

First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

## SENATE ENROLLED ACT No. 228

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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 16-18-2-91 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 91. "Dangerous communicable disease", for purposes of IC 16-41, means a communicable disease that is ~~classified~~ **set forth in the list published** by the state department as ~~dangerous~~ under IC 16-41-2-1.

SECTION 2. IC 16-19-4-11, AS ADDED BY P.L.202-2017, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 11. (a) The state health commissioner or the commissioner's designated public health authority who is a 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 any of the following:

(1) 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.

(2) A smoking cessation product. However, the pharmacist must inform the patient that the patient must have a follow-up consultation with the patient's licensed prescriber.

**(b) This subsection does not apply to a pharmacist. The state health commissioner or the commissioner's designated public health authority who is a licensed prescriber may, as part of the**



individual's official capacity, issue a standing order, prescription, or protocol that allows an individual who is licensed, certified, or registered by a board (as defined in IC 25-1-9-1), and if within the individual's scope of practice, 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.

(c) A standing order described in subsection (a) or (b) must include the following:

- (1) The purpose of the order.
- (2) The eligible recipients.
- (3) The geographic area covered by the standing order.
- (4) The procedure for administering or dispensing the immunization or product.
- (5) A timeline for renewing or updating the standing order.

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

SECTION 3. IC 16-38-4-7, AS AMENDED BY P.L.232-2013, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 7. (a) The state department shall adopt rules under IC 4-22-2 to

- ~~(1)~~ define a birth problem; and
- ~~(2)~~ establish reporting requirements regarding birth problems for:
  - ~~(A)~~ (1) hospitals;
  - ~~(B)~~ (2) physicians;
  - ~~(C)~~ (3) local health departments;
  - ~~(D)~~ (4) home deliveries, as described in section 1(8) of this chapter; and
  - ~~(E)~~ (5) other health care providers designated by the state department.

(b) The state department:

- (1) shall publish annually the list of birth problems required to be reported; and
- (2) may publish an updated list of birth problems required to be reported as necessary.

The state department is not required to include the list of birth problems to be reported in the rules required in subsection (a).

~~(b)~~ (c) In adopting rules regarding the reporting of birth problems determining the list of birth problems to be reported under this



**section**, the state department shall give consideration to the following factors:

- (1) The extent to which a condition can be measured or identified.
- (2) The extent to which there is a known intervention for a condition.
- (3) The significance of the burden imposed on the life of the individual by a condition.
- (4) The list of reportable conditions issued by the National Birth Defects Prevention Network.**
- (5) Recommendations made by the Indiana Perinatal Quality Improvement Collaborative.**
- ~~(4)~~ **(6)** Other factors that the state department determines appropriate.

SECTION 4. IC 16-38-4-8, AS AMENDED BY P.L.130-2018, SECTION 83, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 8. (a) The state department shall establish a birth problems registry for the purpose of recording all cases of birth problems that occur in Indiana residents and compiling necessary and appropriate information concerning those cases, as determined by the state department, in order to:

- (1) conduct epidemiologic and environmental studies and to apply appropriate preventive and control measures;
- (2) except for an autism spectrum disorder, inform the parents of children with birth problems:
  - (A) at the time of discharge from the hospital; or
  - (B) if a birth problem is diagnosed during a physician or hospital visit that occurs before the child is:
    - (i) except as provided in item (ii), three (3) years of age at the time of diagnosis; or
    - (ii) five (5) years of age at the time of diagnosis if the disorder is a fetal alcohol spectrum disorder;
 about physicians care facilities, and appropriate community resources, including local step ahead agencies and the infants and toddlers with disabilities program (IC 12-12.7-2);
- (3) except as provided in subsection (d), inform:
  - (A) the individual with problems at any age; or
  - (B) the individual's parent;
 at the time of diagnosis, if the individual's disorder is an autism spectrum disorder, about physicians and appropriate state and community resources, including local step ahead agencies and the infants and toddlers with disabilities program (IC 12-12.7-2); or
- (4) inform citizens regarding programs designed to prevent or



reduce birth problems.

(b) The state department shall record in the birth problems registry:

- (1) all data concerning birth problems of children that are provided from the certificate of live birth;
- (2) any additional information that may be provided by an individual or entity described in section ~~7(a)(2)~~ **7(a)** of this chapter concerning a birth problem that is:

(A) ~~designated~~ **published** in a ~~rule adopted~~ **list** by the state department; and

(B) recognized:

- (i) after the child is discharged from the hospital as a newborn;
- (ii) before the child is five (5) years of age if the child is diagnosed with a fetal alcohol spectrum disorder;
- (iii) before the child is three (3) years of age for any diagnosis not specified in items (ii) and (iv); and
- (iv) at any age if the individual is diagnosed with an autism spectrum disorder; and

(3) information reported to the state department by the office of the secretary under IC 12-12-9-3 concerning a child who is less than five (5) years of age and diagnosed with a visual impairment or blindness.

(c) The state department shall provide a physician and a local health department with necessary forms for reporting under this chapter.

(d) Concerning an individual who is at least eight (8) years of age and diagnosed with an autism spectrum disorder, the state department is not required to do any of the following:

- (1) Report information to the federal Centers for Disease Control and Prevention.
- (2) Confirm the individual's diagnosis.
- (3) Verbally inform an individual of the information set forth in subsection (a)(3).

