



March 31, 2015

ENGROSSED SENATE BILL No. 461

DIGEST OF SB 461 (Updated March 30, 2015 2:41 pm - DI 77)

Citations Affected: IC 16-18; IC 16-21; IC 16-41; IC 16-42; IC 16-49; IC 20-34; IC 35-48; IC 36-7.

Synopsis: Health matters. Amends the definition of "invasive medical care" to exclude blood glucose monitoring. Specifies that hospital discharge information filed with the state department of health (state department) is confidential except under specified circumstances. Further specifies the circumstances for the review of the death of a child by a local child fatality review team. Allows certain counties and municipalities within the county that have a high standardized case rate on newly reported cases of hepatitis C to operate a syringe and needle distribution and collection program. Allows a local child fatality review team to review the near fatality or serious injury of a child. Adds
(Continued next page)

Effective: Upon passage; July 1, 2015.

**Miller Patricia, Becker, Stoops,
Randolph**

(HOUSE SPONSORS — CLERE, BROWN C, BROWN T, ERRINGTON)

January 14, 2015, read first time and referred to Committee on Health & Provider Services.
January 22, 2015, reported favorably — Do Pass.
January 26, 2015, read second time, ordered engrossed. Engrossed.
February 5, 2015, read third time, passed. Yeas 45, nays 3.

HOUSE ACTION

March 3, 2015, read first time and referred to Committee on Public Health.
March 30, 2015, amended, reported — Do Pass.

ES 461—LS 7344/DI 104



hepatitis A to the list of school children immunizations. Requires the state department, before November 30 of each year, to publish a two year immunization calendar. Provides information to parents of grade 6 students concerning the human papillomavirus (HPV) infection. (Current language provides this information only to parents of female grade 6 students.) Requires the state department to provide the department of education with immunization materials and requires the materials to be distributed to students' parents and guardians. Requires a health care provider who administers an immunization to enter the information into the state immunization data registry. Requires a school corporation to ensure that immunization information is complete in the state immunization data registry not later than the first Friday in February. Specifies that onsite sewage systems of private homes built by the individual are required to comply with state laws and rules. Provides exceptions to certain criminal laws concerning the possession and distribution of needles and syringes.



March 31, 2015

First Regular Session 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

ENGROSSED

SENATE BILL No. 461

A BILL FOR AN ACT to amend the Indiana Code concerning health.

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

1 SECTION 1. IC 16-18-2-193 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 193. "Invasive medical
3 care", for purposes of IC 16-31, does not include:

4 (1) the administration of a nonvisualized airway; or

5 (2) **blood glucose monitoring.**

6 SECTION 2. IC 16-18-2-294.5, AS AMENDED BY P.L.95-2005,
7 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 UPON PASSAGE]: Sec. 294.5. (a) "Program", for purposes of
9 IC 16-40-4, has the meaning set forth in IC 16-40-4-3.

10 (b) **"Program", for purposes of IC 16-41-7.5, has the meaning**
11 **set forth in IC 16-41-7.5-1.**

12 ~~(b)~~ (c) "Program", for purposes of IC 16-47-1, has the meaning set
13 forth in IC 16-47-1-3.

14 SECTION 3. IC 16-18-2-301.7 IS ADDED TO THE INDIANA
15 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
16 [EFFECTIVE UPON PASSAGE]: **Sec. 301.7. "Qualified entity", for**

ES 461—LS 7344/DI 104



purposes of IC 16-41-7.5, has the meaning set forth in IC 16-41-7.5-2.

SECTION 4. IC 16-21-6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7. (a) The reports filed under section 3 of this chapter:

(1) may not contain information that personally identifies a patient or a consumer of health services; and

(2) must be open to public inspection.

(b) The state department shall provide copies of the reports filed under section 3 of this chapter to the public upon request, at the state department's actual cost.

(c) The following apply to information that is filed ~~under section 6 of this chapter:~~

~~(1) Information filed~~

with the **state department, the state department's designated contractor, or transferred to the state department by the state department's designated contractor under section 6 of this chapter:**

~~(A)~~

(1) Except as provided in subsection (e), the information is confidential. and

~~(B)~~

(2) The information must be transferred by the contractor to the state department in a format determined by the state department.

~~(2) Information filed with the state department or transferred to the state department by the state department's designated contractor is not confidential, except that information that:~~

~~(A) personally identifies; or~~

~~(B) may be used to personally identify;~~

a patient or consumer may not be disclosed to a third party other than to a hospital that has filed inpatient and outpatient discharge information.

