

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

SENATE ENROLLED ACT No. 546

AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 16-18-2-1.5, AS AMENDED BY P.L.136-2013, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1.5. (a) "Abortion clinic", for purposes of IC 16-21-2, means a **freestanding entity health care provider (as defined in section 163(d)(1) of this chapter)** that:

- (1) performs surgical abortion procedures; or
- (2) beginning January 1, 2014, provides an abortion inducing drug for the purpose of inducing an abortion.

(b) The term does not include the following:

- (1) A hospital that is licensed as a hospital under IC 16-21-2.
- (2) An ambulatory outpatient surgical center that is licensed as an ambulatory outpatient surgical center under IC 16-21-2.
- (3) ~~A physician's office as long as:~~
 - (A) ~~the surgical procedures performed at the physician's office are not primarily surgical abortion procedures; and~~
 - (B) ~~abortion inducing drugs are not the primarily dispensed or prescribed drug at the physician's office.~~

- (3) **A 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.**

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SECTION 2. IC 16-18-2-163, AS AMENDED BY P.L.139-2014, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 163. (a) "Health care provider", for purposes of IC 16-21 and IC 16-41, means any of the following:

(1) An individual, a partnership, a corporation, a professional corporation, a facility, or an institution licensed or legally authorized by this state to provide health care or professional services as a licensed physician, a psychiatric hospital, a hospital, a health facility, an emergency ambulance service (IC 16-31-3), a dentist, a registered or licensed practical nurse, a midwife, an optometrist, a pharmacist, a podiatrist, a chiropractor, a physical therapist, a respiratory care practitioner, an occupational therapist, a psychologist, a paramedic, an emergency medical technician, an advanced emergency medical technician, an athletic trainer, or a person who is an officer, employee, or agent of the individual, partnership, corporation, professional corporation, facility, or institution acting in the course and scope of the person's employment.

(2) A college, university, or junior college that provides health care to a student, a faculty member, or an employee, and the governing board or a person who is an officer, employee, or agent of the college, university, or junior college acting in the course and scope of the person's employment.

(3) A blood bank, community mental health center, community mental retardation center, community health center, or migrant health center.

(4) A home health agency (as defined in IC 16-27-1-2).

(5) A health maintenance organization (as defined in IC 27-13-1-19).

(6) A health care organization whose members, shareholders, or partners are health care providers under subdivision (1).

(7) A corporation, partnership, or professional corporation not otherwise qualified under this subsection that:

(A) provides health care as one (1) of the corporation's, partnership's, or professional corporation's functions;

(B) is organized or registered under state law; and

(C) is determined to be eligible for coverage as a health care provider under IC 34-18 for the corporation's, partnership's, or professional corporation's health care function.

Coverage for a health care provider qualified under this subdivision is limited to the health care provider's health care functions and does not extend to other causes of action.

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(b) "Health care provider", for purposes of IC 16-35, has the meaning set forth in subsection (a). However, for purposes of IC 16-35, the term also includes a health facility (as defined in section 167 of this chapter).

(c) "Health care provider", for purposes of IC 16-36-5 and IC 16-36-6, means an individual licensed or authorized by this state to provide health care or professional services as:

- (1) a licensed physician;
- (2) a registered nurse;
- (3) a licensed practical nurse;
- (4) an advanced practice nurse;
- (5) a certified nurse midwife;
- (6) a paramedic;
- (7) an emergency medical technician;
- (8) an advanced emergency medical technician; or
- (9) an emergency medical responder, as defined by section 109.8 of this chapter.

The term includes an individual who is an employee or agent of a health care provider acting in the course and scope of the individual's employment.

(d) "Health care provider", for purposes of **section 1.5 of this chapter and IC 16-40-4**, means any of the following:

- (1) An individual, a partnership, a corporation, a professional corporation, a facility, or an institution licensed or authorized by the state to provide health care or professional services as a licensed physician, a psychiatric hospital, a hospital, a health facility, an emergency ambulance service (IC 16-31-3), an ambulatory outpatient surgical center, a dentist, an optometrist, a pharmacist, a podiatrist, a chiropractor, a psychologist, or a person who is an officer, employee, or agent of the individual, partnership, corporation, professional corporation, facility, or institution acting in the course and scope of the person's employment.
- (2) A blood bank, laboratory, community mental health center, community mental retardation center, community health center, or migrant health center.
- (3) A home health agency (as defined in IC 16-27-1-2).
- (4) A health maintenance organization (as defined in IC 27-13-1-19).
- (5) A health care organization whose members, shareholders, or partners are health care providers under subdivision (1).
- (6) A corporation, partnership, or professional corporation not



otherwise specified in this subsection that:

- (A) provides health care as one (1) of the corporation's, partnership's, or professional corporation's functions;
- (B) is organized or registered under state law; and
- (C) is determined to be eligible for coverage as a health care provider under IC 34-18 for the corporation's, partnership's, or professional corporation's health care function.

(7) A person that is designated to maintain the records of a person described in subdivisions (1) through (6).

(e) "Health care provider", for purposes of IC 16-45-4, has the meaning set forth in 47 CFR 54.601(a).

SECTION 3. IC 16-21-1-9, AS AMENDED BY P.L.197-2011, SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 9. (a) The state health commissioner may, for good cause shown, waive a rule:

- (1) adopted under this chapter; or
- (2) that may be waived under IC 16-28 for a specified time for a hospital based health facility or a hospital licensed under this article.

(b) A waiver may not **be granted unless the requesting party affirmatively demonstrates that the waiver will not** adversely affect **or increase any risk to** the health, safety, ~~and~~ **or** welfare of ~~the~~ **existing or potential** residents or patients.

