
HOUSE BILL No. 2045

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-18-2-254.5; IC 16-28.

Synopsis: Nursing home inspections. Establishes the office of quality assurance within the state department of health and provides that the office has the following duties: (1) To review all health facility inspection recommendations for citations to determine if the recommended citation constitutes a breach. (2) Administer the informal dispute resolution process. (3) Appoint administrative law judges. (4) Receive and review complaints from facilities about inspectors or inspection teams. Provides that during a licensure inspection of a health facility the inspectors must meet certain criteria and perform certain tasks. Provides that a citation for a breach may not be issued by the state health commissioner until the alleged breach has been reviewed the office of quality assurance. Establishes the quality improvement and education fund. Requires that 50% of the fines collected be deposited in the fund. Requires the state department of health to provide reports to the select joint committee on Medicaid oversight concerning inspections of health facilities. Makes certain other changes.

Effective: July 1, 2001.

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January 17, 2001, read first time and referred to Committee on Ways and Means.

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First Regular Session 112th General Assembly (2001)

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 2000 General Assembly.

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HOUSE BILL No. 2045



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 16-18-2-254.5, AS ADDED BY P.L.52-1999,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2001]: Sec. 254.5. (a) "Office", for purposes of IC 16-19-13,
4 refers to the office of women's health established by IC 16-19-13.

5 (b) "Office", for purposes of IC 16-28-15, refers to the office of
6 quality assurance established by IC 16-28-15-2.

7 SECTION 2. IC 16-28-4.5 IS ADDED TO THE INDIANA CODE
8 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2001]:

10 **Chapter 4.5. Licensure Inspections of Health Facilities**

11 **Sec. 1. An individual may not participate on a licensure**
12 **inspection of a health facility unless the individual, after being**
13 **hired as an employee of the state department:**

- 14 (1) has been assigned to a licensed health facility for at least
15 ten (10) days within a fourteen (14) day period to observe
16 actual daily operations at a health facility; and
17 (2) has received at least six (6) hours of Alzheimer's disease



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and dementia specific training.
Sec. 2. An individual may not participate in a licensure inspection of a health facility at which the individual was an employee in the previous five (5) years.

Sec. 3. While conducting a licensure inspection of a health facility, each individual who participates in a licensure inspection at a health facility must record all conversations between the individual and any of the following persons:

- (1) Staff of the health facility.**
- (2) Residents of the health facility.**
- (3) Family members of a resident of the health facility.**

All taped conversations are considered to be part of the individual inspector's notes and documentation.

Sec. 4. When the state department has completed a licensure inspection of a health facility, the state department must have at least one (1) individual who participated on the inspection team to provide the health facility with preliminary findings of the citations, including the scope and severity of the citations.

Sec. 5. An individual who participates in a licensure inspection of a health facility may not cite a health facility for the facility's clinical protocols or best practice standards unless the individual has consulted with a clinical expert in long term care appointed by the state department.

Sec. 6. Not less than semiannually, the state department shall provide joint training sessions with health facilities and individuals who conduct health facility licensure inspections. The primary topic of the joint training sessions must be the subject of at least one (1) of the ten (10) most frequently issued federal citations in Indiana during the preceding calendar year.

SECTION 3. IC 16-28-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. ~~On~~ After a review of an alleged breach by the office of quality assurance and a determination by the commissioner that a breach of this article or a rule adopted under this article has occurred, the director shall issue a citation under IC 4-21.5-3-6 to the administrator of the health facility in which the breach occurred. The citation must state the following:

- (1) The nature of the breach.**
- (2) The classification of the breach.**
- (3) The corrective actions required of the health facility to remedy the breach and to protect the patients of the facility.**
- (4) Any penalty imposed on the facility.**

SECTION 4. IC 16-28-10-1 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) Hearings under
 2 this article shall be conducted in accordance with IC 4-21.5. Except for
 3 hearings held on the adoption of rules, an administrative law judge
 4 must meet the following conditions:

5 (1) Be admitted to the practice of law in Indiana.

6 (2) Not be a member of the council or an employee of the state.

7 **(3) Be appointed by the office of quality assurance.**

8 (b) A health facility shall pay the costs of appointing an
 9 administrative law judge if the administrative law judge finds in favor
 10 of the state. However, if the administrative law judge finds in favor of
 11 the health facility, the state shall pay the costs of appointing the
 12 administrative law judge.

