



February 25, 1999

HOUSE BILL No. 1663

DIGEST OF HB1663 (Updated February 23, 1999 8:42 pm - DI 77)

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

Synopsis: Nurse aide registry. Adds ambulatory outpatient surgical centers, home health agencies, hospice programs, and hospitals to the health care facilities that may not employ an individual 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. Repeals a definition.

Effective: July 1, 1999.

Moses

January 21, 1999, read first time and referred to Committee on Public Health.
February 24, 1999, reported — Do Pass.

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February 25, 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.

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 16-28-13-1.5.

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 16-28-13-1 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) As used in this

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1 chapter, "nurse aide" means an individual who provides nursing or
 2 nursing related services to residents in ~~the following:~~

3 ~~(1) a health care facility.~~

4 ~~(2) A hospital based health facility.~~

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

6 (1) A licensed health professional (as defined in IC 25-1-9-3).

7 (2) A registered dietician.

8 (3) An individual who volunteers to provide nursing or nursing
 9 related services without pay.

10 SECTION 4. IC 16-28-13-1.5 IS ADDED TO THE INDIANA
 11 CODE AS A NEW SECTION TO READ AS FOLLOWS
 12 [EFFECTIVE JULY 1, 1999]: **Sec. 1.5. As used in this chapter,**
 13 **"health care facility" includes the following:**

14 **(1) An ambulatory outpatient surgical center licensed under**
 15 **IC 16-21-2.**

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

17 **(3) A home health agency licensed under IC 16-27-1.**

18 **(4) A hospice program certified under IC 16-25-1.**

19 **(5) A hospital licensed under IC 16-21-2.**

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

25 SECTION 6. IC 16-28-13-3 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) A health **care**
 27 **facility** ~~a hospital based health facility~~, or an entity in the business of
 28 contracting to provide nurse aides or other unlicensed employees for a
 29 health **care facility** ~~or hospital based health facility~~ may not knowingly
 30 employ a person as a nurse aide or other unlicensed employee if **one**
 31 **(1) or more of the following conditions exist:**

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

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

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

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

37 ~~(4) (D)~~ **(D)** Theft (IC 35-43-4), if the person's conviction for theft
 38 occurred less than five (5) years before the individual's
 39 employment application date.

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

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

42 ~~(7) (G)~~ **(G)** Involuntary manslaughter (IC 35-42-1-4) within the



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- 1 previous five (5) years.
- 2 ~~(8)~~ **(H)** Felony battery within the previous five (5) years.
- 3 ~~(9)~~ **(I)** A felony offense relating to controlled substances
- 4 within the previous five (5) years.
- 5 **(2) The person has abused, neglected, or mistreated a patient**
- 6 **or misappropriated a patient's property and had a finding**
- 7 **entered into the state nurse aide registry.**

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

- 10 (1) a health **care** facility; **or**
- 11 (2) a ~~hospital based health facility~~; **or**
- 12 ~~(3)~~ an entity in the business of contracting to provide nurse aides
- 13 or other unlicensed employees for a health **care** facility; **or**
- 14 ~~hospital based health facility~~;

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

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

- 20 (1) operates **or administers** a health **care** facility; **or**
- 21 (2) **administers** a ~~hospital based health facility~~; **or**
- 22 ~~(3)~~ operates an entity in the business of contracting to provide
- 23 nurse aides or other unlicensed employees for a health **care**
- 24 facility; **or hospital based health facility**;

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

- 31 (b) A
- 32 ~~(1)~~ health **care** facility **or**
- 33 ~~(2)~~ **hospital based health facility**;

34 is not required to apply for the **state nurse aide registry report and**
 35 limited criminal history required by subsection (a) if the health **care**
 36 facility **or hospital based health facility** contracts to use the services of
 37 a nurse aide or other unlicensed employee who is employed by an
 38 entity in the business of contracting to provide nurse aides or other
 39 unlicensed employees to health **care** facilities. **and hospital based**
 40 **health facilities**;

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

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- 1 (1) operates **or administers** a health **care** facility; **or**
 2 (2) **administers** a ~~hospital based health facility~~; **or**
 3 (3) operates an entity in the business of contracting to provide
 4 nurse aides or other unlicensed employees for a health **care**
 5 facility; ~~or hospital based health facility~~;

6 may not employ a person as a nurse aide or other unlicensed employee
 7 after receipt of the person's **state nurse aide registry report if that**
 8 **person's report indicates that the person committed an offense**
 9 **under section (3)(a)(2) of this chapter and has been placed on the**
 10 **state nurse aide registry, or after receipt of the** limited criminal
 11 history if that person's limited criminal history indicates that the person
 12 has been convicted of any of the offenses described in ~~section 3(a)~~
 13 **section 3(a)(1)** of this chapter.

