

## **IC 16-41-14**

### **Chapter 14. Communicable Disease: Testing of Semen Used in Artificial Insemination for Communicable and Sexually Transmitted Diseases**

#### **IC 16-41-14-0.2**

##### **Application of certain amendments to prior law**

Sec. 0.2. P.L.184-1989 does not apply to semen donations that are provided to a practitioner (as defined in IC 16-8-7.5-5, before its repeal, now codified at section 4 of this chapter and at IC 16-18-2-288) before July 1, 1989.

*As added by P.L.220-2011, SEC.321.*

#### **IC 16-41-14-1**

##### **Application of chapter to husbands**

Sec. 1. This chapter does not apply to a donor who is the husband of the recipient.

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

#### **IC 16-41-14-2**

##### **Artificial insemination**

Sec. 2. As used in this chapter, "artificial insemination" means the introduction of semen into the vagina or cervix of a woman by means other than through the act of coitus.

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

#### **IC 16-41-14-3**

##### **Donor insemination**

Sec. 3. As used in this chapter, "donor insemination" means artificial insemination by a donor.

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

#### **IC 16-41-14-4**

##### **Practitioner**

Sec. 4. As used in this chapter, "practitioner" means a person who:

- (1) performs donor insemination; or
- (2) receives, processes, or stores semen intended for donor insemination.

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

#### **IC 16-41-14-5**

##### **Disease testing; reports; pretesting donation**

Sec. 5. (a) Except as provided in subsection (e) and section 7 of this chapter, a practitioner shall test each donor of semen for the following diseases before the donor provides a donation:

- (1) Syphilis.
- (2) Hepatitis B surface antigen and core antibody.
- (3) HIV antibody.

(b) Except as provided in section 7 of this chapter, a practitioner shall test each recipient initially and at least annually as long as

artificial insemination procedures are continuing for the following diseases:

- (1) Syphilis.
- (2) Hepatitis B surface antigen.
- (3) HIV antibody.

(c) A practitioner shall perform or arrange for a confirmatory test for HIV antibody if the initial screening test for HIV antibody yields positive results.

(d) The practitioner shall report the information required under IC 16-41-2 when a test performed under subsection (c) confirms the presence of a disease required to be reported to the state department.

(e) If a practitioner states in writing that a person has a disease or will soon undergo medical treatment that may damage the person's:

- (1) ability to donate semen; or
- (2) semen;

the practitioner shall allow the person to donate semen before performing the tests required under subsection (a).

*As added by P.L.2-1993, SEC.24. Amended by P.L.255-1996, SEC.14.*

#### **IC 16-41-14-6**

##### **Testing rules**

Sec. 6. The state department shall adopt rules under IC 4-22-2 to provide for testing for communicable and sexually transmitted diseases under this chapter, including the identification of the diseases to be tested and the type of test to be used.

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

#### **IC 16-41-14-7**

##### **Use of semen; conditions; HIV testing**

Sec. 7. (a) Except as provided in subsection (b), a practitioner may not use a donation of semen until the following conditions are met:

- (1) The specimen has been frozen and quarantined for at least one hundred eighty (180) days.
- (2) The donor is retested after one hundred eighty (180) days for the HIV antibody.

(b) If the recipient indicates that the donor is in a mutually monogamous relationship with the recipient, the practitioner:

- (1) shall perform the HIV test required under this chapter for the donor at least annually as long as artificial insemination procedures are continuing; and
- (2) may not perform artificial insemination unless the tests for HIV antibody performed under this chapter produce negative results.

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

#### **IC 16-41-14-8**

##### **Disposal of HIV infected semen**

Sec. 8. A practitioner shall dispose of a donation of semen after a confirmatory test indicates the presence of the HIV antibody. The

disposal must be made according to the rules concerning the disposal of infectious waste.

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

#### **IC 16-41-14-9**

##### **Reporting of diseases; notification of donors**

Sec. 9. (a) A practitioner shall report the name and address of a donor or recipient to the state department if a required test shows the presence of a disease required to be reported under IC 16-41-2.

(b) A practitioner shall attempt to notify a donor or recipient if a required test indicates the presence of a disease that must be reported under IC 16-41-2.

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

#### **IC 16-41-14-10**

##### **Referral of HIV infected donors to counseling**

Sec. 10. A practitioner shall refer a donor or recipient to appropriate counseling if a confirmatory test indicates the presence of the HIV antibody.

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

#### **IC 16-41-14-11**

##### **Additional testing**

Sec. 11. A practitioner or other person is not required to perform a test on the donor's semen if the following conditions are met:

- (1) The semen is labeled indicating that the semen has been previously tested as required by this chapter.
- (2) Evidence is submitted that the donor has been tested as required by this chapter and all tests were negative.