SECTION 5. IC 16-38-4-9, AS AMENDED BY P.L.141-2014, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 9. (a) Certified nurse midwives, certified direct entry midwives, and individuals and entities described in section ~~7(a)(2)~~ **7(a)** of this chapter shall report each confirmed case of a birth problem that is recognized at the time of birth to the registry not later than sixty (60) days after the birth. An individual or entity described in section ~~7(a)(2)~~ **7(a)** of this chapter who recognizes a birth problem in:

- (1) a child after birth but before the child is five (5) years of age, if the child is diagnosed with a fetal alcohol spectrum disorder;



(2) an individual at any age, if the individual is diagnosed with an autism spectrum disorder; and

(3) a child before the child is three (3) years of age for any birth problem diagnosis not specified in subdivisions (1) and (2);

shall report the birth problem to the registry not later than sixty (60) days after recognizing the birth problem. Information may be provided to amend or clarify an earlier reported case.

(b) A person required to report information to the registry under this section may use, when completing reports required by this chapter, information submitted to any other public or private registry or required to be filed with federal, state, or local agencies. However, the state department may require additional, definitive information.

(c) Exchange of information between state department registries is authorized. The state department may use information from another registry administered by the state department. Information used from other registries remains subject to the confidentiality restrictions on the other registries.

SECTION 6. IC 16-38-5-3, AS AMENDED BY P.L.96-2017, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: 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.

**(12) The United States Centers for Disease Control and Prevention.**

(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 7. IC 16-41-2-1, AS AMENDED BY P.L.8-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1. **(a)** The state department may adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, that ~~do the following:~~

~~(1) Define and classify the following:~~

~~(A) Communicable diseases.~~

~~(B) Other diseases that are a danger to health based upon the characteristics of the disease.~~

~~(2) establish reporting, monitoring, and preventive procedures for communicable diseases.~~



**(b) The state department shall publish a list of:**

- (1) reportable communicable diseases;**
- (2) other diseases or conditions that are a danger to health based upon the characteristics of the disease or condition; and**
- (3) the control measures for the diseases and conditions;**

**on the state department's Internet web site. The state department is not required to adopt rules under subsection (a) for the list described in this subsection.**

**(c) In updating the list described in subsection (b), the state department:**

**(1) shall consider recommendations from:**

- (A) the United States Centers for Disease Control and Prevention; and**
- (B) the Council of State and Territorial Epidemiologists; and**

**(2) may consult with local health departments.**

SECTION 8. IC 16-41-8-1, AS AMENDED BY P.L.65-2016, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1. (a) As used in this chapter, "potentially disease transmitting offense" means any of the following:

- (1) Battery (IC 35-42-2-1) or domestic battery (IC 35-42-2-1.3) involving placing a bodily fluid or waste on another person.
- (2) An offense relating to a criminal sexual act (as defined in IC 35-31.5-2-216), if sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) occurred.

The term includes an attempt to commit an offense, if sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) occurred, and a delinquent act that would be a crime if committed by an adult.

(b) Except as provided in this chapter, a person may not disclose or be compelled to disclose medical or epidemiological information involving a communicable disease or other disease that is a danger to health (as defined under rules adopted set forth in the list published under IC 16-41-2-1). This information may not be released or made public upon subpoena or otherwise, except under the following circumstances:

- (1) Release may be made of medical or epidemiologic information for statistical purposes if done in a manner that does not identify an individual.
- (2) Release may be made of medical or epidemiologic information with the written consent of all individuals identified in the information released.



(3) Release may be made of medical or epidemiologic information to the extent necessary to enforce public health laws, laws described in IC 31-37-19-4 through IC 31-37-19-6, IC 31-37-19-9 through IC 31-37-19-10, IC 31-37-19-12 through IC 31-37-19-23, IC 35-38-1-7.1, and IC 35-45-21-1 or to protect the health or life of a named party.

(4) Release may be made of the medical information of a person in accordance with this chapter.

(c) Except as provided in this chapter, a person responsible for recording, reporting, or maintaining information required to be reported under IC 16-41-2 who recklessly, knowingly, or intentionally discloses or fails to protect medical or epidemiologic information classified as confidential under this section commits a Class A misdemeanor.

(d) In addition to subsection (c), a public employee who violates this section is subject to discharge or other disciplinary action under the personnel rules of the agency that employs the employee.

(e) Release shall be made of the medical records concerning an individual to:

- (1) the individual;
- (2) a person authorized in writing by the individual to receive the medical records; or
- (3) a coroner under IC 36-2-14-21.

(f) An individual may voluntarily disclose information about the individual's communicable disease.

(g) The provisions of this section regarding confidentiality apply to information obtained under IC 16-41-1 through IC 16-41-16.

SECTION 9. IC 16-41-16-4, AS AMENDED BY P.L.213-2016, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. (a) Except as provided in subsections (c) and (d), as used in this chapter, "infectious waste" means waste that epidemiologic evidence indicates is capable of transmitting a dangerous communicable disease (as ~~defined by rule adopted set forth~~ **in the list published** under IC 16-41-2-1).

(b) The term includes the following:

- (1) Pathological wastes.
- (2) Biological cultures and associated biologicals.
- (3) Contaminated sharps.
- (4) Infectious agent stock and associated biologicals.
- (5) Blood and blood products in liquid or semiliquid form.
- (6) Laboratory animal carcasses, body parts, and bedding.
- (7) Wastes (as described under section 8 of this chapter).

(c) "Infectious waste", as the term applies to a:





(1) home health agency; or  
(2) hospice service delivered in the home of a hospice patient;  
includes only contaminated sharps.

(d) The term does not include an aborted fetus or a miscarried fetus.

SECTION 10. IC 25-26-13-24.5, AS ADDED BY P.L.202-2017, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: 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.



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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

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Governor of the State of Indiana

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

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