

# SENATE BILL No. 573

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 16-18-2-69.1; IC 16-21.

**Synopsis:** Hospital facility certificate of need. Establishes a hospital certificate of need administered by the state department of health. Sets forth requirements of the program and requirements for owners of hospital construction projects.

**Effective:** July 1, 2019.

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## Ruckelshaus

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January 14, 2019, read first time and referred to Committee on Health and Provider Services.

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First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

## SENATE BILL No. 573

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A BILL FOR AN ACT to amend the Indiana Code concerning health.

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

1 SECTION 1. IC 16-18-2-69.1 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2019]: **Sec. 69.1. (a) "Construction project",**  
4 **for purposes of IC 16-21-2-11.5, has the meaning set forth in**  
5 **IC 16-21-2-11.5(a).**

6 **(b) "Construction project", for purposes of IC 16-21-2-11.7, has**  
7 **the meaning set forth in IC 16-21-2-11.7(a).**

8 **(c) "Construction project", for purposes of IC 16-21-2.5, has the**  
9 **meaning set forth in IC 16-21-2.5-1.**

10 SECTION 2. IC 16-21-2-11, AS AMENDED BY P.L.205-2018,  
11 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
12 JULY 1, 2019]: Sec. 11. (a) An applicant must submit an application  
13 for a license on a form prepared by the state department showing that:

- 14 (1) the applicant is of reputable and responsible character;  
15 (2) the applicant is able to comply with the minimum standards  
16 for a hospital, an ambulatory outpatient surgical center, an  
17 abortion clinic, or a birthing center, and with rules adopted under



- 1 this chapter; and
- 2 (3) the applicant has complied with section 15.4 of this chapter.
- 3 (b) The application must contain the following additional
- 4 information:
- 5 (1) The name of the applicant.
- 6 (2) The type of institution to be operated.
- 7 (3) The location of the institution.
- 8 (4) The name of the person to be in charge of the institution.
- 9 (5) If the applicant is a hospital, the range and types of services to
- 10 be provided under the general hospital license, including any
- 11 service that would otherwise require licensure by the state
- 12 department under the authority of IC 16-19.
- 13 **(6) Whether:**
- 14 **(A) the applicant has submitted an application for a**
- 15 **hospital certificate of need under IC 16-21-2.5; and**
- 16 **(B) the application has been approved.**
- 17 ~~(7)~~ (7) Other information the state department requires.
- 18 (c) If the department of state revenue notifies the department that a
- 19 person is on the most recent tax warrant list, the department shall not
- 20 issue or renew the person's license until:
- 21 (1) the person provides to the department a statement from the
- 22 department of state revenue that the person's tax warrant has been
- 23 satisfied; or
- 24 (2) the department receives a notice from the commissioner of the
- 25 department of state revenue under IC 6-8.1-8-2(k).
- 26 (d) An application for an abortion clinic license must require the
- 27 applicant to do the following:
- 28 (1) Disclose whether the applicant, or an owner or affiliate of the
- 29 applicant, operated an abortion clinic that was closed as a direct
- 30 result of patient health and safety concerns.
- 31 (2) Disclose whether a principal or clinic staff member was
- 32 convicted of a felony.
- 33 (3) Disclose whether a principal or clinic staff member was ever
- 34 employed by a facility owned or operated by the applicant that
- 35 closed as a result of administrative or legal action.
- 36 (4) Provide copies of:
- 37 (A) administrative and legal documentation relating to the
- 38 information required under subdivisions (1) and (2);
- 39 (B) inspection reports; and
- 40 (C) violation remediation contracts;
- 41 if any.
- 42 **(e) The issuance of a hospital license by the state department is**



1 **subject to IC 16-21-2.5.**

2 SECTION 3. IC 16-21-2-11.5, AS ADDED BY P.L.67-2005,  
3 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
4 JULY 1, 2019]: Sec. 11.5. (a) As used in this section, "construction  
5 project" means the erection, installation, alteration, repair, or  
6 remodeling of a building or structure that, when completed, will be  
7 subject to licensure as a hospital or an ambulatory outpatient surgical  
8 center under this article. The term does not include the acquisition or  
9 installation of medical equipment or the purchase of the services of an  
10 architect, engineer, or consultant to prepare plans or studies related to  
11 a construction project.

12 (b) Except as provided in subsection (c), this section applies to a  
13 hospital or an ambulatory outpatient surgical center for which licensure  
14 is required under this article.

15 (c) This section does not apply to:

16 (1) a hospital or an ambulatory outpatient surgical center that is  
17 operated by the federal government or an agency of the federal  
18 government; or

19 (2) a construction project begun before July 1, 2005.