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

#### **IC 16-41-14-12**

##### **Donor information**

Sec. 12. (a) A practitioner shall require a semen donor to provide the following information:

- (1) Name.
- (2) Address.
- (3) Date of birth.

(b) A practitioner shall request a semen donor to provide the semen donor's Social Security number.

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

#### **IC 16-41-14-13**

##### **Informed consent**

Sec. 13. A practitioner shall provide information to a semen donor to enable the semen donor to give informed consent to the procedures required by this chapter. The information required by this section must be in the following form:

##### NOTICE

- (1) This facility performs a screening test for the human

immunodeficiency virus (HIV) on every donor's blood.

(2) This facility reports to the state department of health the name and address of a semen donor or recipient when a confirmatory test of the semen donor's blood or the recipient's blood confirms the presence of antibodies to the human immunodeficiency virus (HIV).

(3) A person who, for the purpose of artificial insemination, recklessly, knowingly, or intentionally donates, sells, or transfers semen that contains antibodies for the human immunodeficiency virus (HIV) commits transferring contaminated semen, a Level 5 felony. The offense is a Level 4 felony if the offense results in the transmission of the virus to another person.

*As added by P.L.2-1993, SEC.24. Amended by P.L.158-2013, SEC.244.*

#### **IC 16-41-14-14**

##### **Practitioners' records; inspections**

Sec. 14. (a) A practitioner shall keep the following:

(1) A record of the information required under this chapter.

(2) The results of tests required under sections 5 and 7 of this chapter.

(3) A writing required under section 5(e) of this chapter.

(b) Records kept under this section shall be made available to the state department for inspection.

(c) The state department may enter and inspect a practitioner's facility to investigate the premises, books, and records as necessary to carry out this chapter.

(d) A person may not interfere with the performance of the state department of health under this chapter.

*As added by P.L.2-1993, SEC.24. Amended by P.L.255-1996, SEC.15.*

#### **IC 16-41-14-15**

##### **Confidentiality of information; violations**

Sec. 15. (a) A person may not disclose or be compelled to disclose information collected under this chapter or rules adopted under this chapter. This information may not be released or made public on subpoena or otherwise, except under the following circumstances:

(1) Release may be made of the information for statistical purposes if done in a manner that does not identify an individual.

(2) Release may be made of the information with the written consent of all individuals identified in the information released.

(3) Release may be made of the information to the extent necessary to enforce public health laws or to protect the health or life of a named person.

(b) Except as provided in subsection (a), a person who:

(1) is responsible for recording, reporting, or maintaining information required to be reported under this chapter; and

(2) recklessly, knowingly, or intentionally discloses or fails to protect information classified as confidential under this section; commits a Class A misdemeanor.

(c) In addition to 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.*

#### **IC 16-41-14-16**

##### **Failure to conduct tests; penalty**

Sec. 16. A practitioner who:

- (1) is responsible for conducting a screening test required under this chapter; and
- (2) knowingly or intentionally fails to conduct the screening test;

commits a Class A misdemeanor.

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

#### **IC 16-41-14-17**

##### **Donation, sale, or transfer of HIV infected semen; penalties**

Sec. 17. (a) This section does not apply to a person who transfers for research purposes semen that contains antibodies for the human immunodeficiency virus (HIV).

(b) A person who, for the purpose of artificial insemination, recklessly, knowingly, or intentionally donates, sells, or transfers semen that contains antibodies for the human immunodeficiency virus (HIV) commits transferring contaminated semen, a Level 5 felony. The offense is a Level 4 felony if the offense results in the transmission of the virus to another person.

*As added by P.L.2-1993, SEC.24. Amended by P.L.158-2013, SEC.245.*

#### **IC 16-41-14-18**

##### **Inspections on private property**

Sec. 18. (a) The state department may designate an agent who:

- (1) if the agent has probable cause to believe that evidence of a health threat exists on private property;
  - (2) upon presentation of proper credentials; and
  - (3) under emergency circumstances or on issuance of a warrant;
- may enter upon private property to inspect for and investigate possible violations of this chapter or rules adopted under this chapter.

(b) This section does not impair the authority of the state department to enter public or private property as authorized by law.

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

#### **IC 16-41-14-19**

##### **Orders of compliance; civil penalties**

Sec. 19. (a) 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 a civil penalty not to exceed one thousand dollars (\$1,000) per

violation per day against any person who:

- (1) fails to comply with this chapter or a rule adopted under this chapter; or
- (2) interferes with or obstructs the state department or the state department's designated agent in the performance of official duties under this chapter or a rule adopted under this chapter.

(b) The state department may commence an action against a facility licensed by the state department under either subsection (a) or the licensure statute for the facility, but the state department may not bring an action arising out of one (1) incident under both statutes.  
*As added by P.L.2-1993, SEC.24.*

#### **IC 16-41-14-20**

##### **Violations**

Sec. 20. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with section 18 or 19 of 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.*