

TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH

Final Rule

LSA Document #20-563(F)

DIGEST

Adds [410 IAC 35-1-2.5](#) to add the definition of "abortion clinic". Amends [410 IAC 35-1-3](#) to update the definition of "cremation". Amends [410 IAC 35-1-4](#) to update the definition of "health care facility". Amends [410 IAC 35-2-1](#) to update language to reflect statute. Adds [410 IAC 35-2-2](#) to update record keeping requirements to reflect statute. Repeals [410 IAC 35-1-6](#) and [410 IAC 35-1-7](#). Effective 30 days after filing with the Publisher.

[410 IAC 35-1-2.5](#); [410 IAC 35-1-3](#); [410 IAC 35-1-4](#); [410 IAC 35-1-6](#); [410 IAC 35-1-7](#); [410 IAC 35-2-1](#); [410 IAC 35-2-2](#)

SECTION 1. [410 IAC 35-1-2.5](#) IS ADDED TO READ AS FOLLOWS:

[410 IAC 35-1-2.5](#) "Abortion clinic" defined

Authority: [IC 16-19-3-4](#); [IC 16-21-1-7](#)

Affected: [IC 16-18-2-1.5](#); [IC 16-34-3](#)

Sec. 2.5. "Abortion clinic" has the meaning set forth in [IC 16-18-2-1.5](#).

(Indiana State Department of Health; [410 IAC 35-1-2.5](#); filed May 3, 2021, 11:13 a.m.: [20210526-IR-410200563FRA](#))

SECTION 2. [410 IAC 35-1-3](#) IS AMENDED TO READ AS FOLLOWS:

[410 IAC 35-1-3](#) "Cremation" defined

Authority: [IC 16-19-3-4](#); [IC 16-21-1-7](#)

Affected: [IC 16-34-3](#); [IC 23-14-31](#)

Sec. 3. "Cremation" means incineration by a crematory, or incineration as authorized for infectious and pathological waste under [IC 16-41-16](#) and [410 IAC 1-3](#); disposition by a crematory authority under [IC 23-14-31-12](#) and as defined in [IC 23-14-31-8](#).

(Indiana State Department of Health; [410 IAC 35-1-3](#); filed Nov 16, 2015, 12:46 p.m.: [20151216-IR-410150152FRA](#), eff Jan 1, 2016; filed May 3, 2021, 11:13 a.m.: [20210526-IR-410200563FRA](#))

SECTION 3. [410 IAC 35-1-4](#) IS AMENDED TO READ AS FOLLOWS:

[410 IAC 35-1-4](#) "Health care facility" defined

Authority: [IC 16-19-3-4](#); [IC 16-21-1-7](#)

Affected: [IC 16-18-2-163](#); [IC 16-21](#); [IC 16-34-3](#)

Sec. 4. "Facility" means "Health care facility" includes the following:

(1) A hospital licensed under [IC 16-21](#).

(2) An ambulatory outpatient surgical center licensed under [IC 16-21](#).

(3) A birthing center licensed under [IC 16-21](#).

~~(3)~~ **(4) Any other health care provider, as defined in [IC 16-18-2-163](#)(d)(1), required to be licensed as an abortion clinic under [IC 16-21](#).**

(5) Any health care provider that provides, prescribes, administers, or dispenses an abortion inducing drug to fewer than five (5) patients per year for the purposes of inducing an abortion.

(Indiana State Department of Health; [410 IAC 35-1-4](#); filed Nov 16, 2015, 12:46 p.m.: [20151216-IR-410150152FRA](#), eff Jan 1, 2016; filed May 3, 2021, 11:13 a.m.: [20210526-IR-410200563FRA](#))

SECTION 4. [410 IAC 35-2-1](#) IS AMENDED TO READ AS FOLLOWS:

[410 IAC 35-2-1](#) Disposition of aborted remains

Authority: [IC 16-19-3-4](#); [IC 16-21-1-7](#)

Affected: [IC 16-34-3](#); [IC 23-14-34](#)

Sec. 1. (a) Each **abortion clinic and health care** facility shall provide for the disposition of an aborted fetus by any of the following methods:

- (1) In the earth in an established cemetery pursuant to [IC 23-14-34](#).
- (2) Cremation.

(b) The facility must have written policies and procedures for the available method or methods of disposition of aborted fetuses.

~~(c) The facility must maintain evidentiary documentation demonstrating the date and method of disposition for each aborted fetus.~~

~~(d) This article does not apply when the patient elects to receive the aborted fetus pursuant to [IC 16-34-3](#).~~

(Indiana State Department of Health; [410 IAC 35-2-1](#); filed Nov 16, 2015, 12:46 p.m.:

[20151216-IR-410150152FRA](#), eff Jan 1, 2016; filed May 3, 2021, 11:13 a.m.: [20210526-IR-410200563FRA](#))

SECTION 5. [410 IAC 35-2-2](#) IS ADDED TO READ AS FOLLOWS:

[410 IAC 35-2-2](#) Records

Authority: [IC 16-19-3-4](#)

Affected: [IC 16-34-2-1.1](#); [IC 16-34-3](#)

Sec. 2. (a) Each abortion clinic and health care facility must maintain permanent written documentation of the following:

- (1) The burial transit permit for each aborted fetus when required by [IC 16-34-3-4\(a\)](#).
- (2) The log required by [IC 16-34-3-4\(c\)](#), when applicable.
- (3) When a cremation or burial is conducted on behalf of an abortion clinic or health care facility by a licensed funeral home or other authorized person, the contract or agreement between the abortion clinic or health care facility and the funeral home or other person for the cremation or burial services in accordance with [IC 16-34-3-4\(b\)](#).
- (4) A signed statement by the entity receiving fetal remains from an abortion clinic or health care facility attesting that the confirmation required by [IC 16-34-3-4\(d\)](#) was completed and attesting that the number of fetal remains received by the entity matched the burial transit permit and log required by [IC 16-34-3-4\(c\)](#).

(b) Each abortion clinic and health care facility must keep the following in a pregnant woman's medical record:

- (1) Written documentation that the notifications required by [IC 16-34-2-1.1\(a\)\(2\)\(H\)](#), [IC 16-34-2-1.1\(a\)\(2\)\(I\)](#), and [IC 16-34-2-1.1\(a\)\(2\)\(J\)](#) were made.
- (2) The completed form required by [IC 16-34-3-2\(b\)](#).
- (3) Written documentation of the parental consent required by [IC 16-34-3-2\(c\)](#) or written documentation that parental consent was not required.
- (4) In the case of an abortion induced by an abortion inducing drug, written documentation indicating whether the pregnant woman returned the aborted fetus to the abortion clinic or health care facility in accordance with [IC 16-34-3-2\(e\)](#).

(c) Where a decision or notification is required to be made by a form, an abortion clinic or health care facility must retain a copy of the completed form that contains the decision or notification.

(Indiana State Department of Health; [410 IAC 35-2-2](#); filed May 3, 2021, 11:13 a.m.:

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SECTION 6. THE FOLLOWING ARE REPEALED: [410 IAC 35-1-6](#); [410 IAC 35-1-7](#).

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Notice of Intent: [20201111-IR-410200563NIA](#)

Proposed Rule: [20210210-IR-410200563PRA](#)

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