

IC 16-25-5

Chapter 5. Penalties, Enforcement Actions, and Grievance Procedures

IC 16-25-5-1

Repealed

(Repealed by P.L.1-2001, SEC.51.)

IC 16-25-5-2

Other surveys or inspections required

Sec. 2. If a hospice program licensed or approved under IC 16-25-3 is also subject to state department licensure surveys or inspections under Medicare law, the state department shall use its best efforts to:

- (1) conduct all surveys or inspections simultaneously;
- (2) coordinate with the office of Medicaid policy and planning all hospice program surveys; and
- (3) forward a copy of each hospice program survey to the office of Medicaid policy and planning.

As added by P.L.256-1999, SEC.15.

IC 16-25-5-2.5

Rules; establishing guidelines

Sec. 2.5. (a) The state department shall adopt rules under IC 4-22-2 to establish guidelines that require the state department to conduct a survey of a hospice program licensed or approved under IC 16-25-3 at least once every one (1) to three (3) years.

(b) In establishing the guidelines required under subsection (a), the state department shall consider the following:

- (1) A change in ownership of a hospice program.
- (2) A change in management of a hospice program.
- (3) A finding that a hospice program violated a federal condition of participation for hospice licensure.

As added by P.L.142-2001, SEC.1.

IC 16-25-5-3

Actions that may be taken; grounds

Sec. 3. (a) The state department may take any of the following actions against the owner or operator of a licensed or approved hospice program on any of the grounds listed in subsection (b):

- (1) Issue a letter of correction.
- (2) Issue a probationary license.
- (3) Conduct a resurvey.
- (4) Deny renewal of a license.
- (5) Suspend a license.
- (6) Revoke a license.
- (7) Impose a civil penalty in an amount not to exceed ten thousand dollars (\$10,000).

(b) The state department may take any action listed under subsection (a) against a hospice on any of the following grounds:

(1) A material violation by the hospice program of a provision of this article.

(2) Authorizing, aiding, or abetting the commission of a violation of law by the hospice program.

(3) Conduct or practice by the hospice program that the state department finds detrimental to the welfare of the hospice program's patients.

As added by P.L.256-1999, SEC.15.

IC 16-25-5-4

Complaints; investigations

Sec. 4. (a) The state department shall investigate any hospice program about which the state department receives a complaint from a hospice program patient or a member of a hospice program patient's family.

(b) The state department shall establish and maintain a statewide, toll free telephone line continuously open to receive reports of problems regarding hospice programs.

As added by P.L.256-1999, SEC.15.

IC 16-25-5-5

Reports to attorney general

Sec. 5. (a) The state department shall investigate a report of an unlicensed hospice or unapproved hospice program and report the state department's findings to the attorney general.

(b) The attorney general, upon receiving a report of an unlicensed hospice or unapproved hospice program, may do any of the following:

(1) Seek an injunction in the circuit or superior court of the county in which the unlicensed hospice or unapproved hospice program is located or in the circuit or superior court of Marion County.

(2) Seek relief under IC 4-21.5, including a civil penalty not to exceed twenty-five thousand dollars (\$25,000) for each day of unlicensed or unapproved operation.

(3) Seek criminal penalties as provided by section 8 of this chapter.

As added by P.L.256-1999, SEC.15.

IC 16-25-5-6

Appeals

Sec. 6. A person aggrieved by an action of the state department under this article may appeal the action under IC 4-21.5-5.

As added by P.L.256-1999, SEC.15.

IC 16-25-5-7

Appeals panel

Sec. 7. (a) For an appeal under section 6 of this chapter, the executive board shall appoint an appeals panel consisting of three (3) members as follows:

- (1) One (1) member of the executive board.
- (2) One (1) attorney admitted to the practice of law in Indiana.
- (3) One (1) individual with qualifications determined by the executive board.

(b) An employee of the state department may not be a member of the appeals panel.

(c) The appeals panel shall conduct proceedings for review of an order issued by an administrative law judge under this chapter. The appeals panel is the ultimate authority under IC 4-21.5.

(d) The costs of the proceedings, including the fees of the appeals panel, shall be paid as follows:

- (1) By the hospice, if the appeals panel finds in favor of the state department.
- (2) By the state department, if the appeals panel finds in favor of the hospice.

As added by P.L.256-1999, SEC.15.

IC 16-25-5-8

Offering hospice services without license a misdemeanor

Sec. 8. A person who knowingly or intentionally:

- (1) represents to the public that the person offers hospice services; or
- (2) owns or operates a hospice program;

without a license issued or approval granted under this article commits a Class A misdemeanor.

As added by P.L.256-1999, SEC.15.