(d) An analysis completed by the state department of information that is filed under section 6 of this chapter:

(1) may not contain information that personally identifies or may be used to personally identify a patient or consumer of health services, unless the information is determined by the state department to be necessary for a public health activity;

(2) must be open to public inspection; and

(3) must be provided to the public by the state department upon request at the state department's actual cost.

(e) Information provided under section 6 of this chapter may only be released or made public by the state department if at least



one (1) of the following circumstances applies:

(1) The use of the information by the state department:

- (A) is to comply with the requirements of this chapter; or
- (B) is released for statistical purposes in a manner that does not identify an individual.

(2) At the state department's discretion, for research purposes with identifiable information being released only if:

(A) the person requesting the information states in writing to the state department:

- (i) the purpose, including any intent to publish findings, and the nature of the data sought;
- (ii) the personal information that is required; and
- (iii) the safeguards the person will take to protect the identity of the data subjects;

(B) the proposed safeguards in clause (A)(iii) are adequate to prevent the identify of an individual data subject from being known;

(C) the researcher executes an agreement with the state department, on a form approved by the oversight committee on public records, that:

- (i) incorporates the safeguards for the protection of individual data subjects;
- (ii) defines the scope of the research project; and
- (iii) informs the researcher that failure to abide by the conditions of the approved agreement constitutes a breach of contract and could result in civil litigation by the data subject;

(D) the researcher agrees to pay any costs of the research; and

(E) the state department maintains a copy of the agreement or contract for the life of the record.

SECTION 5. IC 16-41-7.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 7.5. Communicable Disease: Needle Distribution and Collection Program

Sec. 1. As used in this chapter, "program" means a syringe and needle distribution and collection program operated under this chapter.

Sec. 2. As used in this chapter, "qualified entity" means any of the following:

- (1) A local health department.



1 (2) A municipality (as defined by IC 36-1-2-11) that operates
2 a program within the boundaries of the municipality.

3 (3) A nonprofit organization that has been approved by the
4 local health department or the legislative body of a
5 municipality.

6 Sec. 3. (a) The state department annually shall determine a
7 three (3) year rolling average number of newly reported cases of
8 hepatitis C for each county using the most recent data from the
9 previous three (3) years.

10 (b) The state department shall convert each county's average
11 number of newly reported cases of hepatitis C, as determined
12 under subsection (a), into a standardized case rate of newly
13 reported cases per one hundred thousand (100,000) people.

14 (c) The state department shall rank the standardized case rate
15 of each county under subsection (b) into four (4) quartiles, with the
16 fourth quartile consisting of the counties containing the highest
17 standardized case rates of hepatitis C through the first quartile
18 consisting of the counties containing the lowest standardized case
19 rates of hepatitis C.

20 Sec. 4. (a) A qualified entity must be located in a county with a
21 standardized case rate of hepatitis C ranked in the:

22 (1) fourth quartile as determined in section 3(c) of this
23 chapter; or

24 (2) third quartile as determined in section 3(c) of this chapter
25 and approved under section 5 or 6 of this chapter to operate
26 a program.

27 (b) A qualified entity that meets the requirements in subsection
28 (a) and complies with the requirements of this chapter may operate
29 a program.

30 Sec. 5. (a) If a qualified entity wants to operate a countywide
31 program in a county with a standardized case rate of hepatitis C
32 ranked in the third quartile, as determined in section 3(c) of this
33 chapter, the qualified entity must apply for and receive approval
34 from the executive body of the county.

35 (b) Before the executive body of the county may approve a
36 qualified entity to operate a program in a county, the executive
37 body of the county must conduct a public hearing that allows for
38 public testimony.

39 (c) After conducting a public hearing under subsection (b), the
40 executive body of the county may approve a qualified entity to
41 operate a program in the county for one (1) year.

42 Sec. 6. (a) This section does not apply to a qualified entity that



has received approval to operate a program in the county under section 5 of this chapter.

(b) If a qualified entity wants to operate a program in a municipality that is located in a county with a standardized case rate of hepatitis C ranked in the third quartile, as determined in section 3(c) of this chapter, the qualified entity must apply for and receive approval from the legislative body of the municipality.

(c) Before the legislative body of the municipality may approve a qualified entity to operate a program in the municipality, the legislative body of the municipality must conduct a public hearing that allows for public testimony.

