the individual is mentally ill and either dangerous or gravely
5 disabled; and

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

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

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

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

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

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

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

30 SECTION 8. IC 16-18-2-191.5 IS ADDED TO THE INDIANA
31 CODE AS A **NEW SECTION** TO READ AS FOLLOWS
32 [EFFECTIVE JULY 1, 1999]: **Sec. 191.5. "Interdisciplinary team",**
33 **for purposes of IC 16-25, has the meaning set forth in**
34 **IC 16-25-1.1-7.**

35 SECTION 9. IC 16-18-2-274 IS AMENDED TO READ AS
36 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 274. (a) "Person"
37 means, except as provided in subsections (b), ~~and~~ (c), **and (d)**, an
38 individual, a firm, a partnership, an association, a fiduciary, a
39 executor or administrator, a governmental entity, or a corporation.

40 (b) "**Person**", for purposes of IC 16-25, has the meaning set
41 **forth in IC 16-25-1.1-8.**

42 (c) "Person", for purposes of IC 16-31, means an individual, a

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1 partnership, a corporation, an association, a joint stock association, or
 2 a governmental entity other than an agency or instrumentality of the
 3 United States.

4 ~~(c)~~ (d) "Person", for purposes of IC 16-42-10, has the meaning set
 5 forth in IC 16-42-10-3.

6 SECTION 10. IC 16-18-2-295 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 295. (a) ~~"Provider", for~~
 8 ~~purposes of IC 16-25, means a hospice program certified under~~
 9 ~~IC 16-25-1.~~

10 ~~(b)~~ "Provider", for purposes of IC 16-39 except for IC 16-39-7 and
 11 for purposes of IC 16-41-1 through IC 16-41-9 and IC 16-41-37, means
 12 any of the following:

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

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

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

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

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

37 (5) An employer of a certified emergency medical technician, a
 38 certified advanced emergency medical technician, or a certified
 39 paramedic.

40 ~~(c)~~ (b) "Provider", for purposes of IC 16-39-7-1, has the meaning set
 41 forth in IC 16-39-7-1(a).

42 SECTION 11. IC 16-18-2-351.5 IS ADDED TO THE INDIANA



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1 CODE AS A NEW SECTION TO READ AS FOLLOWS
 2 [EFFECTIVE JULY 1, 1999]: **Sec. 351.5. "Terminal illness", for**
 3 **purposes of IC 16-25, has the meaning set forth in IC 16-25-1.1-9.**

4 SECTION 12. IC 16-25-1.1 IS ADDED TO THE INDIANA CODE
 5 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 1999]:

7 **Chapter 1.1. Definitions**

8 **Sec. 1. The definitions in this chapter apply throughout this**
 9 **article.**

10 **Sec. 2. "Applicant" means a person that applies for a license or**
 11 **an approval for a hospice program under IC 16-25-3.**

12 **Sec. 3. "Hospice" means a person that owns or operates a**
 13 **hospice program.**

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

18 **(1) uses an interdisciplinary team that is under the direction**
 19 **of a licensed physician to provide a program of planned and**
 20 **continuous care for terminally ill patients and their families,**
 21 **including:**

22 **(A) participation in the establishment of the plan of care;**

23 **(B) provision or supervision of hospice services;**

24 **(C) periodic review and updating of the plan of care for**
 25 **each hospice program patient; and**

26 **(D) establishment of policies governing the day to day**
 27 **provision of hospice services;**

28 **(2) provides a continuum of care, including twenty-four (24)**
 29 **hour availability of:**

30 **(A) nursing services, physician services, drugs, and**
 31 **biologicals;**

32 **(B) other services necessary for care that is reasonable and**
 33 **necessary for palliation and management of terminal**
 34 **illnesses and related conditions; and**

35 **(C) bereavement counseling;**

36 **in a manner consistent with accepted standards of practice;**
 37 **and**

38 **(3) meets the minimum standards for certification under the**
 39 **Medicare program (42 U.S.C. 1395 et seq.) and complies with**
 40 **the regulations for hospices under 42 CFR 418.1 et seq.**

41 **(b) The term does not include services provided by a hospital, a**
 42 **health facility, an ambulatory outpatient surgical center, or a home**



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1 health agency unless the entity has a distinct hospice program.

