



March 31, 2017

ENGROSSED SENATE BILL No. 51

DIGEST OF SB 51 (Updated March 29, 2017 4:48 pm - DI 77)

Citations Affected: IC 16-18; IC 16-19; IC 16-38; IC 25-26; IC 34-30.

Synopsis: Immunizations. Allows the state health commissioner or a designated public health authority who is a licensed prescriber to issue a statewide standing order, prescription, or protocol that allows a pharmacist to administer or dispense certain immunizations. Allows immunization data to be released to an entity for outreach and education purposes to increase immunization rates if certain conditions are met. Requires that the standing order, prescription, or protocol be posted on the Internet web site of the board of pharmacy. Adds the following immunizations to the list of immunizations that pharmacists may administer if certain conditions are met: (1) Measles, mumps, and rubella. (2) Varicella. (3) Hepatitis A. (4) Hepatitis B. (5) Haemophilus influenzae type b (Hib). Allows a pharmacist to immunize an individual who is at least 50 years of age for pneumonia under a physician's protocol. Requires a pharmacist to comply with the public health emergency consent requirements for immunizations administered during a public health emergency. Authorizes a pharmacist to administer immunizations under a standing order, prescription, or protocol of the state health commissioner.

Effective: July 1, 2017.

Grooms, Charbonneau

(HOUSE SPONSORS — DAVISSON, CLERE, STEMLER)

January 3, 2017, read first time and referred to Committee on Health and Provider Services.

January 23, 2017, reported favorably — Do Pass.

January 26, 2017, read second time, ordered engrossed. Engrossed.

January 30, 2017, read third time, passed. Yeas 46, nays 3.

HOUSE ACTION

February 28, 2017, read first time and referred to Committee on Public Health.

March 30, 2017, amended, reported — Do Pass.

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March 31, 2017

First Regular Session 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.

ENGROSSED SENATE BILL No. 51

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

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

- 1 SECTION 1. IC 16-18-2-298.5, AS AMENDED BY P.L.6-2016,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2017]: Sec. 298.5. (a) "Public health authority", for purposes
4 of IC 16-22-8 and IC 16-41-9, means:
5 (1) the state health commissioner of the state department;
6 (2) a deputy or an assistant state health commissioner appointed
7 by the state health commissioner, or an agent expressly authorized
8 by the state health commissioner;
9 (3) the local health officer; or
10 (4) a health and hospital corporation established under
11 IC 16-22-8-6.
12 (b) "Public health authority", for purposes of **IC 16-19 and**
13 **IC 16-42-27**, means any of the following who is a licensed prescriber:
14 (1) A deputy or assistant state health commissioner appointed by
15 the state health commissioner to act as a public health authority.
16 (2) An agent employed by the state department that is expressly
17 authorized by the state health commissioner to act as a public

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- 1 health authority.
- 2 SECTION 2. IC 16-19-4-11 IS ADDED TO THE INDIANA CODE
 3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 4 1, 2017]: **Sec. 11. (a) The state health commissioner or the
 5 commissioner's designated public health authority who is a
 6 licensed prescriber may, as part of the individual's official
 7 capacity, issue a statewide standing order, prescription, or protocol
 8 that allows a pharmacist to administer or dispense an
 9 immunization that is recommended by the federal Centers for
 10 Disease Control and Prevention Advisory Committee on
 11 Immunization Practices for individuals who are not less than
 12 eleven (11) years of age.**
- 13 **(b) The state health commissioner or designated public health
 14 authority who issues a statewide standing order, prescription, or
 15 protocol under subsection (a) is immune from civil liability related
 16 to the issuing of the standing order, prescription, or protocol.**
- 17 SECTION 3. IC 16-38-5-3, AS AMENDED BY P.L.171-2014,
 18 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2017]: **Sec. 3. (a) Records maintained as part of the
 20 immunization data registry are confidential.**
- 21 (b) The state department may release information from the
 22 immunization data registry to the individual or to the individual's
 23 parent or guardian if the individual is less than eighteen (18) years of
 24 age.
- 25 (c) Subject to subsection (d), the state department may release
 26 information in the immunization data registry concerning an individual
 27 to the following persons or entities:
- 28 (1) The immunization data registry of another state.
 29 (2) A provider or a provider's designee.
 30 (3) A local health department.
 31 (4) An elementary or secondary school that is attended by the
 32 individual.
 33 (5) A child care center that is licensed under IC 12-17.2-4 in
 34 which the individual is enrolled.
 35 (6) A child care home that is licensed under IC 12-17.2-5 in
 36 which the individual is enrolled.
 37 (7) A child care ministry that is registered under IC 12-17.2-6 in
 38 which the individual is enrolled.
 39 (8) The office of Medicaid policy and planning or a contractor of
 40 the office of Medicaid policy and planning.
 41 (9) A child placing agency licensed under IC 31-27.
 42 (10) A college or university (as defined in IC 21-7-13-10) that is



