



Reprinted
February 2, 2000

HOUSE BILL No. 1124

DIGEST OF HB 1124 (Updated February 1, 2000 9:44 PM - DI 97)

Citations Affected: IC 2-5; IC 16-21; IC 16-28.

Synopsis: Health. Requires a hospital with at least 100 beds to establish policies governing immediate response to inpatient medical emergencies and specifies certain issues that the policies must address. Allows oral allegation of a breach of the health facilities law or rules. Requires the state department of health to investigate all breach allegations. Establishes the quality improvement and education fund. Requires that 50% of the fines collected for violations by health facilities be deposited in this fund. Specifies that a penalty may be imposed for each violation or repeat of a violation. Prohibits the collection from certain facilities of a fine under state law in addition to a monetary penalty under federal law.

Effective: July 1, 2000; September 1, 2000.

Day, Becker, Frizzell

January 10, 2000, read first time and referred to Committee on Public Health.
January 26, 2000, amended, reported — Do Pass.
February 1, 2000, read second time, amended, ordered engrossed.

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February 2, 2000

Second Regular Session 111th General Assembly (2000)

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 *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1999 General Assembly.

HOUSE BILL No. 1124

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, 2000]: 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, 2000]: 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.

16 SECTION 3. IC 16-21-2-15 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 15. (a) A hospital with

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1 at least one hundred (100) beds shall have on duty at all times at least
 2 one (1) physician licensed under IC 25-22.5. Implementation of this
 3 section shall be subject to rules promulgated by the state department of
 4 health to ensure continuous coverage by physicians licensed under
 5 IC 25-22.5 for inpatient emergencies.

6 **(b) A hospital subject to this section must establish policies that**
 7 **govern immediate response to inpatient medical emergencies.**
 8 **These policies shall address:**

9 **(1) the composition of the hospital's emergency response**
 10 **team, which shall be a collaborative, interdisciplinary body**
 11 **with at least one (1) member who:**

12 **(A) has successfully completed advanced cardiac life**
 13 **support training; and**

14 **(B) is not staffing the hospital's emergency department**
 15 **while on duty as a member of the emergency response**
 16 **team;**

17 **(2) the location and contents of all emergency response carts**
 18 **for purposes of maintaining optimal efficiency and response**
 19 **time to inpatient emergencies; and**

20 **(3) the annual education and training requirements for**
 21 **emergency response team members, which must be consistent**
 22 **with accreditation specifications or other nationally**
 23 **recognized standards.**

24 **Implementation of this subsection is subject to survey by the state**
 25 **department of health.**

26 SECTION 4. IC 16-28-3-3 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE SEPTEMBER 1, 2000]: Sec. 3. If a health
 28 facility is in breach of this article or rules adopted under this article by
 29 ~~offenses Level 4 breaches~~ or patterns of ~~deficiencies Level 3 breaches~~
 30 detrimental to the best interests of the public, the patients, or the health
 31 facility profession, the only type of license that may be issued to the
 32 health facility is a probationary license.

33 SECTION 5. IC 16-28-4-1 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. A person who
 35 believes that this article or ~~rules a rule~~ adopted under this article ~~have~~
 36 **has** been breached may file an allegation of breach with the state
 37 department. The allegation ~~must may~~ be **made orally or** in writing.
 38 ~~unless the breach complained of is an offense or a deficiency. The~~
 39 **state department shall reduce** an oral allegation of breach ~~shall be~~
 40 **reduced to writing. by the state department.**

41 SECTION 6. IC 16-28-4-2 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. The division shall



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1 promptly investigate the following:

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

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

6 SECTION 7. IC 16-28-5-1 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE SEPTEMBER 1, 2000]: Sec. 1. The
8 executive board shall adopt rules under IC 4-22-2 to ~~classify each rule~~
9 ~~adopted by the executive board to govern a health facility under this~~
10 ~~article define each level of breach of this article or rules adopted~~
11 ~~under this article as provided in subdivisions (1) through (4) of this~~
12 ~~section. The state survey inspectors shall determine under this~~
13 ~~article, with the concurrence of the director, the classification of a~~
14 ~~breach~~ into one (1) of the following categories:

15 (1) ~~An offense, which presents a substantial probability that death~~
16 ~~or a life-threatening condition will result.~~ (1) **Level 4 - immediate**
17 **jeopardy to patient health or safety (as described in 42 CFR**
18 **488.404).**

19 (2) ~~A deficiency, which presents an immediate or a direct, serious~~
20 ~~adverse effect on the health, safety, security, rights, or welfare of~~
21 ~~a patient.~~ (2) **Level 3 - actual harm (as described in 42 CFR**
22 **488.404).**

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

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

31 SECTION 8. IC 16-28-5-4 IS AMENDED TO READ AS
32 FOLLOWS [EFFECTIVE SEPTEMBER 1, 2000]: Sec. 4. (a) The
33 commissioner shall impose the following remedies for breaches of this
34 article or a rule adopted under this article:

35 (1) ~~For an offense, a Level 4 breach,~~ the remedies specified in
36 subsection (b)(1) through (b)(2). The commissioner may also
37 impose the remedy specified in subsection (b)(3).

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

41 (3) For a breach that is a repeat of the same ~~deficiency~~ **Level 3**
42 **breach** within a fifteen (15) month period, the remedies specified



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



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

2 (A) does not fall within a classification of a ~~rule breach~~ under
3 this section; and

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

7 the remedies specified in subsection (b)(1) or (b)(4), or both.