2 **Sec. 5. "Hospice program patient" means a patient who:**

- 3 (1) has been diagnosed by a licensed physician as having a
4 terminal illness;
5 (2) has a prognosis for a life expectancy in accordance with 42
6 CFR 418.3; and
7 (3) receives hospice services from a hospice program.

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

- 9 (1) palliative care for the physical, psychological, social,
10 spiritual, and other special needs of a hospice program patient
11 during the final stages of a hospice program patient's terminal
12 illness; and
13 (2) care for the psychological, social, spiritual, and other
14 needs of the hospice program patient's family before and after
15 the hospice program patient's death;

16 that is directed by an interdisciplinary team.

17 **Sec. 7. "Interdisciplinary team" means a group of individuals**
18 **who provide or supervise the care and services offered by the**
19 **hospice program that includes at least a physician or an**
20 **osteopathic physician licensed under IC 25-22.5, a registered nurse,**
21 **a social worker, and a pastoral or other counselor, all of whom**
22 **must be employees or volunteers of the hospice program.**

23 **Sec. 8. "Person" means an individual, a corporation, a limited**
24 **liability company, a partnership, or other legal entity.**

25 **Sec. 9. "Terminal illness" means a life threatening illness with**
26 **a limited prognosis.**

27 SECTION 13. IC 16-25-3 IS ADDED TO THE INDIANA CODE
28 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
29 JULY 1, 1999]:

30 **Chapter 3. Licensure of Hospices**

31 **Sec. 1. (a) For purposes of this chapter, a;**

- 32 (1) hospital licensed under IC 16-21-2;
33 (2) health facility licensed under IC 16-28-2; or
34 (3) home health agency licensed under IC 16-27-1;

35 that operates a hospice program must be approved by the state
36 department under this chapter but is not required to have a
37 hospice license.

38 (b) A person not described in subsection (a) who provides
39 hospice services must be licensed by the state department under
40 this chapter.

41 **Sec. 2. A license issued or approval granted under this chapter**
42 **authorizes the owner or operator of a hospice program to provide**

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1 hospice services.

2 **Sec. 3. (a)** An applicant shall submit an application for a hospice
3 license or for approval of a hospice program on a form prescribed
4 by the state department.

5 (b) The applicant shall attach to the application evidence of the
6 applicant's ability to comply with the minimum standards
7 established for licensure under this article.

8 (c) The application must contain the following information:

- 9 (1) The applicant's name.
10 (2) The type of hospice program the applicant will own or
11 operate.
12 (3) The location of the hospice program owned or operated by
13 the applicant.
14 (4) The name of the individual or individuals responsible for
15 the day to day operation of the hospice program owned or
16 operated by the applicant.

17 **Sec. 4.** To obtain a license or approval under this chapter, the
18 hospice program owned or operated by the applicant must:

- 19 (1) meet the minimum standards for certification under the
20 Medicare program (42 U.S.C. 1395 et seq.) and comply with
21 the regulations for hospices under 42 CFR 418.1 et seq.; or
22 (2) be certified by the Medicare program.

23 **Sec. 5.** The state department:

24 (1) may issue a provisional license or approval to an applicant
25 that is operating a hospice program before July 1, 1999, if the
26 hospice program is certified by:

- 27 (A) the Medicare program; or
28 (B) the state under IC 16-25-1 (before its repeal); and
29 (2) may not issue a license or grant approval to an applicant
30 that is not operating a hospice program before July 1, 1999,
31 unless the state department:

- 32 (A) surveys the hospice program; and
33 (B) finds that the hospice program complies with section
34 6(a) of this chapter.

35 **Sec. 6. (a)** If, after conducting an initial survey of a hospice
36 program, the state department finds that the hospice program
37 owned or operated by the applicant complies with this article, the
38 state department shall:

- 39 (1) approve the application; and
40 (2) issue a hospice license or grant approval to the applicant.