SECTION 4. IC 16-21-2-2.5, AS AMENDED BY P.L.136-2013, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2.5. (a) The state department shall adopt rules under IC 4-22-2 to do the following concerning birthing centers and abortion clinics:

- (1) Establish minimum license qualifications.
- (2) Establish the following requirements:
 - (A) Sanitation standards.
 - (B) Staff qualifications.
 - (C) Necessary emergency equipment.
 - (D) Procedures to provide emergency care.
 - (E) Quality assurance standards.
 - (F) Infection control.
- (3) Prescribe the operating policies, supervision, and maintenance of medical records.
- (4) Establish procedures for the issuance, renewal, denial, and revocation of licenses under this chapter. The rules adopted under this subsection must address the following:
 - (A) The form and content of the license.



(B) The collection of an annual license fee.

(5) Prescribe the procedures and standards for inspections.

(b) ~~The state department may not exempt an abortion clinic from the requirements described in subsection (a) or the licensure requirements set forth in an administrative rule, including physical plant requirements. This subsection applies to a person applying for a license as an abortion clinic after December 31, 2013.~~

(c) ~~(b)~~ A person who knowingly or intentionally:

(1) operates a birthing center or an abortion clinic that is not licensed under this chapter; or

(2) advertises the operation of a birthing center or an abortion clinic that is not licensed under this chapter;

commits a Class A misdemeanor.

SECTION 5. IC 16-34-2-5, AS AMENDED BY P.L.6-2012, SECTION 120, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5. (a) ~~Every medical facility where abortions may be performed~~ **health care provider who performs a surgical abortion or provides, prescribes, administers, or dispenses an abortion inducing drug for the purposes of inducing an abortion shall be supplied with forms report the performance of the abortion or the provision, prescribing, administration, or dispensing of an abortion inducing drug on a form** drafted by the state department, the purpose and function of which shall be the improvement of maternal health and life through the compilation of relevant maternal life and health factors and data, and a further purpose and function shall be to monitor all abortions performed in Indiana to assure the abortions are done only under the authorized provisions of the law. ~~Such forms~~ **For each abortion performed and abortion inducing drug provided, prescribed, administered, or dispensed, the report shall include,** among other things, the following:

(1) The age of the ~~woman who is aborted:~~ **patient.**

(2) The ~~place where date and location~~ the abortion is was performed **or the abortion inducing drug was provided, prescribed, administered, or dispensed.**

(3) The ~~health care provider's~~ full name and address, **including the name of the physicians performing the abortion or providing, prescribing, administering, or dispensing the abortion inducing drug.**

(4) The name of the father if known.

(5) The age of the father, or the approximate age of the father if the father's age is unknown.

(6) The postfertilization age of the fetus, the manner in which the

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postfertilization age was determined, and, if after the earlier of the time the fetus obtains viability or the time the postfertilization age of the fetus is at least twenty (20) weeks, the medical reason for **the performance of the abortion or the provision, prescribing, administration, or dispensing of the abortion inducing drug.**

(7) **For a surgical abortion, the medical procedure employed to administer used for the abortion and, if the medical procedure performed on a fetus who is was viable or has had a postfertilization age of at least twenty (20) weeks:**

(A) whether the ~~method of abortion used~~ **was a method that, procedure,** in the reasonable judgment of a ~~physician, would provide the health care provider, gave the fetus~~ **the best opportunity for the fetus to survive; and**

(B) the basis for the determination that the pregnant woman had a condition described in this chapter that required the abortion to avert the death of or serious impairment to the pregnant woman.

(8) For a nonsurgical abortion, the precise drugs provided, prescribed, administered, or dispensed, and the means of delivery of the drugs to the patient.

~~(8)~~ **(9) The mother's obstetrical history, including dates of other abortions, if any.**

~~(9)~~ **(10) The results of pathological examinations if performed.**

~~(10)~~ **(11) Information as to For a surgical abortion, whether the fetus was delivered alive, and if so, how long the fetus lived.**

~~(11)~~ **(12) Records of all maternal deaths occurring within the health facility at the location where the abortion was performed or the abortion inducing drug was provided, prescribed, administered, or dispensed.**

~~(12)~~ **(13) The date of the pregnancy termination: the form was transmitted to the state department and, if applicable, separately to the department of child services.**

~~(13)~~ **The date the form was received by the state department:**

(b) **The health care provider shall complete the form provided for in subsection (a) shall be completed by the physician performing the abortion and shall be transmitted transmit the completed form to the state department, in the manner specified on the form, not later than July 30 for each abortion performed occurring in the first six (6) months of that year and not later than January 30 for each abortion performed for occurring in the last six (6) months of the preceding year. However, if an abortion is performed on for a female who is less than fourteen (14) years of age, the physician performing the abortion**



health care provider shall transmit the form to the state department of health and **separately to** the department of child services within three (3) days after the abortion is performed.

(c) The dates ~~in subsection (a)(12) and (a)(13)~~ **supplied on the form** may not be redacted for any ~~use of the form~~. **reason before the form is transmitted as provided in this section.**

(d) Each failure to ~~file the completed~~ **complete or timely transmit** a form, ~~on time~~ as required under this section, **for each abortion performed or abortion inducing drug that was provided, prescribed, administered, or dispensed**, is a Class B misdemeanor.

(e) Not later than June 30 of each year, the state department shall compile a public report providing the following:

- (1) Statistics for the previous calendar year from the information submitted under this section.
- (2) Statistics for previous calendar years compiled by the state department under this subsection, with updated information for the calendar year that was submitted to the state department after the compilation of the statistics.

The state department shall ensure that no identifying information of a pregnant woman is contained in the report.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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