13 SECTION 5. IC 16-28-11-1, AS AMENDED BY P.L.218-1999,
 14 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2001]: Sec. 1. (a) Except as provided in IC 16-28-1-11, ~~and~~
 16 ~~IC 16-28-7-4, fines or fees~~ required to be paid under this article shall
 17 be paid directly to the director, who shall deposit the ~~fines or fees~~ in the
 18 state general fund.

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

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

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

25 SECTION 6. IC 16-28-11-4 IS ADDED TO THE INDIANA CODE
 26 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 27 1, 2001]: Sec. 4. (a) **The quality improvement and education fund**
 28 **is established. The state department shall administer the fund.**

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

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

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

37 (1) **Education or training programs conducted by:**

38 (A) the state department; or

39 (B) a health facility.

40 (2) **Development of best practice guidelines and clinical**
 41 **protocols.**

42 (3) **Clinical research and other activities designed to improve**

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1 the quality of care provided in health facilities.

2 (e) The state department may use money from the fund for an
3 education or training program under subsection (d)(1)(B) only if
4 the cost of the program is more than the amount waived under
5 IC 16-28-5-4(c). The total of:

6 (1) the amount waived under IC 16-28-5-4(c); and

7 (2) the amount used from the fund under subsection (d)(1)(B);
8 may not exceed the cost of the education or training program
9 conducted by the health facility.

10 SECTION 7. IC 16-28-15 IS ADDED TO THE INDIANA CODE
11 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2001]:

13 **Chapter 15. Office of Quality Assurance**

14 **Sec. 1.** As used in this chapter, "office" refers to the office of
15 quality assurance established by section 2 of this chapter.

16 **Sec. 2.** The office of quality assurance is established within the
17 state department.

18 **Sec. 3.** The office has the following duties and responsibilities:

19 (1) To review all health facility inspection recommendations
20 for citations to determine if the recommended citation
21 constitutes a breach under IC 16-28-5.

22 (2) To administer the informal dispute resolution process.

23 (3) To appoint administrative law judges needed under
24 IC 16-28-10.

25 (4) To receive and review complaints from health facilities
26 concerning inspectors or inspection teams.

27 **Sec. 4.** (a) The office shall review all health facility inspection
28 recommendations for citations to determine if the recommended
29 citation constitutes a breach under IC 16-28-5. The office shall be
30 given access to all inspection notes and documentation, and if
31 necessary, interview the individual inspectors. After evaluating the
32 information, the office shall determine if there is sufficient evidence
33 to issue a citation for the breach.

34 (b) The commissioner may not notify the administrator of the
35 health facility of the alleged breach until after the review by the
36 office under subsection (a) is completed.

37 **Sec. 5.** The office must be organized by the commissioner in
38 such a manner as to assure that the office operates independently
39 from the office of legal affairs and policy and the long term care
40 division.

41 **Sec. 6.** The office may adopt rules under IC 4-22-2 necessary to
42 implement this chapter.



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1 SECTION 8. [EFFECTIVE JULY 1, 2001] (a) The state
 2 department of health shall report quarterly to the select joint
 3 committee on Medicaid oversight concerning licensure inspections
 4 of health facilities under IC 16-28. The report must include the
 5 following information:

- 6 (1) The number of inspections that were completed.
 7 (2) The number of citations issued per inspection, including
 8 the scope and severity of the citations.
 9 (3) The number of night and weekend inspections.
 10 (4) The number of complaints received, investigated, and
 11 substantiated.
 12 (5) The department's response time to investigate complaints.
 13 (6) A summary of the citations that have been appealed to an
 14 informal dispute resolution process and the results of the
 15 appeals.
 16 (7) A summary of the citations that have been appealed to an
 17 administrative law judge and the results of the appeals.

18 The information in the report must also compare the statistics with
 19 other states in Region V of the Health Care Financing
 20 Administration and for the country as a whole.

21 (b) This SECTION expires July 1, 2006.

22 SECTION 9. [EFFECTIVE JULY 1, 2001] (a) The state
 23 department of health shall hold public meetings to explain the
 24 following terms to ensure consistency in conducting licensure
 25 inspections of health facilities under IC 16-28:

- 26 (1) Immediate jeopardy.
 27 (2) Harm.
 28 (3) Potential harm.
 29 (4) Avoidable.
 30 (5) Unavoidable.

31 (b) During the public meetings conducted under subsection (a)
 32 the state department of health shall accept testimony from nursing
 33 home provider groups, the American Medical Directors
 34 Association, the state long term care ombudsman, the federal
 35 Health Care Financing Administration, and other interested
 36 parties.

37 (c) This SECTION expires July 1, 2002.

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