

## **IC 16-28-2**

### Chapter 2. Licensure of Health Facilities

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

##### **License required; licensing of state institutions and municipal corporations**

Sec. 1. A person must obtain a license from the director before the person may operate a health facility. A state institution or municipal corporation may specifically request licensure and upon compliance with this chapter may be licensed under this chapter.

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

#### **IC 16-28-2-2**

##### **Applications**

Sec. 2. To obtain a license, an applicant must submit an application on the prescribed form showing that the applicant is of reputable and responsible character and able to comply with the standards for health facilities established by this chapter and rules adopted under this chapter.

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

#### **IC 16-28-2-3 Version a**

##### **Requirements for licensure**

*Note: This version of section effective until 1-1-2012. See also following version of this section, effective 1-1-2012.*

Sec. 3. Before the director may issue a license to a health facility, the director must find that the health facility, within the care category for which license is sought, is adequate in each of the following respects:

- (1) The physical structure in which the service is to be performed.
- (2) The educational level, number, and personal health of the staff.
- (3) The financial ability to provide the service to be performed.
- (4) The equipment with which to perform the service.
- (5) The operating history of other health facilities owned or managed by the same person who owns or manages the facility.

The director may recommend denial of licensure to a new facility or facility applying for licensure under new ownership where the owner or manager has a record of operation of other health facilities in substantial breach of this chapter or any other law governing health facilities.

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

#### **IC 16-28-2-3 Version b**

##### **Requirements for licensure; tax warrant list**

*Note: This version of section effective 1-1-2012. See also preceding version of this section, effective until 1-1-2012.*

Sec. 3. (a) Before the director may issue a license to a health facility, the director must find that the health facility, within the care

category for which license is sought, is adequate in each of the following respects:

- (1) The physical structure in which the service is to be performed.
- (2) The educational level, number, and personal health of the staff.
- (3) The financial ability to provide the service to be performed.
- (4) The equipment with which to perform the service.
- (5) The operating history of other health facilities owned or managed by the same person who owns or manages the facility. The director may recommend denial of licensure to a new facility or facility applying for licensure under new ownership where the owner or manager has a record of operation of other health facilities in substantial breach of this chapter or any other law governing health facilities.

(b) If the department of state revenue notifies the department that a person is on the most recent tax warrant list, the department shall not issue or renew the person's license until:

- (1) the person provides to the department a statement from the department of state revenue indicating that the person's tax warrant has been satisfied; or
- (2) the department receives a notice from the commissioner of the department of state revenue under IC 6-8.1-8-2(k).

*As added by P.L.2-1993, SEC.11. Amended by P.L.172-2011, SEC.118.*

#### **IC 16-28-2-4**

##### **Issuance of licenses; types; denial, revocation, and refusal to renew licenses**

Sec. 4. The director may under IC 4-21.5-3-5 do one (1) of the following:

- (1) Issue a full license for not more than one (1) year, on finding that the applicant complies with the provisions of this article and rules adopted under this article.
- (2) Issue a provisional license to a new facility or to a facility under new ownership for not more than twelve (12) consecutive months if the applicant can assure the director that the applicant will comply with this article and rules adopted under this article. A provisional license may not be continued beyond twelve (12) consecutive months.
- (3) Issue a probationary license to an existing facility as described in IC 16-28-3.
- (4) Deny, revoke, or refuse to renew the issuance of a license.

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

#### **IC 16-28-2-5**

##### **Exclusive use of licenses**

Sec. 5. A license issued under this chapter is not assignable or transferable and may be issued only for the person and premises named in the application.

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

**IC 16-28-2-6**

**Disclosure statements; affiliations; advertising**

Sec. 6. (a) This section does not apply to a health facility that:

- (1) does not require the investment of money or the payment of money or other consideration for admission; and
- (2) only charges daily or monthly rates for room, board, and care.

(b) A health facility may be licensed or relicensed under this chapter only if a disclosure statement is filed with the director at the time of application on forms provided by the director that contains the following information:

- (1) Whether the health facility is affiliated with a religious, charitable, or other nonprofit organization.
- (2) The nature and extent of the affiliation, if any, including the extent to which the affiliated organization is responsible for the financial and contractual obligations of the health facility.

(c) The health facility shall deliver a copy of the current disclosure statement on file with the director as provided by subsection (b) to each prospective resident.

(d) If a health facility is affiliated with a religious, charitable, or other nonprofit organization, the health facility must include in the health facility's advertisements and solicitations a summary statement disclosing the following:

- (1) The affiliation between the health facility and the religious, charitable, or other nonprofit organization.
- (2) The extent to which the affiliated organization is responsible for the financial and contractual obligations of the health facility.

(e) If a health facility is not affiliated with a religious, charitable, or other nonprofit organization but the name of the health facility or the person operating the health facility implies an affiliation, the health facility must include in all the health facility's advertisements and solicitations a summary statement disclosing the following:

- (1) That the health facility is not affiliated with a religious, charitable, or other nonprofit organization.
- (2) That no religious, charitable, or other nonprofit organization is responsible for the financial or contractual obligations of the health facility.