1 attended by the individual.

2 **(11) An entity, including a private entity, for the purpose of**
 3 **outreach and education to increase immunization rates, if the**
 4 **following conditions are met:**

5 **(A) The entity provides the following written information**
 6 **to the state department:**

7 **(i) Information concerning the proposed outreach and**
 8 **education, including the information the entity needs**
 9 **from the immunization data registry.**

10 **(ii) How the entity intends to use the information.**

11 **(iii) The safeguards the entity will take to protect the**
 12 **identity of each individual whose records will be**
 13 **released.**

14 **(B) The state department determines the proposed**
 15 **safeguards are adequate to protect the identity of each**
 16 **individual whose records will be released.**

17 **(C) An agreement is executed between the state**
 18 **department and the entity that specifies the entity's**
 19 **permitted use of the records and prohibits the release of**
 20 **names of individuals or any facts that may lead to the**
 21 **identification of an individual.**

22 (d) Before immunization data may be released to a person or an
 23 entity, the person or entity must enter into a data use agreement with
 24 the state department that provides that information that identifies a
 25 patient will not be released to any other person or entity without the
 26 written consent of the patient unless the release is to a person or entity
 27 described in subsection (c).

28 (e) The state department may release summary statistics regarding
 29 information in the immunization data registry to a person or entity that
 30 has entered into a data use agreement with the state department.

31 SECTION 4. IC 25-26-13-24.5 IS ADDED TO THE INDIANA
 32 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 33 [EFFECTIVE JULY 1, 2017]: **Sec. 24.5. The board shall post a copy**
 34 **of all statewide standing orders, prescriptions, and protocols issued**
 35 **under IC 16-19-4-11 on the board's Internet web site.**

36 SECTION 5. IC 25-26-13-31.2, AS AMENDED BY P.L.113-2013,
 37 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2017]: Sec. 31.2. (a) A pharmacist may administer an
 39 immunization to an individual under a drug order or prescription.

40 (b) Subject to subsection (c), a pharmacist may administer
 41 immunizations for the following to a group of individuals under a drug
 42 order, under a prescription, or according to a protocol approved by a



- 1 physician:
- 2 (1) Influenza.
- 3 (2) Shingles (herpes zoster).
- 4 (3) Pneumonia.
- 5 (4) Tetanus, diphtheria, and acellular pertussis (whooping cough).
- 6 (5) Human papillomavirus (HPV) infection.
- 7 (6) Meningitis.
- 8 **(7) Measles, mumps, and rubella.**
- 9 **(8) Varicella.**
- 10 **(9) Hepatitis A.**
- 11 **(10) Hepatitis B.**
- 12 **(11) Haemophilus influenzae type b (Hib).**
- 13 (c) A pharmacist may administer an immunization under subsection
- 14 (b) if the following requirements are met:
- 15 (1) The physician specifies in the drug order, prescription, or
- 16 protocol the group of individuals to whom the immunization may
- 17 be administered.
- 18 (2) The physician who writes the drug order, prescription, or
- 19 protocol is licensed and actively practicing with a medical office
- 20 in Indiana and not employed by a pharmacy.
- 21 (3) The pharmacist who administers the immunization is
- 22 responsible for notifying, not later than fourteen (14) days after
- 23 the pharmacist administers the immunization, the physician who
- 24 authorized the immunization and the individual's primary care
- 25 physician that the individual received the immunization.
- 26 (4) If the physician uses a protocol, the protocol may apply only
- 27 to an individual or group of individuals who:
- 28 (A) except as provided in clause (B), are at least eleven (11)
- 29 years of age; or
- 30 (B) for the pneumonia immunization under subsection (b)(3),
- 31 are at least ~~sixty-five (65)~~ **fifty (50)** years of age.
- 32 (5) Before administering an immunization to an individual
- 33 according to a protocol approved by a physician, the pharmacist
- 34 must receive the consent of one (1) of the following:
- 35 (A) If the individual to whom the immunization is to be
- 36 administered is at least eleven (11) years of age but less than
- 37 eighteen (18) years of age, the parent or legal guardian of the
- 38 individual.
- 39 (B) If the individual to whom the immunization is to be
- 40 administered is at least eighteen (18) years of age but has a
- 41 legal guardian, the legal guardian of the individual.
- 42 (C) If the individual to whom the immunization is to be



