



Indiana State
Department of Health
An Equal Opportunity Employer

Michael R. Pence
Governor

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State Health Commissioner

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Congress of the United States
House of Representatives
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515-6115

Dear Committee Members:

Thank you for your recent letter inquiring about the regulation of abortion clinics in Indiana. We are happy to provide the information you seek. With help from Indiana's Professional Licensing Agency and the Indiana Department of Child Services, we have answered your questions to the best of our knowledge; those answers appear below. Of course, if you want clarification or further information regarding any response, please feel free to contact us.

Question 1: Does your state license abortion clinics or those facilities and providers who perform abortions? If so, please identify what information must be provided or requirements must be met for a facility or provider to be licensed. In addition, please identify the number of abortion clinics licensed in your state for each year from 2008-2013.

Response 1: Yes, the Indiana State Department of Health (the "ISDH") licenses abortion clinics and other facilities that provide abortions. The licensure requirements for these facilities are set out at IC 16-21-2, 410 IAC 26, and <http://www.in.gov/isdh/20133.htm>. The ISDH licensed nine (9) abortion clinics for each year from 2008-2013.

Question 2: For the years 2008-2013, please identify each abortion clinic for which your state has suspended or revoked its license and the reason for this action.

Response 2: The ISDH did not suspend or revoke the licenses of any abortion clinics from 2008-2013.

Question 3: Does your state conduct inspections of abortion clinics or facilities that perform abortions? If so, please identify the number of clinics that your state has inspected for each year from 2008-2013. In addition, please identify how an inspection is conducted and what information is examined in the course of an inspection.

Response 3: Yes, the ISDH conducts inspections of abortion clinics and facilities that perform abortions. By rule (410 IAC 26), Indiana conducts licensure surveys at least once every two years. Onsite inspections are conducted by state surveyors, who review documents (medical records, policies, etc.), conduct interviews, and make direct observations to determine a facility's

compliance with state rules. The ISDH inspected nine (9) clinics in 2008, 2010, and 2012, and inspected no clinics during 2009 and 2011.

Question 4: Does your state monitor complaints or adverse health events relating to abortions? If so, how are these complaints filed or processed? How many complaints relating to abortions or abortion clinics have been filed for each year from 2008-2013?

a. Please explain how your state investigates the complaints it receives relating to abortions. In addition, please explain how many investigations, including those that included inspections of abortion clinics, have resulted from complaints filed for each year from 2008-2013.

Response 4: Yes, the ISDH monitors complaints and adverse health events relating to abortions. Complaints can be filed with the ISDH Acute Care Division via electronic online submission, toll-free telephone calls, email, and standard mail. Any complaint received by the ISDH is first entered into the agency's complaint tracking system, and then sent to the Director for the program area. In 2008, the ISDH received two (2) complaints relating to abortions or abortion clinics. In each year since (including 2013 to date), no such complaints have been filed. Additionally, IC 16-34-2-5 requires all physicians who perform abortions in Indiana to complete a Terminated Pregnancy Report Form (see attached Exhibit A). Potential adverse health events are listed on this form as "complications of the pregnancy termination."

Response 4(a): The ISDH investigates every complaint that alleges a violation of state abortion laws. The Program Director begins such an investigation by assigning the matter to an acute care surveyor for an onsite survey. The complainant may, but is not required to, have contact with the surveyor. The survey results are sent to the complainant, and become public records under state law. In 2008, the ISDH conducted two (2) surveys (inspections) in response to complaints about abortion clinics. Because no such complaints have been filed since then, the ISDH has conducted no surveys (inspections) in response to complaints during that period.

Question 5: Please explain whether your state, including state professional licensure boards, has initiated any disciplinary actions against facilities or health care providers relating to abortions? Please identify the number of disciplinary actions taken in each year from 2008-2013 and the underlying violation or reason for the action.

Response 5: From 2008-2013 (to date), neither the ISDH nor the Indiana Professional Licensing Agency ("PLA") has initiated any disciplinary actions against any facilities or MD/DO licenses in relation to an abortion incident. (Information for this response was obtained from the PLA.)

Question 6: Please provide copies of the rules and regulations that govern facilities and licensed health care providers in your state that perform abortions, including the rules and regulations that specifically govern how abortions are conducted in your state.

a. Which of these laws is your agency tasked with enforcing and how do you enforce them?

