

SENATE BILL No. 526

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-28-5-4.

Synopsis: Health facility remedies for breaches of certain laws. Removes a provision concerning repeat deficiencies by a health facility in a 15 month period. Increases the amount of fines that the commissioner of the state department of health may impose for certain violations by health facilities. 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.

Effective: July 1, 1999.

Miller

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

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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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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 16-28-5-4 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) The
- 3 commissioner shall impose the following remedies for breaches of this
- 4 article or a rule adopted under this article:
- 5 (1) For an offense, the remedies specified in subsection (b)(1)
- 6 through (b)(2). The commissioner may also impose the remedy
- 7 specified in subsection (b)(3).
- 8 (2) For a deficiency, the remedies specified in subsection (b)(1).
- 9 The commissioner may also impose the remedies specified in
- 10 subsection (b)(4).
- 11 ~~(3) For a breach that is a repeat of the same deficiency within a~~
- 12 ~~fifteen (15) month period, the remedies specified in subsection~~
- 13 ~~(b)(1) through (b)(2). The commissioner may also impose the~~
- 14 ~~remedy specified in subsection (b)(3).~~
- 15 ~~(4) (3) For a noncompliance, the remedies specified in subsection~~
- 16 ~~(b)(5) through (b)(6).~~
- 17 ~~(5) (4) For a breach that is a repeat of the same noncompliance~~



1 within a fifteen (15) month period, the remedies specified in
 2 subsection (b)(1). The commissioner may also impose the
 3 remedies specified in subsection (b)(4).

4 ~~(6)~~ (5) For a nonconformance, the remedies specified in
 5 subsection (b)(5).

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

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

11 (1) Issuance of an order for immediate correction of the breach.

12 (2) Imposition of a fine not to exceed ~~ten~~ **twenty** thousand dollars
 13 ~~(\$10,000)~~ **(\$20,000)** or suspension of new admissions to the
 14 health facility for a period not to exceed forty-five (45) days, or
 15 both.

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

18 (4) Imposition of a fine not to exceed ~~five~~ **ten** thousand dollars
 19 ~~(\$5,000)~~ **(\$10,000)** or suspension of new admissions to the health
 20 facility for a period not to exceed thirty (30) days, or both.

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

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

27 (c) If a breach is immediately corrected and the commissioner has
 28 imposed remedies under subsection (b)(2), the commissioner may
 29 waive not more than fifty percent (50%) of the fine imposed and reduce
 30 the number of days for suspension of new admissions by one-half (1/2).

31 (d) 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 under this section and that the facility
 35 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).

39 (2) For an omission of care or an act that:

40 (A) does not fall within a classification of a rule under this
 41 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), or both.
4 **(e) The fines or suspended new admissions imposed on the**
5 **health care facility under subsections (a) and (b) may be based on**
6 **each omission of care or act classified as an offense, deficiency,**
7 **repeat of the same deficiency, noncompliance, or repeat of the**
8 **same nonconformance. However, the commissioner may not**
9 **suspend new admissions to the health care facility for a period that**
10 **exceeds ninety (90) consecutive days.**

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