20 For purposes of this subsection, a construction project is considered to  
21 have begun on the day that the physical erection, installation,  
22 alteration, repair, or remodeling of the building or structure  
23 commences.

24 (d) Before the owner of:

25 (1) a hospital or proposed hospital may begin a construction  
26 project that is estimated by the owner to cost at least ten million  
27 dollars (\$10,000,000); or

28 (2) an ambulatory outpatient surgical center or a proposed  
29 ambulatory outpatient surgical center may begin a construction  
30 project that is estimated by the owner to cost at least three million  
31 dollars (\$3,000,000);

32 the owner shall **meet the requirements of section 11.7 of this chapter**  
33 **and** hold at least two (2) public hearings concerning the construction  
34 project and publish notice of each hearing at least ten (10) days before  
35 the hearing is held.

36 (e) A notice published under subsection (d) must meet the standards  
37 specified for public notices in IC 5-3-1.

38 (f) A hearing held under subsection (d):

39 (1) must:

40 (A) be held at a location not more than ten (10) miles from the  
41 site of the construction project;

42 (B) be held exclusively by the owner or the owner's



- 1 representative; and  
 2 (C) include an announcement from the owner or the owner's  
 3 representative that provides to the public:  
 4 (i) a description of;  
 5 (ii) an estimate of the cost of; and  
 6 (iii) a statement regarding the owner's reason for;  
 7 the construction project, including a description of the health  
 8 care services that will be provided by the hospital or  
 9 ambulatory outpatient surgical center as a result of the  
 10 construction project; and  
 11 (2) may be held:  
 12 (A) on any day of the week other than Saturday or Sunday; and  
 13 (B) at any time not earlier than 3 p.m. or later than 9 p.m.;  
 14 as determined by the owner.  
 15 (g) A hearing held as required under this section does not cause any  
 16 information or materials possessed or held by the owner or the owner's  
 17 employee, contractor, agent, or representative to be discoverable or  
 18 considered public information or public materials.  
 19 (h) A statement or question concerning a construction project, or an  
 20 objection to a construction project, that arises during a hearing held  
 21 under this section may not cause a delay in or denial of the issuance of  
 22 a license under this article.  
 23 (i) Compliance with this section may be enforced only by the state  
 24 department.  
 25 SECTION 4. IC 16-21-2-11.7 IS ADDED TO THE INDIANA  
 26 CODE AS A **NEW SECTION TO READ AS FOLLOWS**  
 27 **[EFFECTIVE JULY 1, 2019]: Sec. 11.7. (a) As used in this section,**  
 28 **"construction project" means the erection, installation, alteration,**  
 29 **repair, or remodeling of a building or structure that, when**  
 30 **completed, will be subject to licensure as a hospital or an**  
 31 **ambulatory outpatient surgical center under this article. The term**  
 32 **does not include the acquisition or installation of medical**  
 33 **equipment or the purchase of the services of an architect, engineer,**  
 34 **or consultant to prepare plans or studies related to a construction**  
 35 **project.**  
 36 **(b) This section does not apply to:**  
 37 **(1) a hospital that is operated by the federal government or an**  
 38 **agency of the federal government; or**  
 39 **(2) a construction project begun before July 1, 2019.**  
 40 **(c) Before the owner of a hospital or proposed hospital may**  
 41 **begin a construction project that is estimated by the owner to cost**  
 42 **at least ten million dollars (\$10,000,000), the owner must apply to**



1 **the state department for a hospital certificate of need as set forth**  
 2 **in IC 16-21-2.5.**

3 SECTION 5. IC 16-21-2-13, AS AMENDED BY P.L.81-2018,  
 4 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 5 JULY 1, 2019]: Sec. 13. (a) Before January 1, 2019, the state health  
 6 commissioner may:

- 7 (1) issue a license upon the application without further evidence;  
 8 or  
 9 (2) request additional information concerning the application and  
 10 conduct an investigation to determine whether a license should be  
 11 granted.

