

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

### **Chapter 7. Communicable Disease: Duty or Authority to Warn or Notify**

#### **IC 16-41-7-1**

##### **Carriers' duty to warn persons at risk**

Sec. 1. (a) This section applies to the following dangerous communicable diseases:

- (1) Acquired immune deficiency syndrome (AIDS).
- (2) Human immunodeficiency virus (HIV).
- (3) Hepatitis B.

(b) As used in this section, "high risk activity" means sexual or needle sharing contact that has been demonstrated epidemiologically to transmit a dangerous communicable disease described in subsection (a).

(c) As used in this section, "person at risk" means:

- (1) past and present sexual or needle sharing partners who may have engaged in high risk activity; or
- (2) sexual or needle sharing partners before engaging in high risk activity;

with the carrier of a dangerous communicable disease described in subsection (a).

(d) Carriers who know of their status as a carrier of a dangerous communicable disease described in subsection (a) have a duty to warn or cause to be warned by a third party a person at risk of the following:

- (1) The carrier's disease status.
- (2) The need to seek health care such as counseling and testing.

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

#### **IC 16-41-7-2**

##### **Reporting of persons posing serious and present danger or being at risk**

Sec. 2. (a) A carrier is a "serious and present danger to the health of others" under the following conditions:

- (1) The carrier engages repeatedly in a behavior that has been demonstrated epidemiologically (as defined by rules adopted by the state department under IC 4-22-2) to transmit a dangerous communicable disease or that indicates a careless disregard for the transmission of the disease to others.
- (2) The carrier's past behavior or statements indicate an imminent danger that the carrier will engage in behavior that transmits a dangerous communicable disease to others.
- (3) The carrier has failed or refused to carry out the carrier's duty to warn under section 1 of this chapter.

(b) A person who has reasonable cause to believe that a person:

- (1) is a serious and present danger to the health of others as described in subsection (a);
- (2) has engaged in noncompliant behavior; or
- (3) is suspected of being a person at risk (as described in section

1 of this chapter);  
may report that information to a health officer.

(c) A person who makes a report under subsection (b) in good faith is not subject to liability in a civil, an administrative, a disciplinary, or a criminal action.

(d) A person who knowingly or recklessly makes a false report under subsection (b) is civilly liable for actual damages suffered by a person reported on and for punitive damages.

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

### **IC 16-41-7-3**

#### **Notification by physician**

Sec. 3. (a) A licensed physician who diagnoses, treats, or counsels a patient with a dangerous communicable disease shall inform the patient of the patient's duty under section 1 of this chapter.

(b) A physician described in subsection (a) may notify the following:

(1) A health officer if the physician has reasonable cause to believe that a patient:

(A) is a serious and present danger to the health of others as described in section 2(a) of this chapter;

(B) has engaged in noncompliant behavior; or

(C) is suspected of being a person at risk (as defined in section 1 of this chapter).

(2) A person at risk (as defined in section 1 of this chapter) or a person legally responsible for the patient if the physician:

(A) has medical verification that the patient is a carrier;

(B) knows the identity of the person at risk;

(C) has a reasonable belief of a significant risk of harm to the identified person at risk;

(D) has reason to believe the identified person at risk has not been informed and will not be informed of the risk by the patient or another person; and

(E) has made reasonable efforts to inform the carrier of the physician's intent to make or cause the state department of health to make a disclosure to the person at risk.

(c) A physician who notifies a person at risk under this section shall do the following:

(1) Identify the dangerous communicable disease.

(2) Inform the person of available health care measures such as counseling and testing.

(d) A physician who in good faith provides notification under this section is not subject to liability in a civil, an administrative, a disciplinary, or a criminal action.

(e) A patient's privilege with respect to a physician under IC 34-46-3-1 is waived regarding:

(1) notification under subsection (b); and

(2) information provided about a patient's noncompliant behavior in an investigation or action under this chapter, IC 16-41-2, IC 16-41-3, IC 16-41-5, IC 16-41-6, IC 16-41-8,

IC 16-41-9, IC 16-41-13, IC 16-41-14, and IC 16-41-16.

(f) A physician's immunity from liability under subsection (d) applies only to the provision of information reasonably calculated to protect an identified person who is at epidemiological risk of infection.

(g) A physician who notifies a person under this section is also required to satisfy the reporting requirements under IC 16-41-2-2 through IC 16-41-2-8.

*As added by P.L.2-1993, SEC.24. Amended by P.L.1-1998, SEC.122.*

#### **IC 16-41-7-4**

##### **Investigation of carriers; notification of persons at risk**

Sec. 4. (a) As used in this section, "person at risk" means an individual who in the best judgment of a licensed physician:

- (1) has engaged in high risk activity (as defined in section 1 of this chapter); or
- (2) is in imminent danger of engaging in high risk activity (as defined in section 1 of this chapter).

(b) If a health officer is notified in writing by a physician under section 3(b)(1)(A) of this chapter of a patient:

- (1) for whom the physician has medical verification that the patient is a carrier; and
- (2) who, in the best judgment of the physician, is a serious and present danger to the health of others;

the health officer shall make an investigation of the carrier as authorized in IC 16-41-5-2 to determine whether the environmental conditions surrounding the carrier or the conduct of the carrier requires the intervention by the health officer or designated health official to prevent the spread of disease to others.

(c) If the state department is requested in writing by a physician who has complied with the requirements of section 3(b)(2) of this chapter to notify a person at risk, the state department shall notify the person at risk unless, in the opinion of the state department, the person at risk:

- (1) has already been notified;
- (2) will be notified; or
- (3) will otherwise be made aware that the person is a person at risk.

(d) The state department shall establish a confidential registry of all persons submitting written requests under subsection (c).

(e) The state department shall adopt rules under IC 4-22-2 to implement this section. Local health officers may submit advisory guidelines to the state department to implement this chapter, IC 16-41-1, IC 16-41-3, IC 16-41-5, IC 16-41-8, or IC 16-41-9. The state department shall fully consider such advisory guidelines before adopting a rule under IC 4-22-2-29 implementing this chapter, IC 16-41-1, IC 16-41-3, IC 16-41-5, IC 16-41-8, or IC 16-41-9.

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

#### **IC 16-41-7-5 Version a**

**Violations**

*Note: This version of section effective until 7-1-2014. See also following version of this section, effective 7-1-2014.*

Sec. 5. (a) Except as provided in IC 35-42-1-9, 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. Amended by P.L.1-1999, SEC.47.*

**IC 16-41-7-5 Version b****Violations**

*Note: This version of section effective 7-1-2014. See also preceding version of this section, effective until 7-1-2014.*

Sec. 5. (a) Except as provided in IC 35-45-21-3, 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. Amended by P.L.1-1999, SEC.47; P.L.158-2013, SEC.240.*