

**IC 16-28**

**ARTICLE 28. HEALTH FACILITIES**

**IC 16-28-1**

Chapter 1. Health Facilities Council

**IC 16-28-1-1**

**Repealed**

*(Repealed by P.L.156-2011, SEC.41; P.L.197-2011, SEC.153.)*

**IC 16-28-1-2**

**Repealed**

*(Repealed by P.L.156-2011, SEC.41; P.L.197-2011, SEC.153.)*

**IC 16-28-1-3**

**Repealed**

*(Repealed by P.L.156-2011, SEC.41; P.L.197-2011, SEC.153.)*

**IC 16-28-1-4**

**Repealed**

*(Repealed by P.L.156-2011, SEC.41; P.L.197-2011, SEC.153.)*

**IC 16-28-1-5**

**Repealed**

*(Repealed by P.L.156-2011, SEC.41; P.L.197-2011, SEC.153.)*

**IC 16-28-1-6**

**Repealed**

*(Repealed by P.L.156-2011, SEC.41; P.L.197-2011, SEC.153.)*

**IC 16-28-1-7**

**Adoption and recommendation of rules; classification of facilities; encouragement of program development; action as advisory body**

Sec. 7. The council shall do the following:

(1) Propose the adoption of rules by the department under IC 4-22-2 governing the following:

(A) Health and sanitation standards necessary to protect the health, safety, security, rights, and welfare of patients.

(B) Qualifications of applicants for licenses issued under this article to assure the proper care of patients.

(C) Operation, maintenance, management, equipment, and construction of facilities required to be licensed under this article if jurisdiction is not vested in any other state agency.

(D) Manner, form, and content of the license, including rules governing disclosure of ownership interests.

(E) Levels of medical staffing and medical services in cooperation with the office of Medicaid policy and planning, division of family resources, and other agencies authorized to pay for the services.

(2) Recommend to the fire prevention and building safety

commission fire safety rules necessary to protect the health, safety, security, rights, and welfare of patients.

(3) Classify health facilities in health care categories.

(4) Act as an advisory body for the division, commissioner, and state department.

*As added by P.L.2-1993, SEC.11. Amended by P.L.179-1993, SEC.3; P.L.145-2006, SEC.135; P.L.156-2011, SEC.21.*

#### **IC 16-28-1-8**

##### **Repealed**

*(Repealed by P.L.156-2011, SEC.41; P.L.197-2011, SEC.153.)*

#### **IC 16-28-1-9**

##### **Waiver of rules by council**

Sec. 9. The council may not waive a rule adopted under this chapter.

*As added by P.L.2-1993, SEC.11.*

#### **IC 16-28-1-10**

##### **Waiver of rules**

Sec. 10. (a) The state health commissioner may, for good cause shown, waive for a specified time any rule that may be waived under the following for a health facility:

(1) This article.

(2) IC 16-29.

(3) IC 16-30.

(b) The granting of a waiver may not adversely affect the health, safety, and welfare of the patients or residents.

*As added by P.L.2-1993, SEC.11. Amended by P.L.156-2011, SEC.22.*

#### **IC 16-28-1-11**

##### **Qualified medication aides and certified nurse aides; certification by state department; registry**

Sec. 11. (a) Unless an individual is certified under this section:

(1) the individual may not practice as a qualified medication aide or a certified nurse aide; and

(2) a facility may not employ the individual as a qualified medication aide or a certified nurse aide.

(b) The state department shall do the following:

(1) Establish a program for the certification of qualified medication aides and certified nurse aides who work in facilities licensed under this article.

(2) Prescribe education and training programs for qualified medication aides and certified nurse aides, including course and inservice requirements. The training program must include a competency test that the individual must pass before being granted an initial certification.

(3) Determine the standards concerning the functions that may be performed by a qualified medication aide and a certified

nurse aide.

(4) Establish annual certification fees for qualified medication aides.

(5) Adopt rules under IC 4-22-2 necessary to implement and enforce this section.

(c) The state department shall maintain a registry of each individual who is:

(1) certified as a:

(A) qualified medication aide; or

(B) certified nurse aide; or

(2) registered as a home health aide under rules adopted under IC 16-27-1-7.

(d) The department may conduct hearings for violations of this section under IC 4-21.5.

*As added by P.L.2-1993, SEC.11. Amended by P.L.24-2002, SEC.1; P.L.156-2011, SEC.23; P.L.226-2011, SEC.5.*

### **IC 16-28-1-12**

#### **Proposal and adoption of rules**

Sec. 12. (a) The department may request the council to propose a new rule or an amendment to a rule necessary to protect the health, safety, rights, and welfare of patients. If the council does not propose a rule not more than ninety (90) days after the department's request, the department may propose its own rule.

(b) The executive board may adopt, modify, remand, or reject specific rules or parts of rules proposed by the council.

(c) To become effective, all rules adopted under this chapter must be adopted by the executive board in accordance with IC 4-22-2. The rules adopted under this chapter are the only rules governing the licensing and operation of health facilities.

*As added by P.L.2-1993, SEC.11. Amended by P.L.179-1993, SEC.4; P.L.156-2011, SEC.24; P.L.197-2011, SEC.66.*

### **IC 16-28-1-13**

#### **Licensure inspections; reports**

Sec. 13. (a) Licensure inspections of health facilities shall be made regularly in accordance with rules adopted under this chapter. The division shall make all health and sanitation inspections. The division of fire and building safety shall make all fire safety inspections. The council or the director may provide for other inspections necessary to carry out this chapter.

(b) The exact date of an inspection of a health facility under this chapter may not be announced or communicated directly or indirectly to the owner, administrator, or an employee of the facility before the inspection. An employee of the state department who knowingly or intentionally informs a health facility of the exact date of an inspection shall be suspended without pay for five (5) days for a first offense and shall be dismissed for a subsequent offense.

(c) Reports of all inspections must be:

(1) in writing; and

(2) sent to the health facility.

(d) The report of an inspection and records relating to the inspection may not be released to the public until the conditions set forth in IC 16-19-3-25 are satisfied.

*As added by P.L.2-1993, SEC.11. Amended by P.L.190-1995, SEC.5; P.L.1-2006, SEC.299.*

#### **IC 16-28-1-14**

##### **Provision of licensure inspection report copies and summaries; maintenance and inspection of reports**

Sec. 14. (a) The division shall provide, on the request of any person and payment of a fee to cover the direct and indirect costs of complying with the request:

- (1) a copy of a report of an inspection from the public file of a health facility;
- (2) a brief descriptive summary of the annual survey report of a health facility; or
- (3) both.

(b) Reports of all inspections under this chapter shall be maintained by each health facility for two (2) years and shall be made available for inspection by any member of the public upon request.

*As added by P.L.2-1993, SEC.11.*