(d) After conducting a public hearing under subsection (c), the legislative body of the municipality may approve a qualified entity to operate a program in the municipality for one (1) year.

Sec. 7. A qualified entity that operates a program under this chapter must do the following:

(1) Annually register with the:

(A) state department; and

(B) local health department in the county where services will be provided by the qualified entity.

(2) Have a physician, registered nurse, pharmacist, or physician assistant who is licensed in Indiana and who provides oversight to the qualified entity's program.

(3) Store and dispose of all syringes and needles collected in a safe and legal manner.

(4) Provide drug addiction treatment information, including information on drug treatment programs in the local area.

(5) Provide the syringe and needle distribution and collection without collecting or recording personally identifiable information.

Sec. 8. (a) A law enforcement officer may not stop, search, or seize an individual based on the fact the individual has attended a program under this chapter.

(b) The fact an individual has attended a program under this chapter may not be the basis for probable cause by a law enforcement officer.

Sec. 9. A program shall file a quarterly report with the state department. The report must contain the following information listed on a daily basis and by the location, identified by the postal ZIP code, where the program distributed and collected syringes and needles:

(1) The number of individuals served.



(2) The number of syringes and needles collected.

(3) The number of syringes and needles distributed.

Sec. 10. (a) A qualified entity may distribute the greater of the following to an individual per visit:

(1) Except as provided in subsection (b), the number of needles and syringes equal to the number of needles and syringes the individual has presented to the qualified entity.

(2) Ten (10) needles and syringes.

(b) If an individual presents the qualified entity with needles and syringes in a manner that is not safe to count or handle the needles and syringes, the qualified entity may distribute needles and syringes to the individual based upon a good faith estimate by the qualified entity.

SECTION 6. IC 16-42-19-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) A person may not possess or have under control with intent to violate this chapter a hypodermic syringe or needle or an instrument adapted for the use of a legend drug by injection in a human being.

(b) Subsection (a) does not apply to a hypodermic syringe or needle provided under IC 16-41-7.5.

SECTION 7. IC 16-49-3-3, AS ADDED BY P.L.119-2013, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) A local child fatality review team:

(1) shall review the death of a child ~~that~~ **whose death incident** occurred in the area served by the local child fatality review team if:

(+) (A) the death of the child is:

~~(A)~~ (i) sudden;

~~(B)~~ (ii) unexpected;

~~(C)~~ (iii) unexplained; or

~~(D)~~ (iv) assessed by the department of child services for alleged abuse or neglect that resulted in the death of the child; or

~~(2)~~ (B) the coroner in the area ~~served by the local child fatality review team~~ **where the death occurred** determines that the cause of the death of the child is:

~~(A)~~ (i) undetermined; or

~~(B)~~ (ii) the result of a homicide, suicide, or accident; **and**

(2) may, at its discretion, review the near fatality of a child whose incident or injury occurred in the area served by the local child fatality review team.

(b) In conducting a child fatality review under subsection (a), the



1 local child fatality review team may review all applicable records and
 2 information related to the death **or near fatality** of the child, including
 3 the following:

- 4 (1) Records held by the:
 - 5 (A) local or state health department; and
 - 6 (B) department of child services.
- 7 (2) Medical records.
- 8 (3) Law enforcement records.
- 9 (4) Autopsy reports.
- 10 (5) Records of the coroner.
- 11 (6) Mental health reports.

12 (c) Except as otherwise provided under this article, information and
 13 records acquired by the local child fatality review team in the exercise
 14 of its duties under this chapter are confidential and exempt from
 15 disclosure.

16 (d) Records, information, documents, and reports acquired or
 17 produced by a local child fatality review team are not:

- 18 (1) subject to subpoena or discovery; or
- 19 (2) admissible as evidence;

20 in any judicial or administrative proceeding. Information that is
 21 otherwise discoverable or admissible from original sources is not
 22 immune from discovery or use in any proceeding merely because the
 23 information was presented during proceedings before a local child
 24 fatality review team.

25 SECTION 8. IC 20-34-4-1, AS AMENDED BY P.L.2-2007,
 26 SECTION 231, IS AMENDED TO READ AS FOLLOWS
 27 [EFFECTIVE JULY 1, 2015]: Sec. 1. (a) Each school shall keep an
 28 immunization record of the school's students ~~The records must be kept~~
 29 ~~uniformly throughout Indiana~~ according to procedures prescribed by
 30 the state department of health.

