

SENATE BILL No. 357

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-18-2-253.7; IC 16-21-6-3; IC 16-22; IC 16-23-1.

Synopsis: Regulation of hospitals and health facilities. Sets forth requirements for the use of money and financial reporting for county hospitals concerning revenue generated from the ownership, operation, or management of a nursing facility. Prohibits the governing board of a county hospital or the board of a municipal corporation from including any incentives, bonuses, or salary increases for executives and employees based on metrics or performance measures concerning the maximizing of nursing facility revenues or profits.

Effective: July 1, 2023.

Qaddoura

January 12, 2023, read first time and referred to Committee on Health and Provider Services.



First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

SENATE BILL No. 357

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 16-18-2-253.7, AS ADDED BY P.L.229-2011,
2 SECTION 158, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2023]: Sec. 253.7. "Nursing facility", for
4 purposes of **IC 16-21, IC 16-22, IC 16-23, and IC 16-28-15**, has the
5 meaning set forth in IC 16-28-15-4.

6 SECTION 2. IC 16-21-6-3, AS AMENDED BY P.L.2-2007,
7 SECTION 190, IS AMENDED TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2023]: Sec. 3. (a) Each hospital shall file with
9 the state department a report for the preceding fiscal year within one
10 hundred twenty (120) days after the end of the hospital's fiscal year.
11 The state department shall grant an extension of the time to file the
12 report if the hospital shows good cause for the extension. The report
13 must contain the following:

- 14 (1) A copy of the hospital's balance sheet, including a statement
15 describing the hospital's total assets and total liabilities.
16 (2) A copy of the hospital's income statement.
17 (3) A statement of changes in financial position.



- 1 (4) A statement of changes in fund balance.
 2 (5) Accountant notes pertaining to the report.
 3 (6) A copy of the hospital's report required to be filed annually
 4 under 42 U.S.C. 1395g, and other appropriate utilization and
 5 financial reports required to be filed under federal statutory law.
 6 (7) Net patient revenue.
 7 (8) A statement including:
 8 (A) Medicare gross revenue;
 9 (B) Medicaid gross revenue;
 10 (C) other revenue from state programs;
 11 (D) revenue from local government programs;
 12 (E) local tax support;
 13 (F) charitable contributions;
 14 (G) other third party payments;
 15 (H) gross inpatient revenue;
 16 (I) gross outpatient revenue;
 17 (J) contractual allowance;
 18 (K) any other deductions from revenue;
 19 (L) charity care provided;
 20 (M) itemization of bad debt expense; and
 21 (N) an estimation of the unreimbursed cost of subsidized
 22 health services.
 23 (9) A statement itemizing donations.
 24 (10) A statement describing the total cost of reimbursed and
 25 unreimbursed research.
 26 (11) A statement describing the total cost of reimbursed and
 27 unreimbursed education separated into the following categories:
 28 (A) Education of physicians, nurses, technicians, and other
 29 medical professionals and health care providers.
 30 (B) Scholarships and funding to medical schools, and other
 31 postsecondary educational institutions for health professions
 32 education.
 33 (C) Education of patients concerning diseases and home care
 34 in response to community needs.
 35 (D) Community health education through informational
 36 programs, publications, and outreach activities in response to
 37 community needs.
 38 (E) Other educational services resulting in education related
 39 costs.
 40 **(12) A statement including the revenue from the hospital's**
 41 **ownership, operation, or management of a nursing facility**
 42 **and how the revenue is used or distributed by the hospital.**



1 (b) The information in the report filed under subsection (a) must be
 2 provided from reports or audits certified by an independent certified
 3 public accountant or by the state board of accounts.

4 SECTION 3. IC 16-22-3-8 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 8. (a) The governing
 6 board shall appoint an executive director as the administrative head of
 7 the hospital. The executive director:

8 (1) is the executive agent of the board in the administration of the
 9 board's policies;

10 (2) is the liaison officer between the board and the medical staff;

11 (3) shall employ hospital personnel; and

12 (4) has the other powers and duties delegated to the executive
 13 director by the board or specifically assigned to the executive
 14 director in this article.

15 **(b) The governing board may not include any incentives,
 16 bonuses, or salary increases for an executive director based on
 17 metrics or performance measures concerning the maximizing of
 18 nursing facility revenues or profits.**

19 SECTION 4. IC 16-22-3-12, AS AMENDED BY P.L.208-2016,
 20 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2023]: Sec. 12. (a) The state board of accounts:

22 (1) shall approve or prescribe the manner in which the hospital
 23 records are kept;

24 (2) except as provided in subsection (c), shall audit the records of
 25 the hospital; and

26 (3) may approve forms for use by all hospitals or groups of
 27 hospitals.

