

# HOUSE BILL No. 1894

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## DIGEST OF INTRODUCED BILL

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

**Synopsis:** Health facility penalties. Increases the penalties for violations of statutes or administrative rules governing health facilities.

**Effective:** July 1, 1999.

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January 26, 1999, read first time and referred to Committee on Public Health.

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Introduced

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. 1894

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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): and (b)(3)~~. The commissioner may also impose  
7 the remedy specified in subsection ~~(b)(3): (b)(4)~~.

8 (2) **For a breach that is a repeat of the same offense within a**  
9 **fifteen (15) month period, the remedies specified in subsection**  
10 **(b)(1) through (b)(2). The commissioner may also impose the**  
11 **remedy specified in subsection (b)(4).**

12 (3) For a deficiency, the remedies specified in subsection (b)(1).  
13 The commissioner may also impose the remedies specified in  
14 subsection ~~(b)(4): (b)(5)~~.

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



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1 impose the remedy specified in subsection ~~(b)(3)~~: **(b)(4)**.

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

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

8 ~~(6)~~ **(7)** For a nonconformance, the remedies specified in  
9 subsection ~~(b)(5)~~: **(b)(6)**.

10 ~~(7)~~ **(8)** For a breach that is a repeat of the same nonconformance  
11 within a fifteen (15) month period, the remedies specified in  
12 subsection ~~(b)(5)~~ **(b)(6)** through ~~(b)(6)~~: **(b)(7)**.

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

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

16 (2) **Imposition of a fine not to exceed thirty thousand dollars**  
17 **(\$30,000) or suspension of new admissions to the health**  
18 **facility for a period not to exceed forty-five (45) days, or both.**

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

23 ~~(3)~~ **(4)** Revocation by the director of the health facility's license  
24 or issuance of a probationary license.

25 ~~(4)~~ **(5)** Imposition of a fine not to exceed ~~five~~ **ten** thousand dollars  
26 ~~(\$5,000)~~ **(\$10,000)** or suspension of new admissions to the health  
27 facility for a period not to exceed thirty (30) days, or both.

28 ~~(5)~~ **(6)** A requirement that the health facility comply with any plan  
29 of correction approved or directed under section 7 of this chapter.

30 ~~(6)~~ **(7)** If the health facility is found to have a pattern of breach,  
31 the commissioner may suspend new admissions to the health  
32 facility for a period not to exceed fifteen (15) days or impose a  
33 fine not to exceed ~~one~~ **two** thousand dollars ~~(\$1,000)~~; **(\$2,000)**, or  
34 both.

35 (c) If a breach is immediately corrected and the commissioner has  
36 imposed remedies under subsection (b)(2) **or (b)(3)**, the commissioner  
37 may waive not more than fifty percent (50%) of the fine imposed and  
38 reduce the number of days for suspension of new admissions by  
39 one-half (1/2).

40 (d) The commissioner may, with the concurrence of a licensed  
41 physician, impose the following:

42 (1) For an omission of care or an act that does not fall within a

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1 classification of a rule under this section and that the facility  
 2 should reasonably have known would present a substantial  
 3 probability that death or a life threatening condition will result,  
 4 one (1) or any combination of the remedies specified in  
 5 subsection (b)(1), ~~through (b)(3)~~: **(b)(3), and (b)(4)**.

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

7 (A) does not fall within a classification of a rule under this  
 8 section; and

9 (B) the facility should reasonably have known would result in  
 10 an immediate or a direct, serious adverse effect on the health,  
 11 safety, security, rights, or welfare of a patient;

12 the remedies specified in subsection (b)(1) or ~~(b)(4)~~; **(b)(5)**, or  
 13 both.

14 **(e) This section does not limit the authority of the commissioner**  
 15 **to impose a fine or suspend new admissions to the health facility**  
 16 **for each omission of care or act classified as:**

- 17 (1) an offense;  
 18 (2) a repeat of the same offense;  
 19 (3) a deficiency;  
 20 (4) a repeat of the same deficiency;  
 21 (5) a noncompliance;  
 22 (6) a repeat of the same noncompliance;  
 23 (7) a nonconformance; or  
 24 (8) a repeat of the same nonconformance.

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

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