1 administered is at least eighteen (18) years of age but has no
2 legal guardian, the individual.

3 A parent or legal guardian who is required to give consent under
4 this subdivision must be present at the time of immunization.

5 (d) If the state department of health or the department of homeland
6 security determines that an emergency exists, **subject to**
7 **IC 16-41-9-1.7(a)(2)**, a pharmacist may administer any immunization
8 in accordance with:

9 (1) the requirements of subsection (c)(1) through (c)(3); and

10 (2) any instructions in the emergency determination.

11 (e) A pharmacist or pharmacist's designee shall provide
12 immunization data to the immunization data registry (IC 16-38-5) in a
13 manner prescribed by the state department of health unless:

14 (1) the individual receiving the immunization;

15 (2) the parent of the individual receiving the immunization, if the
16 individual receiving the immunization is less than eighteen (18)
17 years of age; or

18 (3) the legal guardian of the individual receiving the
19 immunization, if a legal guardian has been appointed;

20 has completed and filed with the pharmacist or pharmacist's designee
21 a written immunization data exemption form, as provided in
22 IC 16-38-5-2.

23 (f) If an immunization is administered under a protocol, then the
24 name, license number, and contact information of the physician who
25 wrote the protocol must be posted in the location where the
26 immunization is administered. A copy of the protocol must be available
27 for inspection by the individual receiving the immunization.

28 **(g) A pharmacist may administer an immunization that is**
29 **provided according to a standing order, prescription, or protocol**
30 **issued under this section or IC 16-19-4-11 by the state health**
31 **commissioner or the commissioner's designated public health**
32 **authority who is a licensed prescriber. If a pharmacist has received**
33 **a protocol to administer an immunization from a physician and**
34 **that specific immunization is covered by a standing order,**
35 **prescription, or protocol issued by the state health commissioner**
36 **or the commissioner's designated public health authority, the**
37 **pharmacist must administer the immunization according to the**
38 **standing order, prescription, or protocol issued by the state health**
39 **commissioner or the commissioner's designated public health**
40 **authority.**

41 SECTION 6. IC 34-30-2-60.1 IS ADDED TO THE INDIANA
42 CODE AS A NEW SECTION TO READ AS FOLLOWS



1 [EFFECTIVE JULY 1, 2017]: **Sec. 60.1. IC 16-19-4-11 (Concerning**
2 **issuance of certain standing orders, prescriptions, or protocols**
3 **regarding pharmacists).**



COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 51, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 51 as introduced.)

CHARBONNEAU, Chairperson

Committee Vote: Yeas 11, Nays 1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Senate Bill 51, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 16-18-2-298.5, AS AMENDED BY P.L.6-2016, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 298.5. (a) "Public health authority", for purposes of IC 16-22-8 and IC 16-41-9, means:

- (1) the state health commissioner of the state department;
- (2) a deputy or an assistant state health commissioner appointed by the state health commissioner, or an agent expressly authorized by the state health commissioner;
- (3) the local health officer; or
- (4) a health and hospital corporation established under IC 16-22-8-6.

