

First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1203

AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 16-19-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. The state department of health is established. **The department may officially be known as the Indiana department of health.**

SECTION 2. IC 16-19-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 4. The executive board ~~or an appeals panel if designated by statute~~, **or the executive board's designee** is the ultimate authority under IC 4-21.5 for any matter concerning the state department.

SECTION 3. IC 16-19-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. (a) The state health commissioner, by virtue of the state health commissioner's office, is secretary and executive officer of the executive board.

(b) The state health commissioner is the appointing authority and director of the department.

SECTION 4. IC 16-19-4-4, AS AMENDED BY P.L.6-2016, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 4. (a) The state health commissioner ~~is~~ **and any physicians employed by the department are** governed in the performance of ~~the state health commissioner's~~ **their** official duties by IC 4-2-6 and IC 35-44.1-1-4 concerning ethics and conflict of interest.

(b) To learn professional skills and to become familiar with new

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developments in the field of medicine, and except as provided in IC 16-42-27-2(f), the state health commissioner may, in an individual capacity as a licensed physician and not in an official capacity as state health commissioner, engage in the practice of medicine if the practice of medicine does not interfere with the performance of the state health commissioner's duties as state health commissioner.

(c) The state health commissioner may designate in writing employees in the department who are licensed as a physician and may engage in the practice of medicine outside of their official duties.

SECTION 5. IC 16-19-4-5, AS AMENDED BY P.L.6-2016, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 5. **(a)** This section does not apply to the prescribing, dispensing, or issuance of a standing order for an overdose intervention drug under IC 16-42-27-2.

(b) The state is not liable for any act performed by the state health commissioner or a physician employed by the department for any medical care provided to a patient by the state health commissioner is provided by the state health commissioner or a physician employed by the department that is provided in an individual capacity as a licensed physician. and the state is not liable for any act performed by the state health commissioner in this capacity.

SECTION 6. IC 16-19-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 6. The state health commissioner is entitled to receive a salary in an amount to be fixed by ~~the executive board with the approval of the governor~~ **and the state budget agency.**

SECTION 7. IC 16-19-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 8. (a) The state health commissioner may ~~subject to the approval of the executive board,~~ organize the personnel and functions of the state department into divisions and subdivisions to carry out the state health commissioner's powers and duties and the powers and duties of the state department.

(b) The state health commissioner may periodically consolidate, divide, or abolish divisions and subdivisions as is necessary to carry out those powers and duties.

SECTION 8. IC 16-19-10-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The state department shall support the goals and objectives of the state's counterterrorism programs by collecting data related to:

- (1) symptoms; and
- (2) health syndromes;



from outbreaks or suspected outbreaks of diseases or other health conditions that may be a danger to public health.

(b) A health care provider or other entity that collects data described in subsection (a) shall report to the state department in accordance with rules adopted under section 5 of this chapter.

(c) The state department shall establish reporting, monitoring, and prevention procedures for data collected under this section.

(d) Data:

- (1) collected under subsection (a); or
- (2) reported under subsection (b);

from which the identity of an individual may be ascertained are confidential.

(e) The state department may release data collected under this section to an Indiana nonprofit entity that performs health data services for health care providers if the state department:

- (1) determines that the release is necessary as part of a response to a public health event, including an outbreak, epidemic, or pandemic; and**
- (2) executes a data use agreement with the entity that specifies the permitted use and disclosure of any released information.**

SECTION 9. IC 16-21-4-2, AS AMENDED BY P.L.205-2019, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 2. (a) The state department shall appoint an appeals panel consisting of three (3) members as follows:

- (1) One (1) member of the executive board.
- (2) One (1) attorney admitted to the practice of law in Indiana.
- (3) One (1) individual with qualifications determined by the state department.

(b) An employee of the state department may not be a member of the panel.

(c) The panel shall conduct proceedings for review of an order **if the following apply:**

- (1) The order was issued, ~~by,~~ before July 1, 2020; an administrative law judge under this chapter; or, after June 30, 2020, 2021, by an administrative law judge (as defined in IC 4-21.5-1-2).**
- (2) The request for the review of the order was filed before July 1, 2021.**

The panel is the ultimate authority under IC 4-21.5 **for an appeal that is filed before July 1, 2021.**

(d) This section expires July 1, 2022.

SECTION 10. IC 16-25-5-7, AS AMENDED BY P.L.205-2019,



SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 7. (a) For an appeal under section 6 of this chapter, the executive board shall appoint an appeals panel consisting of three (3) members as follows:

- (1) One (1) member of the executive board.
- (2) One (1) attorney admitted to the practice of law in Indiana.
- (3) One (1) individual with qualifications determined by the executive board.

(b) An employee of the state department may not be a member of the appeals panel.