28 (b) The governing board may use the calendar year or a fiscal year
 29 for maintaining hospital financial records. A hospital that receives a
 30 financial subsidy from the county for hospital operations, excluding
 31 mental health or ambulance services, during the preceding calendar or
 32 fiscal year must file with the county executive and the county fiscal
 33 body an annual report showing the income and expenses of the
 34 operating fund for the preceding calendar or fiscal year by major
 35 classification according to the chart of accounts approved by the state
 36 board of accounts. If the hospital uses a calendar year for maintaining
 37 financial records, the report must be filed not later than the last
 38 Monday in March of each year. If the hospital uses a fiscal year for
 39 maintaining financial records, the report must be filed not later than
 40 ninety (90) days after the close of the fiscal year. The annual report
 41 shall be published one (1) time. Hospital financial records may be kept
 42 in hard copy, on microfilm, or via another data system acceptable to the



1 state board of accounts.

2 (c) A hospital may elect to have an audit required under subsection
3 (a) performed by an independent certified public accounting firm that
4 is experienced in hospital matters. The audit report must be kept on file
5 at the hospital and a copy must be provided to the state board of
6 accounts. The audit engagement by a certified public accounting firm
7 must be performed pursuant to guidelines established by the state board
8 of accounts.

9 (d) If a hospital elects to use an independent certified public
10 accounting firm under subsection (c), the hospital shall provide written
11 notice to the state board of accounts not less than one hundred eighty
12 (180) days before the beginning of the hospital's fiscal year in which
13 the hospital elects to be audited by an independent certified public
14 accounting firm. For that hospital fiscal year, and each following fiscal
15 year until the hospital terminates the hospital's use of an independent
16 certified public accounting firm, the hospital shall use an independent
17 certified public accounting firm under subsection (c). A hospital shall
18 terminate its use of an independent certified public accounting firm
19 under subsection (c) by providing written notice to the state board of
20 accounts not less than one hundred eighty (180) days before the
21 beginning of the hospital's fiscal year in which the hospital elects not
22 to be audited by an independent certified public accounting firm. For
23 that hospital fiscal year, and each following fiscal year until the
24 hospital elects to use an independent certified public accounting firm
25 as provided under this subsection, the hospital must be audited by the
26 state board of accounts for purposes of section 12(a)(2) of this chapter.
27 For any fiscal year in which the hospital does not use an independent
28 certified public accounting firm under subsection (c), the hospital shall
29 be audited by the state board of accounts.

30 (e) Any information concerning the specific salaries paid to
31 individual employees of a hospital may be withheld by the hospital
32 from disclosure under IC 5-14-3. However, the information must be
33 provided to the state board of accounts upon request. The state board
34 of accounts shall maintain the confidentiality of the information as
35 required under IC 5-14-3-6.5.

36 **(f) If a county hospital owns, holds the license to, operates, or**
37 **manages a nursing facility, the county hospital shall use any**
38 **revenue generated from the nursing facility for the benefit of the**
39 **nursing facility.**

40 **(g) If a county hospital is the license holder for a nursing**
41 **facility, the county hospital shall include in the county hospital**
42 **financial records the following:**



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- (1) The name of each nursing facility.**
- (2) Any intergovernmental transfer, federal upper payment limit, federal supplemental payment, or other payment mechanism that the county hospital implements or participates in as part of the county hospital's licensure of the nursing facility.**
- (3) The manner of distribution or use of any revenue, including federal funds, federal upper payment limits, and federal supplemental payments generated from the intergovernmental transfer or payment mechanism.**

SECTION 5. IC 16-22-8-34, AS AMENDED BY P.L.229-2019, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 34. (a) The board or corporation may do all acts necessary or reasonably incident to carrying out the purposes of this chapter, including the following:

- (1) As a municipal corporation, sue and be sued in any court with jurisdiction.
- (2) To serve as the exclusive local board of health and local department of health within the county with the powers and duties conferred by law upon local boards of health and local departments of health.
- (3) To adopt and enforce ordinances consistent with Indiana law and administrative rules for the following purposes:
 - (A) To protect property owned or managed by the corporation.
 - (B) To determine, prevent, and abate public health nuisances.
 - (C) To establish isolation and quarantine regulations in accordance with IC 16-41-9.
 - (D) To license, regulate, and establish minimum sanitary standards for the operation of a business handling, producing, processing, preparing, manufacturing, packing, storing, selling, distributing, or transporting articles used for food, drink, confectionery, or condiment in the interest of the public health.
 - (E) To control:
 - (i) rodents, mosquitos, and other animals, including insects, capable of transmitting microorganisms and disease to humans and other animals; and
 - (ii) the animals' breeding places.
 - (F) Subject to subsection (c), to require persons to connect to available sewer systems and to regulate the disposal of domestic or sanitary sewage by private methods. However, the board and corporation have no jurisdiction over publicly