(b) "Public health authority", for purposes of **IC 16-19 and IC 16-42-27**, means any of the following who is a licensed prescriber:

- (1) A deputy or assistant state health commissioner appointed by the state health commissioner to act as a public health authority.
- (2) An agent employed by the state department that is expressly authorized by the state health commissioner to act as a public health authority.

SECTION 2. IC 16-19-4-11 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 11. (a) The state health commissioner or the commissioner's designated public health authority who is a**

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licensed prescriber may, as part of the individual's official capacity, issue a statewide standing order, prescription, or protocol that allows a pharmacist to administer or dispense an immunization that is recommended by the federal Centers for Disease Control and Prevention Advisory Committee on Immunization Practices for individuals who are not less than eleven (11) years of age.

(b) The state health commissioner or designated public health authority who issues a statewide standing order, prescription, or protocol under subsection (a) is immune from civil liability related to the issuing of the standing order, prescription, or protocol.

SECTION 3. IC 16-38-5-3, AS AMENDED BY P.L.171-2014, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 3. (a) Records maintained as part of the immunization data registry are confidential.

(b) The state department may release information from the immunization data registry to the individual or to the individual's parent or guardian if the individual is less than eighteen (18) years of age.

(c) Subject to subsection (d), the state department may release information in the immunization data registry concerning an individual to the following persons or entities:

- (1) The immunization data registry of another state.
- (2) A provider or a provider's designee.
- (3) A local health department.
- (4) An elementary or secondary school that is attended by the individual.
- (5) A child care center that is licensed under IC 12-17.2-4 in which the individual is enrolled.
- (6) A child care home that is licensed under IC 12-17.2-5 in which the individual is enrolled.
- (7) A child care ministry that is registered under IC 12-17.2-6 in which the individual is enrolled.
- (8) The office of Medicaid policy and planning or a contractor of the office of Medicaid policy and planning.
- (9) A child placing agency licensed under IC 31-27.
- (10) A college or university (as defined in IC 21-7-13-10) that is attended by the individual.
- (11) An entity, including a private entity, for the purpose of outreach and education to increase immunization rates, if the following conditions are met:**

(A) The entity provides the following written information



to the state department:

(i) Information concerning the proposed outreach and education, including the information the entity needs from the immunization data registry.

(ii) How the entity intends to use the information.

(iii) The safeguards the entity will take to protect the identity of each individual whose records will be released.

(B) The state department determines the proposed safeguards are adequate to protect the identity of each individual whose records will be released.

(C) An agreement is executed between the state department and the entity that specifies the entity's permitted use of the records and prohibits the release of names of individuals or any facts that may lead to the identification of an individual.

(d) Before immunization data may be released to a person or an entity, the person or entity must enter into a data use agreement with the state department that provides that information that identifies a patient will not be released to any other person or entity without the written consent of the patient unless the release is to a person or entity described in subsection (c).

(e) The state department may release summary statistics regarding information in the immunization data registry to a person or entity that has entered into a data use agreement with the state department.

SECTION 4. IC 25-26-13-24.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 24.5. The board shall post a copy of all statewide standing orders, prescriptions, and protocols issued under IC 16-19-4-11 on the board's Internet web site."**

Page 2, line 21, strike "sixty-five (65)" and insert "**fifty (50)**".

Page 2, line 38, after "exists," insert "**subject to IC 16-41-9-1.7(a)(2),"**

Page 3, after line 16, begin a new paragraph and insert:

"(g) A pharmacist may administer an immunization that is provided according to a standing order, prescription, or protocol issued under this section or IC 16-19-4-11 by the state health commissioner or the commissioner's designated public health authority who is a licensed prescriber. If a pharmacist has received a protocol to administer an immunization from a physician and that specific immunization is covered by a standing order, prescription, or protocol issued by the state health commissioner



or the commissioner's designated public health authority, the pharmacist must administer the immunization according to the standing order, prescription, or protocol issued by the state health commissioner or the commissioner's designated public health authority.

SECTION 5. IC 34-30-2-60.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 60.1. IC 16-19-4-11 (Concerning issuance of certain standing orders, prescriptions, or protocols regarding pharmacists).**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 51 as printed January 24, 2017.)

KIRCHHOFER

Committee Vote: yeas 13, nays 0.