41 (b) If, after conducting an initial survey of a hospice program,
42 the state department finds that the hospice program owned or



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1 operated by the applicant does not comply with this article, the
2 state department shall:

- 3 (1) deny the application; and
- 4 (2) notify the applicant in writing of the denial and the specific
5 reasons for denying the application.

6 Sec. 7. (a) A license issued or approval granted under this
7 chapter expires one (1) year after the date of issuance.

8 (b) A hospice program may renew its license or approval under
9 procedures approved by the state department.

10 Sec. 8. An employee of a hospice licensed or approved under this
11 chapter who:

- 12 (1) provides hospice services only as an employee of the
13 hospice; and
- 14 (2) does not receive compensation for providing the services,
15 other than wages from the hospice;

16 is not required to obtain a hospice license or approval under this
17 chapter.

18 Sec. 9. 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 or approval granted by the
23 state department under this chapter for each hospice program.
24 However, this section does not preclude the operation of other
25 hospice sites under 42 CFR 418.1 et seq.

26 Sec. 10. A person that is not licensed or approved to own or
27 operate a hospice program under this chapter may not use:

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

33 SECTION 14. IC 16-25-4 IS ADDED TO THE INDIANA CODE
34 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
35 JULY 1, 1999]:

36 **Chapter 4. Hospice License Fees**

37 **Sec. 1. The state department shall charge an annual hospice fee**
38 **of one hundred dollars (\$100) for each hospice program licensed or**
39 **approved under IC 16-25-3.**

40 **Sec. 2. The fees collected by the state department under section**
41 **1 of this chapter shall be used by the state department to pay the**
42 **administrative costs of the hospice licensing and approval program**



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1 under this article.

2 SECTION 15. IC 16-25-5 IS ADDED TO THE INDIANA CODE
3 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 1999]:

5 **Chapter 5. Penalties, Enforcement Actions, and Grievance**
6 **Procedures**

7 **Sec. 1. (a)** The state department shall conduct an initial survey
8 of each hospice program licensed or approved under IC 16-25-3
9 before July 1, 2000, to determine if the hospice complies with this
10 article.

11 (b) After conducting initial survey under subsection (a), the
12 state department shall provide recommendations to the general
13 assembly regarding how often surveys of each hospice program
14 should occur.

15 (c) The state department shall also report the survey findings to
16 the office of Medicaid policy and planning.

17 (d) The state department may, when necessary, coordinate state
18 surveys with the office of Medicaid policy and planning.

19 (e) This section expires January 1, 2001.

20 **Sec. 2. If a hospice program licensed or approved under**
21 **IC 16-25-3 is also subject to state department licensure surveys or**
22 **inspections under Medicare law, the state department shall use its**
23 **best efforts to conduct all surveys or inspections simultaneously.**

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

- 27 (1) Issue a letter of correction.
- 28 (2) Issue a probationary license.
- 29 (3) Conduct a resurvey.
- 30 (4) Deny renewal of a license.
- 31 (5) Suspend a license.
- 32 (6) Revoke a license.
- 33 (7) Impose a civil penalty in an amount not to exceed ten
34 thousand dollars (\$10,000).

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

- 37 (1) A material violation by the hospice program of a provision
38 of this article.
- 39 (2) Authorizing, aiding, or abetting the commission of a
40 violation of law by the hospice program.
- 41 (3) Conduct or practice by the hospice program that the state
42 department finds detrimental to the welfare of the hospice



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program's patients.
Sec. 4. (a) The state department shall investigate any hospice program about which the state department receives a complaint from a hospice program patient or a member of a hospice program patient's family.

(b) The state department shall establish and maintain a statewide, toll free telephone line continuously open to receive reports of problems regarding hospice programs.

Sec. 5. (a) The state department shall investigate a report of an unlicensed hospice or unapproved hospice program and report the state department's findings to the attorney general.

(b) The attorney general, upon receiving a report of an unlicensed hospice or unapproved hospice program, may do any of the following:

- (1) Seek an injunction in the circuit or superior court of the county in which the unlicensed hospice or unapproved hospice program is located or in the circuit or superior court of Marion County.
- (2) Seek relief under IC 4-21.5, including a civil penalty not to exceed twenty-five thousand dollars (\$25,000) for each day of unlicensed or unapproved operation.
- (3) Seek criminal penalties as provided by section 8 of this chapter.

