

First Regular Session of the 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1438

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AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 16-41-7.5-4, AS ADDED BY P.L.208-2015, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) A qualified entity may operate a program only in a county **or municipality** where:

- (1) a public health emergency has been declared; **or**
- (2) **a program has been approved;**

**under section 5 of this chapter.** However, a qualified entity may not operate a program outside of the jurisdictional area of the governmental body that approved the qualified entity.

(b) A qualified entity that meets the requirements in subsection (a) and complies with the requirements of this chapter may operate a program.

SECTION 2. IC 16-41-7.5-5, AS ADDED BY P.L.208-2015, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. Before a qualified entity may operate a program in a county, the following shall occur:

- (1) The local health officer or the executive director must declare to the executive body of the county or the legislative body of the municipality the following:
  - (A) There is an epidemic of hepatitis C or HIV.
  - (B) That the primary mode of transmission of hepatitis C or HIV in the county is through intravenous drug use.

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(C) That a syringe exchange program is medically appropriate as part of a comprehensive public health response.

(2) The legislative body of the municipality or the executive body of the county must do the following:

(A) Conduct a public hearing that allows for public testimony.

(B) Take official action adopting the declarations under subdivision (1) by the local health officer or the executive director in consideration of the public health for the area ~~that the body represents~~; **and, if the program complies with section 6 of this chapter and is within the jurisdictional limits of the county or municipality that the body represents, either:**

**(i) approve the operation of the program; or**

**(ii) submit a request under subdivision (3) to the state health commissioner.**

(3) The legislative body of the municipality or the executive body of the county that took official action under subdivision (2) **either:**

**(A) notifies the state health commissioner of ~~(A)~~ the body's actions under subdivision (2), including:**

**(i) the period of time considered medically appropriate for the program;**

**(ii) whether a renewal or an extension of the program can occur; and**

**(iii) other measures taken concerning the epidemic that have proven ineffective; or**

**(B) if the body does not approve the operation of a program under subdivision (2)(B)(i) and submits a request under subdivision (2)(B)(ii), request that the state health commissioner declare a public health emergency and**

**~~(C) other measures taken concerning the epidemic that have proven ineffective~~. and approve the operation of a program.**

**(4) If subdivision (3)(B) applies, the state health commissioner has declared a public health emergency for the county or municipality and approved the operation of a program.**

SECTION 3. IC 16-41-7.5-6, AS ADDED BY P.L.208-2015, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. A qualified entity that operates a program under this chapter must do the following:

(1) Annually register the program in a manner prescribed by the state department with the:

(A) state department; and

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- (B) local health department in the county **or municipality** where services will be provided by the qualified entity if the qualified entity is not the local health department.
- (2) Have one (1) of the following licensed in Indiana provide oversight to the qualified entity's programs:
- (A) A physician.
  - (B) A registered nurse.
  - (C) A physician assistant.
- (3) Store and dispose of all syringes and needles collected in a safe and legal manner.
- (4) Provide education and training on drug overdose response and treatment, including the administration of an overdose intervention drug.
- (5) Provide drug addiction treatment information and referrals to drug treatment programs, including programs in the local area and programs that offer medication assisted treatment that includes a federal Food and Drug Administration approved long acting, nonaddictive medication for the treatment of opioid or alcohol dependence.
- (6) Provide syringe and needle distribution and collection without collecting or recording personally identifiable information.
- (7) Operate in a manner consistent with public health and safety.
- (8) Ensure the program is medically appropriate and part of a comprehensive public health response.
- (9) Keep sufficient quantities of an overdose intervention drug (as defined in IC 16-18-2-263.9) in stock and to administer in accordance with IC 16-42-27.**

SECTION 4. IC 16-41-7.5-10, AS ADDED BY P.L.208-2015, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. A program shall file a quarterly report with the state department. The report must contain the following information listed on a daily basis and by the location, identified by the postal ZIP code, where the program distributed and collected syringes and needles:

- (1) The number of individuals served.
- (2) The number of syringes and needles collected.
- (3) The number of syringes and needles distributed.

The state department may request that a qualified entity supply additional information concerning the program operated by the qualified entity, **including data concerning referrals to services.**

SECTION 5. IC 16-41-7.5-11, AS ADDED BY P.L.208-2015, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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UPON PASSAGE]: Sec. 11. (a) If the state health commissioner receives a request to declare a public health emergency under this chapter, the state health commissioner shall approve, deny, or request additional information concerning the request under section 5 of this chapter not later than ten (10) calendar days from the date the request is submitted to the state health commissioner. If additional information is:

- (1) requested by the state health commissioner; and
- (2) provided by the entity seeking the declaration;

the state health commissioner shall approve or deny the request not later than ten (10) calendar days from the submission date of the additional information.

(b) ~~A public health emergency declared~~ **program established** under this ~~section~~ **chapter** may remain in effect for not more than ~~one (1)~~ **year two (2)** years from the date ~~the public health emergency is declared.~~ **approved under this chapter.** However:

- (1) the state health commissioner may:
  - (A) ~~renew the declaration of a public health emergency upon the request of the executive body of the county or the legislative body of the municipality that requested the initial declaration and approval,~~ **renew the declaration of a public health emergency and operation of the program for not more than two (2) years; or**
  - (B) **terminate a program; or**
- (2) ~~the legislative body of the municipality or the executive body of the county that initially approved the program may, through official action:~~
  - (A) **renew the program for not more than two (2) years; or**
  - (B) **terminate a program;**

when warranted.

(c) ~~The legislative body of the municipality or the executive body of the county shall notify the state health commissioner in writing immediately of any of the following:~~

- (1) ~~A renewal of a program under subsection (b) and the period of time of the renewal.~~
- (2) ~~The expiration or termination of a program.~~
- (3) ~~A change in the qualified entity administering the program.~~

SECTION 6. IC 16-41-7.5-14, AS ADDED BY P.L.208-2015, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. This chapter expires July 1, ~~2019~~ **2021**.

SECTION 7. **An emergency is declared for this act.**

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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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