

ARTICLE 35. DISPOSITION OF ABORTED REMAINS

Rule 1. Definitions

410 IAC 35-1-1 Applicability

Authority: IC 16-19-3-4; IC 16-19-3-31; IC 16-21-1-7

Affected: IC 16-34-3

Sec. 1. The definitions in this rule apply throughout this article. (*Indiana Department of Health; 410 IAC 35-1-1; filed Nov 16, 2015, 12:46 p.m.: 20151216-IR-410150152FRA, eff Jan 1, 2016; readopted filed Nov 12, 2021, 8:34 a.m.: 20211208-IR-410210384RFA*)

410 IAC 35-1-2 "Abortion" defined

Authority: IC 16-19-3-4; IC 16-19-3-31; IC 16-21-1-7

Affected: IC 16-18-2-1; IC 16-34-3

Sec. 2. "Abortion" has the meaning set forth in IC 16-18-2-1. (*Indiana Department of Health; 410 IAC 35-1-2; filed Nov 16, 2015, 12:46 p.m.: 20151216-IR-410150152FRA, eff Jan 1, 2016; readopted filed Nov 12, 2021, 8:34 a.m.: 20211208-IR-410210384RFA*)

410 IAC 35-1-2.5 "Abortion clinic" defined

Authority: IC 16-19-3-4; IC 16-21-1-7

Affected: IC 16-18-2-1.5; IC 16-34-3

Sec. 2.5. "Abortion clinic" has the meaning set forth in IC 16-18-2-1.5. (*Indiana Department of Health; 410 IAC 35-1-2.5; filed May 3, 2021, 11:13 a.m.: 20210526-IR-410200563FRA; readopted filed Nov 12, 2021, 8:34 a.m.: 20211208-IR-410210384RFA*)

410 IAC 35-1-3 "Cremation" defined

Authority: IC 16-19-3-4; IC 16-21-1-7

Affected: IC 16-34-3; IC 23-14-31

Sec. 3. "Cremation" means disposition by a crematory authority under IC 23-14-31-12 and as defined in IC 23-14-31-8. (*Indiana Department of Health; 410 IAC 35-1-3; filed Nov 16, 2015, 12:46 p.m.: 20151216-IR-410150152FRA, eff Jan 1, 2016; filed May 3, 2021, 11:13 a.m.: 20210526-IR-410200563FRA; readopted filed Nov 12, 2021, 8:34 a.m.: 20211208-IR-410210384RFA*)

410 IAC 35-1-4 "Health care facility" defined

Authority: IC 16-19-3-4; IC 16-21-1-7

Affected: IC 16-18-2-163; IC 16-21; IC 16-34-3

Sec. 4. "Health care facility" includes the following:

- (1) A hospital licensed under IC 16-21.
- (2) An ambulatory outpatient surgical center licensed under IC 16-21.
- (3) A birthing center licensed under IC 16-21.
- (4) Any health care provider, as defined in IC 16-18-2-163(d)(1), required to be licensed as an abortion clinic under IC 16-21.
- (5) Any 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.

(*Indiana Department of Health; 410 IAC 35-1-4; filed Nov 16, 2015, 12:46 p.m.: 20151216-IR-410150152FRA, eff Jan 1, 2016; filed May 3, 2021, 11:13 a.m.: 20210526-IR-410200563FRA; readopted filed Nov 12, 2021, 8:34 a.m.: 20211208-IR-410210384RFA*)

410 IAC 35-1-5 "Fetus" defined

Authority: IC 16-19-3-4; IC 16-19-3-31; IC 16-21-1-7
Affected: IC 16-18-2-128.7; IC 16-34-3

Sec. 5. "Fetus" has the meaning set forth in IC 16-18-2-128.7. (*Indiana Department of Health; 410 IAC 35-1-5; filed Nov 16, 2015, 12:46 p.m.: 20151216-IR-410150152FRA, eff Jan 1, 2016; readopted filed Nov 12, 2021, 8:34 a.m.: 20211208-IR-410210384RFA*)

410 IAC 35-1-6 "Infectious waste" defined (Repealed)

Sec. 6. (*Repealed by Indiana Department of Health; filed May 3, 2021, 11:13 a.m.: 20210526-IR-410200563FRA*)

410 IAC 35-1-7 "Pathological waste" defined (Repealed)

Sec. 7. (*Repealed by Indiana Department of Health; filed May 3, 2021, 11:13 a.m.: 20210526-IR-410200563FRA*)

Rule 2. Disposition of Aborted Remains

410 IAC 35-2-1 Disposition of aborted remains

Authority: IC 16-19-3-4; IC 16-21-1-7
Affected: IC 16-34-3; IC 23-14-34

Sec. 1. (a) Each abortion clinic and health care facility shall provide for the disposition of an aborted fetus by any of the following methods:

- (1) In the earth in an established cemetery pursuant to IC 23-14-34.
- (2) Cremation.

(b) The facility must have written policies and procedures for the available method or methods of disposition of aborted fetuses. (*Indiana Department of Health; 410 IAC 35-2-1; filed Nov 16, 2015, 12:46 p.m.: 20151216-IR-410150152FRA, eff Jan 1, 2016; filed May 3, 2021, 11:13 a.m.: 20210526-IR-410200563FRA*)

410 IAC 35-2-2 Records

Authority: IC 16-19-3-4
Affected: IC 16-34-2-1.1; IC 16-34-3

Sec. 2. (a) Each abortion clinic and health care facility must maintain permanent written documentation of the following:

- (1) The burial transit permit for each aborted fetus when required by IC 16-34-3-4(a).
 - (2) The log required by IC 16-34-3-4(c), when applicable.
 - (3) When a cremation or burial is conducted on behalf of an abortion clinic or health care facility by a licensed funeral home or other authorized person, the contract or agreement between the abortion clinic or health care facility and the funeral home or other person for the cremation or burial services in accordance with IC 16-34-3-4(b).
 - (4) A signed statement by the entity receiving fetal remains from an abortion clinic or health care facility attesting that the confirmation required by IC 16-34-3-4(d) was completed and attesting that the number of fetal remains received by the entity matched the burial transit permit and log required by IC 16-34-3-4(c).
- (b) Each abortion clinic and health care facility must keep the following in a pregnant woman's medical record:
- (1) Written documentation that the notifications required by IC 16-34-2-1.1(a)(2)(H), IC 16-34-2-1.1(a)(2)(I), and IC 16-34-2-1.1(a)(2)(J) were made.
 - (2) The completed form required by IC 16-34-3-2(b).
 - (3) Written documentation of the parental consent required by IC 16-34-3-2(c) or written documentation that parental consent was not required.
 - (4) In the case of an abortion induced by an abortion inducing drug, written documentation indicating whether the pregnant

DISPOSITION OF ABORTED REMAINS

woman returned the aborted fetus to the abortion clinic or health care facility in accordance with IC 16-34-3-2(e).

(c) Where a decision or notification is required to be made by a form, an abortion clinic or health care facility must retain a copy of the completed form that contains the decision or notification. (*Indiana Department of Health; 410 IAC 35-2-2; filed May 3, 2021, 11:13 a.m.: 20210526-IR-410200563FRA*)

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