Sec. 6. A person aggrieved by an action of the state department under this article may appeal the action under IC 4-21.5-5.

Sec. 7. (a) For an appeal under section 6 of this chapter, the executive board shall appoint an appeals panel consisting of three (3) members as follows:

- (1) One (1) member of the executive board.
- (2) One (1) attorney admitted to the practice of law in Indiana.
- (3) One (1) individual with qualifications determined by the executive board.

(b) An employee of the state department may not be a member of the appeals panel.

(c) The appeals panel shall conduct proceedings for review of an order issued by an administrative law judge under this chapter. The appeals panel is the ultimate authority under IC 4-21.5.

(d) The costs of the proceedings, including the fees of the appeals panel, shall be paid as follows:

- (1) By the hospice, if the appeals panel finds in favor of the state department.

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1 (2) By the state department, if the appeals panel finds in favor
2 of the hospice.

3 **Sec. 8. A person who knowingly or intentionally:**

4 (1) represents to the public that the person offers hospice
5 services; or

6 (2) owns or operates a hospice program;
7 without a license issued or approval granted under this article
8 commits a Class A misdemeanor.

9 SECTION 16. IC 16-25-6 IS ADDED TO THE INDIANA CODE
10 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 1999]:

12 **Chapter 6. Criminal History of Hospice Owners, Operators, and**
13 **Employees**

14 **Sec. 1. (a) A person may not own or operate a hospice program**
15 **if the person has:**

16 (1) been convicted of rape (IC 35-42-4-1);

17 (2) been convicted of criminal deviate conduct (IC 35-42-4-2);

18 (3) been convicted of exploitation of a dependent or an
19 endangered adult (IC 35-46-1-12);

20 (4) had a judgment entered against the person for failure to
21 report battery, neglect, or exploitation of an endangered adult
22 (IC 35-46-1-13); or

23 (5) been convicted of theft (IC 35-43-4), if the person's
24 conviction for theft occurred less than ten (10) years before
25 the date of submission by the person of an application for
26 licensure or approval as a hospice program under IC 16-25-3.

27 (b) A person who knowingly or intentionally violates this section
28 commits a Class A misdemeanor.

29 **Sec. 2. (a) A person who owns or operates a hospice program**
30 **shall apply, not more than three (3) business days after the date**
31 **that an employee begins to provide hospice services, for a copy of**
32 **the employee's limited criminal history from the Indiana central**
33 **repository for criminal history information under IC 5-2-5.**

34 (b) A hospice program may not employ an individual to provide
35 hospice services for more than three (3) business days without
36 applying for that individual's limited criminal history as required
37 by subsection (a).

38 **Sec. 3. (a) Except as provided in subsection (b), a person who**
39 **owns or operates a hospice program may not employ an individual**
40 **to provide hospice services if that individual's limited criminal**
41 **history indicates that the individual has:**

42 (1) been convicted of rape (IC 35-42-4-1);

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- 1 (2) been convicted of criminal deviate conduct (IC 35-42-4-2);
- 2 (3) been convicted of exploitation of an endangered adult
- 3 (IC 35-46-1-12);
- 4 (4) had a judgment entered against the individual for failure
- 5 to report battery, neglect, or exploitation of an endangered
- 6 adult (IC 35-46-1-13); or
- 7 (5) been convicted of theft (IC 35-43-4), if the conviction for
- 8 theft occurred less than ten (10) years before the individual's
- 9 employment application date.

10 (b) A hospice program may not employ an individual to provide
 11 hospice services for more than twenty-one (21) calendar days
 12 without receipt of that individual's limited criminal history
 13 required by section 2 of this chapter, unless the Indiana central
 14 repository for criminal history information under IC 5-2-5 is solely
 15 responsible for failing to provide the individual's limited criminal
 16 history to the hospice program within the time required under this
 17 subsection.