- 1 owned or financed sewer systems or sanitation and disposal
 2 plants.
 3 (G) To control rabies.
 4 (H) For the sanitary regulation of water supplies for domestic
 5 use.
 6 (I) To protect, promote, or improve public health. For public
 7 health activities and to enforce public health laws, the state
 8 health data center described in IC 16-19-10 shall provide
 9 health data, medical information, and epidemiological
 10 information to the corporation.
 11 (J) To detect, report, prevent, and control disease affecting
 12 public health.
 13 (K) To investigate and diagnose health problems and health
 14 hazards.
 15 (L) To regulate the sanitary and structural conditions of
 16 residential and nonresidential buildings and unsafe premises.
 17 (M) To regulate the remediation of lead hazards.
 18 (N) To license and regulate the design, construction, and
 19 operation of public pools, spas, and beaches.
 20 (O) To regulate the storage, containment, handling, use, and
 21 disposal of hazardous materials.
 22 (P) To license and regulate tattoo and body piercing facilities.
 23 (Q) To regulate the storage and disposal of waste tires.
 24 (4) To manage the corporation's hospitals, medical facilities, and
 25 mental health facilities.
 26 (5) To furnish health and nursing services to elementary and
 27 secondary schools within the county.
 28 (6) To furnish medical care to insured and uninsured residents of
 29 the county.
 30 (7) To furnish dental services to the insured and uninsured
 31 residents of the county.
 32 (8) To establish public health programs.
 33 (9) To adopt an annual budget ordinance and levy taxes.
 34 (10) To incur indebtedness in the name of the corporation.
 35 (11) To organize the corporation into divisions.
 36 (12) To acquire and dispose of property.
 37 (13) To receive charitable contributions and gifts as provided in
 38 26 U.S.C. 170.
 39 (14) To make charitable contributions and gifts.
 40 (15) To establish a charitable foundation as provided in 26 U.S.C.
 41 501.
 42 (16) To receive and distribute federal, state, local, or private



- 1 grants.
- 2 (17) To receive and distribute grants from charitable foundations.
- 3 (18) To establish corporations and enter into partnerships and
- 4 joint ventures to carry out the purposes of the corporation. This
- 5 subdivision does not authorize the merger of the corporation with
- 6 a hospital licensed under IC 16-21.
- 7 (19) To erect, improve, remodel, or repair corporation buildings.
- 8 (20) To determine operating procedures.
- 9 (21) To do the following:
- 10 (A) Adopt a schedule of reasonable charges for nonresidents
- 11 of the county for medical and mental health services.
- 12 (B) Collect the charges from the patient, the patient's insurance
- 13 company, or a government program.
- 14 (C) Require security for the payment of the charges.
- 15 (22) To adopt a schedule of and to collect reasonable charges for
- 16 medical and mental health services.
- 17 (23) To enforce Indiana laws, administrative rules, ordinances,
- 18 and the code of the health and hospital corporation of the county.
- 19 (24) To purchase supplies, materials, and equipment.
- 20 (25) To employ personnel and establish personnel policies.
- 21 (26) To employ attorneys admitted to practice law in Indiana.
- 22 (27) To acquire, erect, equip, and operate the corporation's
- 23 hospitals, medical facilities, and mental health facilities.
- 24 (28) To dispose of surplus property in accordance with a policy by
- 25 the board.
- 26 (29) To determine the duties of officers and division directors.
- 27 (30) To fix the compensation of the officers and division
- 28 directors.
- 29 (31) To carry out the purposes and object of the corporation.
- 30 (32) To obtain loans for hospital expenses in amounts and upon
- 31 terms agreeable to the board. The board may secure the loans by
- 32 pledging accounts receivable or other security in hospital funds.
- 33 (33) To establish fees for licenses, services, and records. The
- 34 corporation may accept payment by credit card for fees.
- 35 IC 5-14-3-8(d) does not apply to fees established under this
- 36 subdivision for certificates of birth, death, or stillbirth
- 37 registration.
- 38 (34) To use levied taxes or other funds to make intergovernmental
- 39 transfers to the state to fund governmental health care programs,
- 40 including Medicaid and Medicaid supplemental programs.
- 41 (b) The board shall exercise the board's powers and duties in a
- 42 manner consistent with Indiana law, administrative rules, and the code



1 of the health and hospital corporation of the county.