31 (b) Whenever a student transfers to another school, the school from
 32 which the student is transferring may furnish, not later than twenty (20)
 33 days after the transfer, a copy of the student's immunization record to
 34 the school to which the student is transferring.

35 (c) Whenever a student enrolls in a state educational institution, the
 36 school from which the student graduated may furnish a copy of the
 37 student's immunization record to the state educational institution. If the
 38 student is enrolled in a state educational institution while still attending
 39 a secondary level school, the secondary level school that the student is
 40 attending may furnish a copy of the student's immunization record to
 41 the state educational institution.

42 SECTION 9. IC 20-34-4-2, AS AMENDED BY P.L.161-2009,



SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) Every child residing in Indiana **who is enrolled in an accredited elementary school or high school** shall be immunized **as determined by the state department of health** against:

- (1) diphtheria;
- (2) pertussis (whooping cough);
- (3) tetanus;
- (4) measles;
- (5) rubella;
- (6) poliomyelitis; ~~and~~
- (7) mumps;
- (8) varicella;**
- (9) hepatitis A;**
- (10) hepatitis B; and**
- (11) meningitis.**

(b) Every child residing in Indiana who enters kindergarten or grade 1 shall be immunized against hepatitis B and chicken pox.

(c) The state department of health shall adopt rules under IC 4-22-2 to require school age children to receive additional immunizations against the following:

- ~~(1) Meningitis;~~
- ~~(2) Varicella;~~
- ~~(3) Pertussis (whooping cough);~~

The additional immunizations required under the rules shall include an immunization booster if considered appropriate by the state department.

~~(d)~~ (b) The state department of health may expand or otherwise modify the list of communicable diseases that require documentation of immunity as medical information becomes available that would warrant the expansion or modification in the interest of public health.

(c) Before November 30 of each year, the state department of health shall publish a two (2) year calendar of immunization requirements and recommendations. The calendar must include:

- (1) the immunization requirements for the following school year; and
- (2) recommendations for immunization requirements for the year subsequent to the following school year.

(d) The publishing time frame for the calendar described in subsection (c) does not apply in the event of an emergency as determined by the state health commissioner.

(e) The state department of health shall adopt rules under IC 4-22-2 specifying the:



- (1) required immunizations;
- (2) child's age for administering each vaccine;
- (3) adequately immunizing doses; and
- (4) method of documentation of proof of immunity.

SECTION 10. IC 20-34-4-3, AS AMENDED BY P.L.80-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) Each school shall notify each parent of a student who enrolls in the school of the requirement that the student must be immunized and that the immunization is required for the student's continued enrollment, attendance, or residence at the school unless:

- (1) the parent or student provides the appropriate documentation of immunity;
- ~~(2) for chicken pox, the parent or student provides a written signed statement that the student has indicated a history of chicken pox; or~~
- ~~(3) (2) IC 20-34-3-2 or IC 20-34-3-3 applies.~~

(b) A school that enrolls grade 6 ~~female~~ students shall provide each parent of a ~~female~~ student who is entering grade 6 with information prescribed by the state department of health under subsection (c) concerning the link between ~~cervical~~ cancer and the human papillomavirus (HPV) infection and that an immunization against the human papillomavirus (HPV) infection is available.

(c) The state department of health shall provide a school described in subsection (b) with the information concerning ~~cervical~~ cancer and the human papillomavirus (HPV) infection required in subsection (b). The information must include the following:

- (1) The latest scientific information on the immunization against the human papillomavirus (HPV) infection and the immunization's effectiveness against causes of ~~cervical~~ cancer.
- (2) That a pap smear is still critical for the detection of precancerous changes in the cervix to allow for treatment before cervical cancer develops.
- (3) Information concerning the means in which the human papillomavirus (HPV) infection is contracted.
- (4) A statement that any questions or concerns concerning immunizing the child against human papillomavirus (HPV) could be answered by contacting a health care provider.

(d) The state department of health shall provide the department of education with material concerning immunizations and immunization preventable diseases for distribution to parents and guardians. The department of education shall provide these



1 materials to schools to be provided to students' parents and
 2 guardians. These materials may be distributed by a school by
 3 posting the required information on the school's Internet web site.

4 SECTION 11. IC 20-34-4-4, AS ADDED BY P.L.1-2005,
 5 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2015]: Sec. 4. (a) The parent of any student who has not
 7 received the immunizations required under this chapter shall present
 8 the student to a physician and request the physician health care
 9 provider authorized to administer the immunizations. If the parent is
 10 unable to secure the immunizations, the local health department
 11 serving the area in which the student resides may provide the
 12 immunizations. Vaccines provided by the local health department shall
 13 be furnished by the local health board or the state department of health
 14 from available supplies.