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

- 16 (1) operates **or administers** a health **care** facility; **or**
 17 (2) **administers** a ~~hospital based health facility~~; **or**
 18 (3) operates an entity in the business of contracting to provide
 19 nurse aides or other unlicensed employees for a health **care**
 20 facility; ~~or hospital based health facility~~;

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

24 (b) A health **care** facility a ~~hospital based health facility~~; or an entity
 25 in the business of contracting to provide nurse aides or other unlicensed
 26 employees for a health **care** facility ~~or hospital based health facility~~
 27 may require a person who applies to the health **care** facility ~~hospital~~
 28 ~~based health facility~~; or entity for employment as a nurse aide or other
 29 unlicensed employee:

- 30 (1) to pay the cost of fees described in subsection (a) to the health
 31 **care** facility ~~hospital based health facility~~; or entity at the time the
 32 person submits an application for employment; or
 33 (2) to reimburse the health **care** facility ~~hospital based health~~
 34 ~~facility~~; or entity for the cost of fees described in subsection (a).

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

- 41 (1) who is employed by:
 42 (A) a health **care** facility; **or**

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- 1 (B) a ~~hospital based health facility~~;
 2 ~~(C) a hospital licensed under IC 16-21~~; or
 3 ~~(D) an entity in the business of contracting to provide nurse~~
 4 ~~aides or other unlicensed employees for a health care facility;~~
 5 ~~or hospital based health facility~~; and
 6 (2) whose employment or responsibilities are limited to activities
 7 primarily performed within a health **care** facility. ~~or hospital~~
 8 ~~based health facility~~;
- 9 SECTION 11. IC 16-28-13-10 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. A person:
 11 (1) who:
 12 (A) operates **or administers** a health **care** facility; **or**
 13 (B) ~~administers a hospital based health facility~~; or
 14 ~~(C) operates an entity in the business of contracting to provide~~
 15 ~~nurse aides or other unlicensed employees for a health care~~
 16 ~~facility; or hospital based health facility~~; and
 17 (2) who knowingly or intentionally violates section 4 or 5 of this
 18 chapter;
 19 commits a Class A infraction.
- 20 SECTION 12. IC 16-28-13-11 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 11. (a) Each:
 22 (1) health **care** facility; **and**
 23 (2) ~~hospital based health facility~~; **and**
 24 ~~(3) entity in the business of contracting to provide nurse aides or~~
 25 ~~other unlicensed employees for a health care facility; or hospital~~
 26 ~~based health facility~~;
 27 shall maintain a personnel record for each nurse aide and other
 28 unlicensed employee employed by the health **care** facility ~~hospital~~
 29 ~~based health facility~~; or entity that includes the nurse aide's or other
 30 unlicensed employee's **state nurse aide registry report and** limited
 31 criminal history required by section 4 of this chapter.
 32 (b) The personnel records of each
 33 ~~(1) health care facility and~~
 34 ~~(2) hospital based health facility~~
 35 shall be available for inspection by the state department to assure
 36 compliance with this chapter.
 37 (c) An entity in the business of contracting to provide nurse aides or
 38 other unlicensed employees to health **care** facilities ~~and hospital based~~
 39 ~~health facilities~~ shall provide a copy of the **state nurse aide registry**
 40 **report and** limited criminal history obtained under section 4 of this
 41 chapter to each health **care** facility ~~and hospital based health facility~~ to
 42 which the entity provides a nurse aide or other unlicensed employee.



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1 If the entity fails to provide a copy of the **state nurse aide registry**
2 **report and** limited criminal history to a health **care** facility, ~~or hospital~~
3 ~~based health facility~~, the health **care** facility ~~or hospital based health~~
4 ~~facility~~ is not in violation of this chapter.

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

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

18 SECTION 15. IC 16-18-2-264.5 IS REPEALED [EFFECTIVE
19 JULY 1, 1999].

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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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