

IC 16-41-11

Chapter 11. Communicable Disease: Training in Health Precautions for Communicable Diseases

IC 16-41-11-1

Employer

Sec. 1. As used in this chapter, "employer" has the meaning set forth in IC 22-8-1.1-1.

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

IC 16-41-11-2

Facility

Sec. 2. As used in this chapter, "facility" means a building where an individual handles blood or other body fluids in the regular course of the individual's employment.

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

IC 16-41-11-3

Universal precautions

Sec. 3. As used in this chapter, "universal precautions" means procedures specified by rule adopted by the state department under IC 4-22-2 that are used to prevent the transmission of dangerous communicable diseases, including acquired immune deficiency syndrome (AIDS), through blood or other body fluids.

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

IC 16-41-11-4

Use of universal precautions

Sec. 4. An individual who has professional, employment, or volunteer duties that require the individual to have direct contact with blood or body fluids in the scope of the individual's duties must use universal precautions.

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

IC 16-41-11-5

Training and equipment

Sec. 5. An employer shall provide training and the necessary equipment to each employee and student trainee who has duties that require the employee to have direct contact with blood or body fluids in the scope of the employee's employment. The employer shall comply with the following:

- (1) The training must be provided before the individual is given an assignment where contact with blood or body fluids is likely.
- (2) The training must include training in the universal precautions and other infection control measures that the state department adopts by rule under IC 4-22-2.
- (3) An attendance record must be maintained of an individual's participation in the training that is provided. The record must be made available to the state department for inspection under section 7 of this chapter.

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

IC 16-41-11-6

Personnel policy

Sec. 6. An employer who is required to provide training under section 5 of this chapter shall develop a written personnel policy that does the following:

- (1) Requires the use of universal precautions when an individual has direct contact with blood or other body fluids.
- (2) Provides sanctions, including discipline and dismissal if warranted, for failure to use universal precautions.

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

IC 16-41-11-7

Inspections; compliance orders; civil penalties; reports of violations

Sec. 7. (a) The state department may designate an agent who, upon presentation of proper credentials, may enter a facility to inspect for possible violations of this chapter or rules adopted under this chapter.

(b) The state department may commence an action under IC 4-21.5-3-6 or IC 4-21.5-4 for issuance of an order of compliance and civil penalty not to exceed one thousand dollars (\$1,000) per violation per day against a person who does any of the following:

- (1) Fails to comply with this chapter or rules adopted under this chapter.
- (2) Interferes with or obstructs the state department or the state department's designated agent in the performance of official duties under this chapter.

(c) The state department may commence an action against a facility under either:

- (1) subsection (b); or
- (2) the licensure statute for the facility;

if the facility is licensed by the state department. However, the state department may not bring an action arising out of one (1) incident under both statutes.

(d) The state department may report to any other board or agency responsible for licensure, registration, or certification of health care providers, facilities, or other health care workers an individual or facility that is found to be operating in violation of this chapter or rules adopted under this chapter.

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

IC 16-41-11-8

Complaints

Sec. 8. (a) A person who believes that this chapter or rules adopted under this chapter have been violated may file a complaint with the state department. A complaint must be in writing unless the violation complained of constitutes an emergency. The state department shall reduce an oral complaint to writing. The state

department shall maintain the confidentiality of the person who files the complaint.

(b) The state department shall promptly investigate all complaints received under this section.

(c) The state department shall not disclose the name or identifying characteristics of the person who files a complaint under this section unless:

- (1) the person consents in writing to the disclosure; or
- (2) the investigation results in an administrative or judicial proceeding and disclosure is ordered by the administrative law judge or the court.

(d) The state department shall give a person who files a complaint under this section the opportunity to withdraw the complaint before disclosure.

(e) An employee must make a reasonable attempt to ascertain the correctness of any information to be furnished and may be subject to disciplinary actions for knowingly furnishing false information, including suspension or dismissal, as determined by the employer or the ethics commission. However, an employee disciplined under this subsection is entitled to process an appeal of the disciplinary action under any procedure otherwise available to the employee by employment contract, collective bargaining agreement, or, if the employee is an employee of the state, IC 4-15-2.2-42.

(f) The employer of an employee who files a complaint in good faith with the state department under this section may not, solely in retaliation for filing the complaint, do any of the following:

- (1) Dismiss the employee.
- (2) Withhold salary increases or employment related benefits from the employee.
- (3) Transfer or reassign the employee.
- (4) Deny a promotion that the employee would have received.
- (5) Demote the employee.

As added by P.L.2-1993, SEC.24. Amended by P.L.222-2005, SEC.31; P.L.6-2012, SEC.121.

IC 16-41-11-9

Rules

Sec. 9. The state department shall adopt rules under IC 4-22-2 to implement this chapter.

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

IC 16-41-11-10

Expert review panels

Sec. 10. (a) This section does not apply to a medical review panel created under IC 34-18-10 (or IC 27-12-10 before its repeal) or a peer review committee (as defined in IC 34-6-2-99).

(b) The state department may authorize by rule expert review panels to provide confidential consultation and advice to health care workers who are:

- (1) infected with the human immunodeficiency virus (HIV); or

(2) infected with the hepatitis-B virus (HBV) and are hepatitis-Be antigen (HBeAg) positive.

(c) All proceedings and communications of an authorized expert review panel are confidential and privileged communications.

(d) A member or a member of the staff of an authorized expert review panel is immune from any civil liability for any act, statement, determination, or recommendation made in good faith in the scope of the panel's duties.

As added by P.L.95-1994, SEC.3. Amended by P.L.1-1998, SEC.123.