(f) Whenever there is a change in the affiliation of the health facility with a religious, charitable, or other nonprofit organization, including a change in the extent, if any, to which the affiliated organization is responsible for the financial and contractual obligations of the health facility, the health facility shall amend:

- (1) the health facility's disclosure statement on file with the director as required by subsection (b); and
- (2) the summary statement included in the health facility's advertisements and solicitations as required by subsections (d) and (e);

if an amendment is necessary to prevent the statement from containing any misstatement of fact or omission to state a material fact required to be stated.

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

#### **IC 16-28-2-7**

##### **License fees**

Sec. 7. The fee for a license as a health facility under this chapter is two hundred dollars (\$200) for the first fifty (50) beds available and ten dollars (\$10) for each additional bed available.

*As added by P.L.2-1993, SEC.11. Amended by P.L.227-2003, SEC.1.*

#### **IC 16-28-2-8**

##### **Notice regarding requests for names of nursing personnel or direct care staff**

Sec. 8. (a) Each comprehensive care health facility shall post a notice that a resident, the legal representative of the resident, or another individual designated by the resident may request from the licensed nurse in charge of each shift information that designates the names of all nursing personnel on duty by job classification for the:

- (1) wing;
- (2) unit; or
- (3) other area as routinely designated by the health facility;

where the resident resides.

(b) The notice required under subsection (a) must meet the following conditions:

- (1) Be posted in a conspicuous place that is readily accessible to residents and the public.
- (2) Be at least 24 point font size on a poster that is at least eleven (11) inches wide and seventeen (17) inches long.
- (3) Contain the:
  - (A) business telephone number of the administrator of the health facility; and
  - (B) toll free telephone number for filing complaints with the state department.

(4) State that if a resident, the legal representative of the resident, or another individual designated by the resident is unable to obtain the information described in subsection (a) from the licensed nurse in charge of each shift, the resident, the legal representative of the resident, or another individual designated by the resident may do any of the following:

- (A) Contact the administrator of the health facility.
- (B) File a complaint with the state department by using the state department's toll free telephone number.

(c) The state department may adopt rules under IC 4-22-2 to carry out this section.

*As added by P.L.108-2000, SEC.5.*

#### **IC 16-28-2-9**

##### **Semiannual statistical reports**

Sec. 9. (a) The office of Medicaid policy and planning shall produce a statistical report semi-annually for each Medicaid certified comprehensive care health facility that lists the following information:

- (1) The health facility's case mix index for each quarter covered by the statistical report for which the office of Medicaid policy and planning maintains data.
- (2) The number of total hours worked in the health facility by each classification of personnel for which the office of Medicaid policy and planning maintains data.
- (3) The resident census of the health facility for which the office of Medicaid policy and planning maintains data.
- (4) A calculation of the average case-mix-adjusted hours-per-resident-day ratio for each health facility by each classification of nursing personnel and the average hours-per-resident-day ratio for each health facility for all other personnel by category for which the office of Medicaid policy and planning maintains data.

(b) The office of Medicaid policy and planning shall provide a compilation of the statistical reports prepared under subsection (a) to the following:

- (1) Each Medicaid certified comprehensive care health facility.
- (2) The state department.
- (3) The state ombudsman.
- (4) Each area ombudsman.
- (5) Each area agency on aging.

(c) Each Medicaid certified comprehensive care health facility shall:

- (1) make available in a place that is readily accessible to residents and the public a copy of the compilation of statistical reports prepared under subsection (a); and
- (2) post a notice that a copy of the compilation of statistical reports may be requested from the licensed nurse in charge of each shift.

(d) The notice required under subsection (c)(2) must meet the following conditions:

- (1) Be posted in a conspicuous place that is readily accessible to residents and the public.
- (2) Be at least 24 point font size on a poster that is at least eleven (11) inches wide and seventeen (17) inches long.
- (3) Contain the:
  - (A) business telephone number of the administrator of the health facility; and
  - (B) toll free telephone number for filing complaints with the state department.
- (4) State that if a resident, the legal representative of the resident, or another individual designated by the resident is unable to obtain the compilation of statistical reports in subsection (a) from the licensed nurse in charge of each shift, the resident, the legal representative of the resident, or another

individual designated by the resident may do any of the following:

(A) Contact the administrator of the health facility.

(B) File a complaint with the state department by using the state department's toll free telephone number.

(e) The state department may adopt rules under IC 4-22-2 to carry out this section.

*As added by P.L.108-2000, SEC.6.*

#### **IC 16-28-2-10**

##### **Third party billing notice**

Sec. 10. A health facility that provides to a patient notice concerning a third party billing for a service provided to the patient shall ensure that the notice:

(1) conspicuously states that the notice is not a bill;

(2) does not include a tear-off portion; and

(3) is not accompanied by a return mailing envelope.

*As added by P.L.178-2003, SEC.7.*