

## **IC 16-41-10**

### **Chapter 10. Communicable Disease: Exposure Notification for Emergency Care Providers**

#### **IC 16-41-10-1**

##### **"Emergency medical services provider" defined**

Sec. 1. As used in this chapter, "emergency medical services provider" means a firefighter, a law enforcement officer, a paramedic, an emergency medical technician, a physician licensed under IC 25-22.5, a nurse licensed under IC 25-23, or other person who provides emergency medical services in the course of the person's employment.

*As added by P.L.2-1993, SEC.24. Amended by P.L.186-1995, SEC.15; P.L.212-2003, SEC.5.*

#### **IC 16-41-10-2**

##### **Notification of emergency medical services providers**

Sec. 2. (a) An emergency medical services provider who is exposed to blood or body fluids while providing emergency medical services to a patient may request notification concerning exposure to a dangerous communicable disease under this chapter if the exposure is of a type that has been demonstrated epidemiologically to transmit a dangerous communicable disease.

(b) If an emergency medical services provider desires to be notified of results of testing following a possible exposure to a dangerous communicable disease under this chapter, the emergency medical services provider shall notify the emergency medical services provider's employer not more than twenty-four (24) hours after the emergency medical services provider is exposed on a form that is prescribed by the state department and the Indiana emergency medical services commission.

(c) The emergency medical services provider shall distribute a copy of the completed form required under subsection (b) to the following:

- (1) If applicable, the medical director of the emergency department of the medical facility:
  - (A) to which the patient was admitted following the exposure; or
  - (B) in which the patient was located at the time of the exposure.
- (2) The emergency medical services provider's employer.
- (3) The state department.

*As added by P.L.2-1993, SEC.24. Amended by P.L.186-1995, SEC.16; P.L.212-2003, SEC.6.*

#### **IC 16-41-10-2.5**

##### **Consent by patient to testing and release of testing results; refusing testing; petitioning court**

Sec. 2.5. (a) A patient (including a patient who is unable to consent due to physical or mental incapacity) to whose blood or body

fluids an emergency medical services provider is exposed as described in section 2 of this chapter is considered to have consented to:

- (1) testing for the presence of a dangerous communicable disease of a type that has been epidemiologically demonstrated to be transmittable by an exposure of the kind experienced by the emergency medical services provider; and
- (2) release of the testing results to a medical director or physician described in section 3 of this chapter.

The medical director or physician shall notify the emergency medical services provider of the test results.

(b) If a patient described in subsection (a) refuses to provide a blood or body fluid specimen for testing for a dangerous communicable disease, the exposed emergency medical services provider, the exposed emergency medical services provider's employer, or the state department may petition the circuit or superior court having jurisdiction in the county:

- (1) of the patient's residence; or
- (2) where the employer of the exposed emergency medical services provider has the employer's principal office;

for an order requiring that the patient provide a blood or body fluid specimen.

*As added by P.L.212-2003, SEC.7.*

### **IC 16-41-10-3**

#### **Notification of facilities**

Sec. 3. (a) Except as provided in subsection (b), if a patient to whose blood or body fluids an emergency medical services provider is exposed as described in section 2 of this chapter:

- (1) is admitted to a medical facility following the exposure or is located in a medical facility at the time of the exposure, a physician designated by the medical facility shall, not more than seventy-two (72) hours after the medical facility is notified under section 2 of this chapter:

(A) cause a blood or body fluid specimen to be obtained from the patient and testing to be performed for a dangerous communicable disease of a type that has been epidemiologically demonstrated to be transmittable by an exposure of the kind experienced by the emergency medical services provider; and

(B) notify the medical director of the emergency medical services provider's employer; or

- (2) is not described in subdivision (1), the exposed emergency medical services provider, the exposed emergency medical services provider's employer, or the state department may:

(A) arrange for testing of the patient as soon as possible; or

(B) petition the circuit or superior court having jurisdiction in the county of the patient's residence or where the employer of the exposed emergency medical services provider has the employer's principal office for an order

requiring that the patient provide a blood or body fluid specimen.

(b) An emergency medical services provider may, on the form described in section 2 of this chapter, designate a physician other than the medical director of the emergency medical services provider's employer to receive the test results.

(c) The medical director or physician described in this section shall notify the emergency medical services provider of the test results not more than forty-eight (48) hours after the medical director or physician receives the test results.

*As added by P.L.2-1993, SEC.24. Amended by P.L.186-1995, SEC.17; P.L.212-2003, SEC.8; P.L.97-2004, SEC.69.*

#### **IC 16-41-10-3.5**

##### **Prohibiting physical restraint; releasing patient; immunity**

Sec. 3.5. (a) A medical facility may not physically restrain a patient described in section 2.5 of this chapter in order to test the patient for the presence of a dangerous communicable disease.

(b) Nothing in this chapter prohibits a patient from being discharged from a medical facility before:

- (1) a test is performed under section 2.5 or 3 of this chapter; or
- (2) the results of a test are released under section 3 of this chapter.

(c) A provider or a facility that tests a patient for the presence of a dangerous communicable disease under section 2.5 or section 3 of this chapter is immune from liability for the performance of the test over the patient's objection or without the patient's consent. However, this subsection does not apply to an act or omission that constitutes gross negligence or willful or wanton misconduct.

*As added by P.L.212-2003, SEC.9.*

#### **IC 16-41-10-4**

##### **Disclosure of exposure to infectious disease; treatment and counseling**

Sec. 4. (a) A medical director or physician notified under section 3 of this chapter shall, not more than forty-eight (48) hours after receiving the notification under section 3 of this chapter, contact the emergency medical services provider described in section 2 of this chapter to do the following:

- (1) Explain, without disclosing information about the patient, the dangerous communicable disease to which the emergency medical services provider was exposed.
- (2) Provide for any medically necessary treatment and counseling to the emergency medical services provider.

(b) Expenses of testing or treatment and counseling are the responsibility of the emergency medical services provider or the provider's employer.

*As added by P.L.2-1993, SEC.24. Amended by P.L.186-1995, SEC.18; P.L.212-2003, SEC.10.*

#### **IC 16-41-10-5**

##### **Disclosure of medical or epidemiological information; penalties**

Sec. 5. (a) Except as otherwise provided in this chapter, the medical information referred to in this chapter is confidential, and a person may not disclose or be compelled to disclose medical or epidemiological information referred to in this chapter.

(b) A person responsible for recording, reporting, or maintaining information referred to in this chapter who recklessly, knowingly, or intentionally discloses or fails to protect medical or epidemiological information classified as confidential under this section commits a Class A misdemeanor.

(c) In addition to the penalty prescribed by subsection (b), 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.

*As added by P.L.2-1993, SEC.24. Amended by P.L.212-2003, SEC.11.*

#### **IC 16-41-10-6**

##### **Good faith reports; immunity**

Sec. 6. A person who makes a report under this chapter in good faith is not subject to liability in a civil, an administrative, a disciplinary, or a criminal action.

*As added by P.L.2-1993, SEC.24.*

#### **IC 16-41-10-7**

##### **Violations**

Sec. 7. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.

*As added by P.L.2-1993, SEC.24.*

#### **IC 16-41-10-8**

##### **Rules**

Sec. 8. The state department shall adopt rules under IC 4-22-2 to carry out this chapter.

*As added by P.L.2-1993, SEC.24.*