18 **Sec. 4. (a)** A person who owns or operates a hospice program is
 19 responsible for the payment of fees under IC 5-2-5-7 and other fees
 20 required under section 2 of this chapter.

21 (b) A hospice program may require an individual who applies
 22 to the hospice program for employment to provide hospice
 23 services:

- 24 (1) to pay the fees described in subsection (a) to the hospice
- 25 program at the time the individual submits an application for
- 26 employment; or
- 27 (2) to reimburse the hospice program for the payment of the
- 28 fees described in subsection (a).

29 **Sec. 5. A person who:**

- 30 (1) owns or operates a hospice program; and
 - 31 (2) violates section 2 or 3 of this chapter;
- 32 commits a Class A infraction.

33 SECTION 17. IC 16-25-7 IS ADDED TO THE INDIANA CODE
 34 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 1999]:

36 **Chapter 7. Disclosure Requirements**

37 **Sec. 1.** Each hospice program licensed or approved under this
 38 article shall prepare and update as necessary a disclosure
 39 document to be presented to each potential patient of the hospice
 40 program.

41 **Sec. 2.** The disclosure document required under section 1 of this
 42 chapter must contain at least the following:

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- 1 **(1) A description of all hospice services provided by the**
- 2 **hospice program.**
- 3 **(2) An explanation of the hospice program's internal**
- 4 **complaint resolution process.**
- 5 **(3) A statement that a hospice program patient may refuse**
- 6 **any component of hospice services offered by the hospice**
- 7 **program.**
- 8 **(4) The toll free number established by the state department**
- 9 **under IC 16-25-5-4 to receive reports of problems from**
- 10 **hospice program patients and the family members of hospice**
- 11 **program patients regarding the hospice program.**

12 SECTION 18. IC 16-27-1-10 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. This chapter does
 14 not prohibit the provision of:

- 15 ~~(1)~~ hospice care by a hospice program certified under IC 16-25-1;
- 16 ~~(2)~~ **(1)** homemaker services;
- 17 ~~(3)~~ **(2)** companion services; or
- 18 ~~(4)~~ **(3)** any other services;

19 for which a license is not required.

20 SECTION 19. THE FOLLOWING ARE REPEALED [EFFECTIVE
 21 JULY 1, 1999]: IC 16-18-2-123; IC 16-18-2-177; IC 16-18-2-178;
 22 IC 16-25-1.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1528, 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 8, line 19, delete "licensed".

Page 8, line 19, after "physician" insert "**or an osteopathic physician licensed under IC 25-22.5**".

Page 8, line 21, after "employees" insert "**or volunteers**".

Page 9, line 31, delete "inspects" and insert "**surveys**".

Page 9, line 34, delete "inspection" and insert "**survey**".

Page 9, line 40, delete "inspection" and insert "**survey**".

Page 10, line 22, delete "place of business".

Page 10, line 23, delete "where the person operates a".

Page 10, line 23, after "." insert "**However, this section does not preclude the operation of other hospice sites under 42 CFR 418.1 et seq.**".

Page 10, line 29, after "license" insert "**or has approval**".

Page 11, line 6, delete "inspection" and insert "**survey**".

Page 11, line 9, delete "inspections" and insert "**surveys**".

Page 11, line 11, delete "inspections" and insert "**surveys**".

Page 11, between lines 12 and 13, begin a new paragraph and insert: "**(c) The state department shall also report the survey findings to the office of Medicaid policy and planning.**

(d) The state department may, when necessary, coordinate state surveys with the office of Medicaid policy and planning.".

Page 11, line 13, delete "(c)" and insert "(e)".

Page 11, line 15, delete "liscensure" and insert "**licensure**".

Page 11, line 16, after "shall" insert "**use its best efforts to**".

Page 11, line 23, delete "reinspection" and insert "**resurvey**".

Page 15, delete lines 2 through 7.

Page 15, line 8, delete "(5)" and insert "**(4)**".

and when so amended that said bill do pass.

(Reference is to HB 1528 as introduced.)

BROWN C, Chair

Committee Vote: yeas 10, nays 0.

HB 1528—LS 7510/DI 97+