2 (c) This subsection does not affect a septic tank elimination program
3 approved by the commission. Except as provided in subsection (d), if,
4 within a county containing a consolidated city:

5 (1) a main sewer line is extended for the purpose of connecting
6 one (1) or more residential or commercial properties to a sanitary
7 sewer system; and

8 (2) the extension connecting the residential or commercial
9 property or properties referred to in subdivision (1) to the sanitary
10 sewer system, when completed, will be located close enough to
11 the property line of a residential property served by a septic
12 system to authorize the board or corporation to order the
13 connection of the residential property to the extension under the
14 ordinances adopted under section 6(b)(4) of this chapter;

15 the board or corporation may not exercise its power under subsection
16 (a)(3)(F) to require the residential property served by the septic system
17 to be connected to the extension referred to in subdivision (1).

18 (d) The board or corporation may exercise its power under
19 subsection (a)(3)(F) to require a residential property served by a septic
20 system to be connected to an extension described in subsection (c) if:

21 (1) the state department of health; or
22 (2) the board or corporation;

23 determines that the septic system serving the residential property is
24 failing, as described in IC 36-9-23-30.1(b).

25 **(e) The board or corporation may not include any incentives,
26 bonuses, or salary increases for an executive director based on
27 metrics or performance measures concerning the maximizing of
28 nursing facility revenues or profits.**

29 SECTION 6. IC 16-22-8-39 IS AMENDED TO READ AS
30 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 39. (a) A hospital
31 owned, operated, or managed by the corporation shall be for the benefit
32 of the residents of the county and of every person who becomes sick,
33 injured, or maimed within the county.

34 (b) A patient who is able to pay shall pay to the corporation a
35 reasonable compensation for medicine or hospital services according
36 to the rules prescribed by the board. The board or the board's
37 authorized representative may exclude from the hospital a person who
38 willfully violates the rules. On terms and conditions the board
39 prescribes, the corporation may:

40 (1) extend the privileges and use of the hospital, the corporation's
41 health care programs, and health care facilities to persons residing
42 outside of the county; and



- 1 (2) own or operate nursing facilities located inside or outside of
 2 the county.
- 3 (c) There may not be discrimination against practitioners of any
 4 school of medicine holding unlimited licenses to practice medicine
 5 recognized in Indiana. The licensed practitioners are entitled to equal
 6 privileges in treating patients in the hospital.
- 7 **(d) If the corporation owns, holds the license to, operates, or**
 8 **manages a nursing facility, the corporation shall use any revenue**
 9 **generated from the nursing facility for the benefit of the nursing**
 10 **facility.**
- 11 **(e) If the corporation owns, holds the license to, operates, or**
 12 **manages a nursing facility, regardless of whether the nursing**
 13 **facility is located inside or outside of the county, the corporation**
 14 **shall, before March 31 of each year, submit a report to the state**
 15 **board of accounts that includes the following:**
- 16 (1) The name of each nursing facility owned, operated, or
 17 managed by the corporation.
- 18 (2) Each intergovernmental transfer or other payment
 19 mechanism that the corporation implements or participates
 20 in as part of the licensure, ownership, operation, or
 21 management of a nursing facility and the amount of federal
 22 financial participation that the corporation obtains through
 23 the intergovernmental transfer, federal upper payment limit,
 24 federal supplemental payment, or other payment mechanism.
- 25 (3) The manner in which the federal funds received through
 26 an intergovernmental transfer, federal upper payment limit,
 27 federal supplemental payment, or other payment mechanism
 28 described in subdivision (2) are distributed or used by the
 29 corporation.
- 30 SECTION 7. IC 16-23-1-25 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 25. (a) The governing
 32 board shall employ an experienced and a qualified person as
 33 superintendent of the hospital and other agents, employees,
 34 representatives, and servants that the board considers necessary.
 35 **Subject to subsection (e),** the board may fix salaries or compensation
 36 upon terms and conditions and with powers and duties the board
 37 considers proper. The board may delegate to the secretary or to the
 38 superintendent any of the board's powers under this section. The board,
 39 or the superintendent or secretary under authority granted by the board,
 40 may terminate the employment of a person appointed under this section
 41 at any time and with or without notice, except the superintendent and
 42 business manager.