8 SECTION 9. IC 16-28-5-11 IS ADDED TO THE INDIANA CODE
9 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
10 1, 2000]: **Sec. 11. For a health facility that is certified for
11 participation in Medicare under 42 U.S.C. 1395 et seq. or Medicaid
12 under 42 U.S.C. 1396 et seq., the state department may not collect
13 both a fine under this article and a civil monetary penalty under 42
14 CFR 488.**

15 SECTION 10. IC 16-28-11-1, AS AMENDED BY P.L.218-1999,
16 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2000]: Sec. 1. (a) Except as provided in IC 16-28-1-11, and
18 ~~IC 16-28-7-4, fines or fees~~ required to be paid under this article shall
19 be paid directly to the director, who shall deposit the ~~fines or fees~~ in the
20 state general fund.

21 (b) **Except as provided in IC 16-28-7-4, fines required to be paid
22 under this article shall be paid directly to the director, who shall
23 deposit the fines as follows:**

24 (1) **Fifty percent (50%) in the state general fund.**

25 (2) **Fifty percent (50%) in the quality improvement and
26 education fund established by section 4 of this chapter.**

27 SECTION 11. IC 16-28-11-4 IS ADDED TO THE INDIANA
28 CODE AS A NEW SECTION TO READ AS FOLLOWS
29 [EFFECTIVE JULY 1, 2000]: **Sec. 4. (a) The quality improvement
30 and education fund is established. The state department shall
31 administer the fund.**

32 (b) **The treasurer of state shall invest the money in the fund not
33 currently needed to meet the obligations of the fund in the same
34 manner as other public funds may be invested. Interest that
35 accrues from these investments shall be deposited in the fund.**

36 (c) **Money in the fund at the end of a state fiscal year does not
37 revert to the state general fund.**

38 (d) **The state department shall use the money in the fund for the
39 following purposes:**

40 (1) **Education or training programs conducted or approved by
41 the state department of health.**

42 (2) **Development of best practice guidelines and clinical**



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- 1 **protocols.**
- 2 **(3) Clinical research and other activities designed to improve**
- 3 **the quality of care provided in health facilities.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1124, 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 3, delete lines 4 through 42, begin a new paragraph and insert:

"SECTION 7. IC 16-28-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE SEPTEMBER 1, 2000]: Sec. 4. (a) The commissioner shall impose the following remedies for breaches of this article or a rule adopted under this article:

- (1) For ~~an offense~~, a **Level 4 breach**, the remedies specified in subsection (b)(1) through (b)(2). The commissioner may also impose the remedy specified in subsection (b)(3).
- (2) For a ~~deficiency~~, **Level 3 breach**, the ~~remedies~~ **remedy** specified in subsection (b)(1). The commissioner may also impose the remedies specified in subsection (b)(4).
- (3) For a 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). The commissioner may also impose the remedy specified in subsection (b)(3).
- (4) For a ~~noncompliance~~, **Level 2 breach**, the remedies specified in subsection (b)(5) through (b)(6).
- (5) For a breach that is a repeat of the same ~~noncompliance~~ **Level 2 breach** within a fifteen (15) month period, the ~~remedies~~ **remedy** specified in subsection (b)(1). The commissioner may also impose the remedies specified in subsection (b)(4).
- (6) For a ~~nonconformance~~, **Level 1 breach**, the ~~remedies~~ **remedy** specified in subsection (b)(5).
- (7) For a breach that is a repeat of the same ~~nonconformance~~ **Level 1 breach** within a fifteen (15) month period, the remedies specified in subsection (b)(5) through (b)(6).

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

- (1) Issuance of an order for immediate correction of the breach.
- (2) Imposition of a fine not to exceed ten thousand dollars (\$10,000) or suspension of new admissions to the health facility for a period not to exceed forty-five (45) days, or both.
- (3) Revocation by the director of the health facility's license or issuance of a probationary license.
- (4) 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.

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

(6) 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 thousand dollars (\$1,000), or both.

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

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

(1) For an omission of care or an act that does not fall within a classification of a ~~rule~~ **breach** under this section and that the facility should reasonably have known would present a substantial probability that death or a life threatening condition will result, one (1) or any combination of the remedies specified in subsection (b)(1) through (b)(3).

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

(A) does not fall within a classification of a ~~rule~~ **breach** under this section; and

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

the remedies specified in subsection (b)(1) or (b)(4), or both."

Delete page 4.

Page 5, delete lines 1 through 19.

Page 6, line 10, after "conducted" insert "**or approved**".

Page 6, line 10, delete ":" and insert "**the state department of health**".

Page 6, delete lines 11 through 12.

Page 6, delete lines 17 through 42.

Delete pages 7 through 9.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1124 as introduced.)

BROWN C, Chair

Committee Vote: yeas 13, nays 0.



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HOUSE MOTION

Mr. Speaker: I move that House Bill 1124 be amended to read as follows:

Page 1, between lines 15 and 16, begin a new paragraph and insert:

"SECTION 3. IC 16-21-2-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 15. (a) A hospital with at least one hundred (100) beds shall have on duty at all times at least one (1) physician licensed under IC 25-22.5. Implementation of this section shall be subject to rules promulgated by the state department of health to ensure continuous coverage by physicians licensed under IC 25-22.5 for inpatient emergencies.

(b) A hospital subject to this section must establish policies that govern immediate response to inpatient medical emergencies. These policies shall address:

(1) the composition of the hospital's emergency response team, which shall be a collaborative, interdisciplinary body with at least one (1) member who:

(A) has successfully completed advanced cardiac life support training; and

(B) is not staffing the hospital's emergency department while on duty as a member of the emergency response team;

(2) the location and contents of all emergency response carts for purposes of maintaining optimal efficiency and response time to inpatient emergencies; and

(3) the annual education and training requirements for emergency response team members, which must be consistent with accreditation specifications or other nationally recognized standards.

Implementation of this subsection is subject to survey by the state department of health."

Renumber all SECTIONS consecutively.

(Reference is to HB 1124 as printed January 27, 2000.)

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