

# TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH

## **Emergency Rule** LSA Document #19- (E)

### DIGEST

Temporarily adds provisions to implement the certificate of need program required by IC 16-29-7. Authority IC 4-22-2-37.1; IC 16-29-7-13; IC 16-29-7-14; IC 16-29-7-19. Effective July 1, 2019.

**SECTION 1. (a) The definitions in this SECTION apply throughout this document except as otherwise indicated.**

**(b) “Commissioner” means the state health commissioner or the state health commissioner’s designee.**

**(c) “Department” means the Indiana State Department of Health.**

**(d) “Review period” means the period of review of certificate of need applications beginning July 1 of each year and lasting until the following June 30.**

**SECTION 2. (a) Except as permitted in IC 16-29-7 and this document:**

**(1) comprehensive care beds may not be:**

**(A) added;**

**(B) transferred; or**

**(C) constructed:**

**(2) certification of a comprehensive care bed to participate in the state Medicaid program may not be added or transferred; and**

**(3) beds may not be converted to comprehensive care beds.**

**(b) This document does not apply to the following:**

**(1) Replacement comprehensive care facilities which meet the requirements of IC 16-29-7-1(a)(1).**

**(2) For existing facilities, construction of new additions, and modification or alteration of the structure of the existing facility which meet the requirements of IC 16-29-7-1(a)(2).**

**(3) Transfer of comprehensive care beds to another comprehensive care health facility within the same county in accordance with IC 16-29-7-1(a)(3).**

**(4) A comprehensive care bed owned, operated, or sponsored by a religious organization in accordance with IC 16-29-7-1(a)(4).**

**(5) Comprehensive care beds that are owned, operated, or sponsored by a fraternal organization in accordance with IC 16-29-7-1(a)(5).**

**(6) A small house health facility in accordance with IC 16-29-7-1(a)(6).**

**(7) A continuing care retirement community in accordance with IC 16-29-7-1(a)(7).**

**SECTION 3. (a) For certificate of need applications, the commissioner shall only accept for review:**

- (1) applications to transfer at least one (1) comprehensive care bed; or**
- (2) applications to construct a new comprehensive care health facility consisting of transferred beds**

**if an application is solely attributable to the relocation of an existing comprehensive care bed from a county that has an excessive comprehensive care bed supply to a county of a comprehensive care bed need.**

**(b) Applications to:**

- (1) add comprehensive care beds;**
- (2) certify comprehensive care beds to participate in the state Medicaid program; or**
- (3) convert beds to comprehensive care beds**

**may not be submitted.**

**(c) An applicant shall submit an application described in this SECTION regardless of whether the comprehensive care beds in the application will be certified to participate in a state or federal reimbursement program.**

**(d) Certificate of need applications shall be submitted on a form created by the state department along with any required supporting documentation.**

**(e) The certificate of need applicant shall provide sufficient information to enable the commissioner to perform a thorough review of each of the criteria established by IC 16-29-7-12.**

**(f) Certificate of need applications may be submitted each year between July 1 and July 31.**

**(g) The department will publish any certificate of need application accepted for review on the department's Internet web site before August 15 of the review period.**

**SECTION 4. (a) The department shall accept public comment on any certificate of need application submitted before October 15 of the review period.**

**(b) Public comments may be submitted:**

- (1) by United State Postal Service or equivalent delivery sent to the department at Division of Long Term Care, Indiana State Department of Health, 2 N. Meridian Street, Indianapolis, IN 46204; or**
- (2) by electronic mail submitted to [Providers@isdh.in.gov](mailto:Providers@isdh.in.gov).**

**SECTION 5. (a) The department will review applications submitted in accordance with this document based on the criteria established in IC 16-29-7-12.**

**(b) The commissioner shall approve a certificate of need application for:**

- (1) the transfer of comprehensive care beds; or**
- (2) the construction of a comprehensive care health facility consisting of transferred beds**

**only after finding the transfer or construction is necessary as provided in IC 16-29-7-12.**

**(c) The department shall issue decisions on certificate of need applications for review by April 30 of the review period.**

**SECTION 6. (a) The commissioner shall perform a comparative review on a certificate of need application in accordance with IC 16-29-7-14 if:**

- (1) at least two (2) applications are submitted during the same review period;**
- (2) the applications propose to transfer comprehensive care beds into the same county; and**
- (3) the number of comprehensive care beds for which a certificate of need is requested totals more than the county comprehensive care bed need in the county where the comprehensive care beds are to be transferred.**

**(b) For comparative review described in subsection (a) of this SECTION, the commissioner shall apply the following points values, with a maximum total value of one hundred (100) points, for the factors listed in IC 16-29-7-12(d):**

- (1) the need that the population served or proposed to be served has for the services to be provided upon implementation of a project detailed in the certificate of need application is weighted with fifteen (15) points.**
- (2) the quality of care provided in previous or existing comprehensive care health facilities owned or operated by the applicant, including responses to resident and family satisfaction surveys is weighted with fifteen (15) points.**
- (3) the applicant's plan to meet the staffing requirements for the project as required by 410 IAC 16.2-3.1-2(c)(6) is weighted with ten (10) points.**
- (4) the short term and long term financial feasibility, the cost effectiveness of the project, and the financial impact upon the applicant, other providers, health care consumers, and the state's Medicaid program is weighted with ten (10) points.**
- (5) the historical, current, and projected use of the facility if the application is for a project that involves an existing comprehensive care health facility is weighted with five (5) points.**
- (6) the relationship of the project to the applicant's long range plan and the planning process employed is weighted five (5) points.**
- (7) the effectiveness of the project in meeting the health care needs of medically underserved groups, including:**
  - (A) low income individuals;**
  - (B) individuals with disabilities; and**
  - (C) minorities;**

**and, if applicable, the applicant's historical experience in meeting the needs of the underserved groups is weighted with ten (10) points.**

- (8) the availability of and impact on ancillary and support services that relate to the project, including the following services:**
  - (A) dental care.**
  - (B) diagnostics.**
  - (C) laboratory.**
  - (D) pharmaceutical.**
  - (E) therapy.**
  - (F) transportation.**
  - (G) vision.**

- (H) x-ray.**  
is weighted with five (5) points.
- (9) the extent to which the project, the facility, and the applicant comply with applicable standards for licensure, certification, and other approvals is weighted with five (5) points.**
- (10) the historical performance of the applicant and affiliated parties in complying with previously granted certificate of need applications is weighted with five (5) points.**
- (11) the public comments submitted to the department under IC 16-29-7-13 is weighted with five (5) points.**
- (12) the applicant's legal right or demonstration of a future legal right to the beds proposed to be transferred under the application is weighted with five (5) points.**
- (13) any other information deemed relevant by the department concerning the need for the comprehensive care beds or the comprehensive care health facility requested on the application is weighted with five (5) points.**

**SECTION 7. (a) The fee for a certificate of need application is five thousand dollars (\$5,000).**

**(b) Fees imposed in this section are payable to the department for use in the administration of the certificate of need program.**

**SECTION 8. Sections 1 through 7 of this document take effect July 1, 2019.**