- 1 (b) The governing board may also do the following:
- 2 (1) Appoint a business manager for the hospital.
- 3 (2) Give the manager powers and duties over the administration
- 4 of the hospital.
- 5 (3) **Subject to subsection (e)**, pay the manager the compensation
- 6 that the board considers proper.
- 7 (c) The governing board may, upon due investigation, authorize and
- 8 place into effect a fair and reasonable pension or retirement plan for the
- 9 hospital personnel with a reputable and an experienced company
- 10 engaged in that business.
- 11 (d) All persons appointed or employed by the board under this
- 12 section serve in the appointed or employed capacities, exercise the
- 13 powers, and perform the duties that are authorized by the board or by
- 14 the secretary of the board under authority granted by the board.
- 15 However, the right of employment or termination of employment of the
- 16 superintendent or business manager must be exercised by the board and
- 17 may not be delegated to the secretary or any other person or officer.
- 18 (e) **The governing board may not include any incentives,**
- 19 **bonuses, or salary increases for an executive or employee based on**
- 20 **metrics or performance measures concerning the maximizing of**
- 21 **nursing facility revenues or profits.**
- 22 SECTION 8. IC 16-23-1-31 IS AMENDED TO READ AS
- 23 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 31. (a) If the annual
- 24 budget and appropriations, or any additional appropriations or transfers
- 25 of money, made or proposed by the board of directors, excluding any
- 26 cumulative building money:
- 27 (1) is not based upon or derived in part from a tax levy on
- 28 property in the county or city; and
- 29 (2) involves only the funds of the hospital derived wholly from
- 30 other sources than property taxes;
- 31 the board only needs to adopt a resolution for the approval of the
- 32 budget appropriations, additional appropriations, or transfers and file
- 33 a true copy of the budget appropriations, additional appropriations, or
- 34 transfers and the resolution in the offices of the county auditor and city
- 35 clerk-treasurer within seven (7) days after board action for the
- 36 information of the public.
- 37 (b) If the funds are not derived from taxation, the city fiscal body
- 38 may review, consider, and file objections and take an appeal to the
- 39 department of local government finance upon the following:
- 40 (1) An annual budget and any appropriations in the budget and
- 41 request the reduction or elimination of any item.
- 42 (2) Additional appropriations or transfers of funds, or any part of



1 additional appropriations or transfers of funds, within ten (10)
 2 days after the certificate has been filed in the clerk-treasurer's
 3 office.

4 The ruling and action of the department of local government finance is
 5 final and conclusive.

6 (c) The annual budget and appropriations may be revised by the
 7 board of directors by increasing or decreasing items in the budget
 8 based on revenues derived from sources other than property taxes and
 9 by transfer from any items of the budget and appropriations to other
 10 items of the budget, without giving legal notice or any public hearing.
 11 However, a copy of each resolution changing the budget or any
 12 appropriations or transfers of funds shall be filed with the city
 13 clerk-treasurer and county auditor within seven (7) days after the
 14 passage of each resolution. The resolution is subject to appeal by the
 15 city fiscal body to the department of local government finance for final
 16 action in the manner and within the period provided in this section.

17 (d) The governing board shall annually file a condensed annual
 18 report of receipts and expenditures of all hospital funds. Expenses or
 19 income items may be summarized in a fair and an accurate manner for
 20 the information of all taxpayers and citizens. A copy of the annual
 21 report covering the preceding calendar year shall be filed in the city
 22 clerk-treasurer's office and in the county auditor's office on or before
 23 the first Monday in March. Detailed information on the items must be
 24 available for inspection by the public at the hospital administrator's
 25 office.

26 **(e) If the board of directors owns, holds the license to, operates,**
 27 **or manages a nursing facility, the board shall use any revenue**
 28 **generated from the nursing facility for the benefit of the nursing**
 29 **facility.**

30 **(f) If the board of directors owns, holds the license to, operates,**
 31 **or manages a nursing facility, the board of directors shall include**
 32 **the following information in the report required under subsection**
 33 **(d):**

34 **(1) The name of each nursing facility owned, operated,**
 35 **managed, or for which a license is held by the board of**
 36 **directors.**

37 **(2) Each intergovernmental transfer, federal upper payment**
 38 **limit, federal supplemental payment, or other payment**
 39 **mechanism that the board of directors implements or**
 40 **participates in as part of the ownership, licensure, operation,**
 41 **or management of a nursing facility and the amount of federal**
 42 **financial participation that the board of directors obtains**



1 through the intergovernmental transfer, federal upper
2 payment limit, federal supplemental payment, or other
3 payment mechanism.
4 (3) The manner in which the federal funds received through
5 an intergovernmental transfer, federal upper payment limit,
6 federal supplemental payment, or other payment mechanism
7 described in subdivision (2) are distributed or used by the
8 board of directors.