Response 6: Attached collectively as Exhibit B are copies of the state statutes and rules that govern facilities and licensed health care providers that perform abortions -- namely, IC 16-21-2 (Licensure of Hospitals), IC 16-34 (Abortion), and 410 IAC 26 (Abortion Clinics.)

Response 6(a): The ISDH is tasked with enforcing IC 16-21-2 (Licensure of Hospitals) and 410 IAC 26 (Abortion Clinics).

IC 16-21-2 is enforced through IC 16-21-3-1, which states:

The state health commissioner may take any of the following actions on any of the grounds listed in section 2 of this chapter:

- (1) Issue a letter of correction.
- (2) Issue a probationary license.
- (3) Conduct a resurvey.
- (4) Deny renewal of a license.
- (5) Revoke a license.
- (6) Impose a civil penalty in an amount not to exceed ten thousand dollars (\$10,000).

The ISDH enforces 410 IAC 26 through 410 IAC 26-2-8, which provides:

(a) The commissioner may take any of the following actions on any of the grounds listed in subsection (b):

- (1) Issue a letter of correction.
- (2) Issue a probationary license.
- (3) Conduct a resurvey.
- (4) Deny the renewal of a license.
- (5) Revoke a license.
- (6) Impose a civil penalty in an amount not to exceed ten thousand dollars (\$10,000).

(b) The commissioner may take action under subsection (a) on any of the following grounds:

- (1) Violation of any provision of this article.
- (2) Permitting, aiding, or abetting the commission of any illegal act in an abortion clinic.
- (3) Knowingly collecting or attempting to collect from:
 - (A) a subscriber (as defined in IC 27-13-1-32); or
 - (B) an enrollee (as defined in IC 27-13-1-12);of a health maintenance organization (as defined in IC 27-13-1-19) any amounts that are owed by the health maintenance organization.

- (4) Conduct or practice found by the council to be detrimental to the welfare of the patients of an abortion clinic.

Question 7: On April 19, 2005, the Assistant Secretary for Children and Families issued a Program Instruction to state agencies administering the Child Abuse Prevention and Treatment Act (CAPTA) program. The instruction requires states to have procedures for responding to reports of medical neglect (including the withholding of medically indicated treatment from disabled infants with life-threatening conditions), and applies those protections equally to born-alive infants.

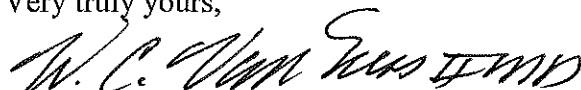
a. What actions has your state taken since 2005 to ensure that, at every licensed health care facility that provides abortions, there is a designated individual to report suspected medical neglect (including withholding of medically indicated treatment from disabled infants with life-threatening conditions) of born-alive infants to the state child protective services agency? Has the state received any such notifications and what were the outcomes?

b. Does your state child protective services agency annually contact each health care facility to obtain purpose of coordination, consultation, and notification pursuant to 45 CFR 1340.15? does this contact include health care facilities that provide abortions? Please provide a list of all such designations.

Response 7(a): Unlike some states that have designated persons who are “mandatory reporters,” in Indiana, **every person** has a duty to report suspected child abuse and neglect (*see* IC 31-33-5-1). Indiana’s definition of child abuse and neglect includes the failure of a parent, guardian or custodian to provide a child with food, clothing, shelter or medical care (*see* IC 31-9-2-14 and IC 31-34-1-1). Indiana has a specific provision for a disabled child deprived of necessary nutrition or medical or surgical intervention that might normally be provided to other children (*see* IC 31-34-1-9). Indiana has a legal procedure for an abortion attempt resulting in live birth whereby the child *immediately* becomes a ward of the Department of Child Services (DCS) upon birth (*see* IC 16-34-2-3(d)) and a law that says that children under 16 who seek abortions are required to be advised that the pregnancy itself is evidence of possible child abuse, and, as such, must be reported to DCS by the medical provider under Indiana law (*see* IC 16-34-2-1.1(a)(1)(J)). As such, Indiana does not designate a specific person per health facility. Indiana does not track these types of notifications (child abuse or neglect reports) by category and is unable to provide numbers on such notifications. (Information for this response was obtained by the DCS.)

Response 7(b): No. Please see above.

Very truly yours,



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State Health Commissioner

Attachments