12 This subsection expires January 1, 2019.

13 (b) After December 31, 2018, the state health commissioner:

14 (1) may, **subject to receiving a hospital certificate of need**  
 15 **authorization under IC 16-21-2.5 from the state department:**

16 (A) issue a license upon the application of a hospital that is not  
 17 accredited by a recognized accrediting organization without  
 18 further evidence; or

19 (B) request additional information concerning the application  
 20 of a hospital that is not accredited by a recognized accrediting  
 21 organization and conduct an investigation to determine  
 22 whether a license should be granted; and

23 (2) shall issue a license upon the application of a hospital that:

24 (A) has received accreditation by a recognized accrediting  
 25 organization for the period the recognized accrediting  
 26 organization has been granted accreditation without the state  
 27 department conducting an annual survey; **and**

28 (B) **beginning July 1, 2019, has been issued a hospital**  
 29 **certificate of need authorization by the state department**  
 30 **under IC 16-21-2.5.**

31 (c) The state department may investigate a complaint against an  
 32 accredited hospital described in subsection (b)(2) for substantial  
 33 noncompliance, as determined by the state department, with state law  
 34 or rules. Nothing in this section prohibits the state health commissioner  
 35 from taking action against a hospital under IC 16-21-3 for substantial  
 36 noncompliance with state law or rules.

37 (d) If a hospital is not accredited by a recognized accrediting  
 38 organization, the state department shall conduct an annual survey of the  
 39 hospital.

40 (e) When requested by the federal Centers for Medicare and  
 41 Medicaid Services, the state department shall conduct random  
 42 validation surveys on behalf of the federal Centers for Medicare and



1 Medicaid Services.

2 (f) A hospital shall provide a copy of the survey report and  
3 certificate of accreditation from a recognized accrediting organization  
4 to the state health commissioner not more than ten (10) days after  
5 receipt of the survey or accreditation.

6 (g) Subsections (b) through (f) do not affect the state department's  
7 performance of an initial survey of a hospital obtaining an initial  
8 license under this article.

9 SECTION 6. IC 16-21-2.5 IS ADDED TO THE INDIANA CODE  
10 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
11 JULY 1, 2019]:

12 **Chapter 2.5. Certificate of Need for Construction of Hospital**  
13 **Facilities**

14 **Sec. 1. As used in this chapter, "construction project" means the**  
15 **erection, installation, alteration, repair, or remodeling of a building**  
16 **or structure that, when completed, will be subject to licensure as**  
17 **a hospital or an ambulatory outpatient surgical center under this**  
18 **article. The term does not include the acquisition or installation of**  
19 **medical equipment or the purchase of the services of an architect,**  
20 **engineer, or consultant to prepare plans or studies related to a**  
21 **construction project.**

22 **Sec. 2. This chapter does not apply to the following:**

23 **(1) The modification or alteration of the structure of an**  
24 **existing hospital facility.**

25 **(2) A hospital that is operated by the federal government or**  
26 **an agency of the federal government.**

27 **(3) A construction project begun before July 1, 2019.**

28 **Sec. 3. (a) The state department shall establish, implement, and**  
29 **administer a hospital certificate of need program.**

30 **(b) The state department shall establish a hospital certificate of**  
31 **need application for the owner of a hospital or proposed hospital**  
32 **to complete and submit for approval before the owner begins a**  
33 **construction project.**

34 **(c) Beginning July 1, 2019, the state department may not issue**  
35 **a license under this article for a construction project until the**  
36 **owner has been approved for a hospital certificate of need under**  
37 **this chapter.**

38 **Sec. 4. (a) The commissioner, or the commissioner's designee,**  
39 **shall determine the need for a hospital in the community for which**  
40 **an application is submitted under this chapter.**

41 **(b) In considering the need in the community, the following**  
42 **must be considered:**



- 1           **(1) The population of the community.**
- 2           **(2) Whether there are any other hospitals already operating**
- 3           **in the area and whether the proposed facility would service**
- 4           **the same population.**
- 5           **(3) Whether there is a shortage of hospital services and access**
- 6           **to health care in the area.**
- 7           **(4) The size and projected service numbers of the proposed**
- 8           **facility.**
- 9           **(5) Anything else the state department deems relevant in**
- 10          **considering an application for a hospital certificate of need**
- 11          **under this chapter.**
- 12          **(6) The impact on the cost of health care in the area.**
- 13          **Sec. 5. (a) The state department shall approve or deny an**
- 14          **application for a hospital certificate of need submitted in**
- 15          **accordance with this chapter not later than ninety (90) days after**
- 16          **submission of a completed application.**
- 17          **(b) If an application is submitted and the state department**
- 18          **determines that the application is incomplete, the state department**
- 19          **may require the applicant to complete the application before the**
- 20          **ninety (90) day response period commences.**
- 21          **Sec. 6. A denied application under this chapter is subject to**
- 22          **IC 4-21.5.**
- 23          **Sec. 7. The state department may adopt rules under IC 4-22-2**
- 24          **to establish, implement, and administer this chapter.**