(c) The appeals panel shall conduct proceedings for review of an order **if the following apply:**

(1) The order was issued, by, before July 1, 2020, an administrative law judge under this chapter; or, after June 30, 2020, 2021, by an administrative law judge (as defined in IC 4-21.5-1-2).

(2) The request for the review of the order was filed before July 1, 2021.

The appeals panel is the ultimate authority under IC 4-21.5 **for an appeal that is filed before July 1, 2021.**

(d) The costs of the proceedings, including the fees of the appeals panel, shall be paid as follows:

- (1) By the hospice, if the appeals panel finds in favor of the state department.
- (2) By the state department, if the appeals panel finds in favor of the hospice.

(e) This section expires July 1, 2022.

SECTION 11. IC 16-27-1-14, AS AMENDED BY P.L.205-2019, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 14. (a) The executive board shall appoint an appeals panel consisting of three (3) members as follows:

- (1) One (1) member of the executive board.
- (2) One (1) attorney admitted to the practice of law in Indiana who is not an employee of the state department.
- (3) One (1) individual with qualifications determined by the executive board.

(b) An employee of the state department may not be a member of the panel.

(c) The panel shall conduct proceedings for review of an order **if the following apply:**

(1) The order was issued, by, before July 1, 2020, an administrative law judge under this chapter; or, after June 30,



~~2020; 2021~~, by an administrative law judge (as defined in IC 4-21.5-1-2).

(2) The request for the review of the order was filed before July 1, 2021.

The panel is the ultimate authority under IC 4-21.5 **for an appeal that is filed before July 1, 2021.**

(d) This section expires July 1, 2022.

SECTION 12. IC 16-27-4-22, AS AMENDED BY P.L.205-2019, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 22. (a) In response to a request for review of an order referred to in subsection (c), the executive board shall appoint an appeals panel that consists of three (3) members as follows:

- (1) One (1) member of the executive board.
- (2) One (1) attorney admitted to the practice of law in Indiana.
- (3) One (1) individual with qualifications determined by the executive board.

(b) An employee of the state department may not be a member of the panel.

(c) The panel shall conduct proceedings for review of an order **if the following apply:**

(1) The order was issued, ~~by,~~ before July 1, ~~2020; an administrative law judge under this chapter; or, after June 30; 2020; 2021~~, by an administrative law judge (as defined in IC 4-21.5-1-2).

(2) The request for the review of the order was filed before July 1, 2021.

The panel is the ultimate authority under IC 4-21.5 **for an appeal that is filed before July 1, 2021.**

(d) This section expires July 1, 2022.

SECTION 13. IC 16-28-10-2, AS AMENDED BY P.L.205-2019, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 2. (a) The executive board shall appoint an appeals panel consisting of three (3) members as follows:

- (1) One (1) member of the executive board.
- (2) One (1) attorney admitted to the practice of law in Indiana.
- (3) One (1) individual with qualifications determined by the executive board.

(b) An employee of the state may not be a member of the panel.

(c) An appeals panel shall conduct proceedings for review of an order **if the following apply:**

(1) The order was issued, ~~by,~~ before July 1, ~~2020; an administrative law judge under this chapter; or, after June 30;~~



~~2020~~, **2021**, by an administrative law judge (as defined in IC 4-21.5-1-2).

(2) The request for the review of the order was filed before July 1, 2021.

The panel is the ultimate authority under IC 4-21.5 **for an appeal that is filed before July 1, 2021.**

(d) The cost of the proceedings, including the fees of the appeals panel, shall be paid as follows:

- (1) By the health facility if the panel finds in favor of the state.
- (2) By the state if the panel finds in favor of the health facility.

(e) This section expires July 1, 2022.

SECTION 14. IC 16-38-5-3, AS AMENDED BY P.L.218-2019, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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.

(13) An Indiana nonprofit entity that performs health data services for health care providers, if the state department executes a data use agreement with the entity that specifies the permitted use and disclosure of any released information.

(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 15. IC 16-41-7.5-14, AS AMENDED BY P.L.112-2020, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 14. This chapter expires July 1, ~~2022~~. **2026**.

SECTION 16. IC 16-41-8-1, AS AMENDED BY P.L.112-2020, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 serious disease (as 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.

(5) Release may be made of the medical information or epidemiologic information of a person to an Indiana nonprofit entity that performs health data services for health care providers if the state department:

(A) determines that the release is necessary as part of a response to a public health event, including an outbreak, epidemic, or pandemic; and

(B) executes a data use agreement with the entity that specifies the permitted use and disclosure of any released information.

(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 17. IC 34-30-2-64.5, AS ADDED BY P.L.86-2018, SECTION 267, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 64.5. IC 16-19-4-5 (Concerning the state for medical care provided to a patient by the state health commissioner **or a physician employed by the state department of health** in an individual capacity).

SECTION 18. **An emergency is declared for this act.**



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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