15 (b) The physician health care provider who administers the
 16 required vaccines immunizations to a student or the health care
 17 provider's designee shall give a certificate or other documentation of
 18 the immunizations to the individual who presented the student for
 19 immunization. This certificate or other documentation shall be
 20 presented on request to the local health department or the local health
 21 department's authorized representative. enter the immunization
 22 information into the state immunization data registry in
 23 accordance with IC 16-38-5.

24 SECTION 12. IC 20-34-4-5, AS ADDED BY P.L.1-2005,
 25 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2015]: Sec. 5. (a) Each school shall require the parent of a
 27 student who has enrolled in the school to furnish, not later than the first
 28 day of school a written statement of the student's immunization;
 29 accompanied by the physician's certificates or other documentation;
 30 unless a written statement of this nature is on file with the school:
 31 attendance, proof of the student's immunization status, either as a
 32 written document from the health care provider who administered
 33 the immunization or documentation provided from the state
 34 immunization data registry.

35 (b) The statement must show, except for a student to whom
 36 IC 20-34-3-2 or IC 20-34-3-3 applies, that the student has been
 37 immunized as required under section 2 of this chapter. The statement
 38 must include the student's date of birth and the date of each
 39 immunization.

40 (c) A student may not be permitted to attend school beyond the first
 41 day of school without furnishing the written statement, documentation
 42 described in subsections (a) and (b) unless:



- (1) the school gives the parent of the student a waiver; or
 (2) the local health department or a **physician health care provider** determines that the student's immunization schedule has been delayed due to extreme circumstances and that the required immunizations will not be completed before the first day of school.

The waiver referred to in subdivision (1) may not be granted for a period that exceeds twenty (20) **school** days. If subdivision (2) applies, the parent of the student shall furnish the written statement and a schedule, approved by a **physician health care provider who is authorized to administer the immunizations** or the local health department, for the completion of the remainder of the immunizations.

(d) The state department of health may commence an action against a school under IC 4-21.5-3-6 or IC 4-21.5-4 for the issuance of an order of compliance for failure to enforce this section.

(e) Neither a religious objection under IC 20-34-3-2 nor an exception for the student's health under IC 20-34-3-3 relieves a parent from the reporting requirements under this section.

(f) The state department of health shall adopt rules under IC 4-22-2 to implement this section.

SECTION 13. IC 20-34-4-5.5 IS REPEALED [EFFECTIVE JULY 1, 2015]. Sec. 5.5: (a) Each school that enrolls grade 6 female students shall require the parent of a female student entering grade 6 to furnish not later than the twenty (20) school days after the first day of school a written statement prescribed by the state department of health under subsection (b) stating that the parent has received the information required under section 3(b) of this chapter and that:

- (1) the student has received or is receiving the immunization;
 - (2) the parent has decided not to have the student immunized; or
 - (3) the parent chooses not to provide the information to the school concerning whether the student was immunized;
- against the human papillomavirus (HPV) infection:

(b) The state department of health shall prescribe the format for the written statement required under subsection (a):

(c) A student may not be prevented from enrolling in, attending, or graduating from school for the sole reason that the student has not provided the school with the written statement required under this section.

SECTION 14. IC 20-34-4-6, AS AMENDED BY P.L.80-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 6. (a) **The state department of health shall collect immunization data on school age children using the state**



1 immunization data registry. Each school corporation shall ensure
 2 that all applicable immunization information is complete in the
 3 state immunization data registry not later than sixty (60) days after
 4 the enrollment of students for the first time and when additional
 5 immunizations are required by statute or rule; each school shall file a
 6 written report with the state department of health and the local health
 7 department having jurisdiction. The report must include the following:

8 (1) A statement of the number of students who have demonstrated
 9 immunity against diphtheria, pertussis (whooping cough), tetanus,
 10 measles, rubella, poliomyelitis, mumps, and hepatitis B;

11 (2) A statement of the number of students who have not
 12 demonstrated immunity against the illnesses listed in subdivision

13 (1);

14 (3) A statement of the number of students who have been found
 15 positive for sickle cell anemia or lead poisoning;

16 (4) Beginning in the 2008-2009 school year, a statement of the
 17 number of female students in grade 6 who:

18 (A) have or will have; and

19 (B) have not;

20 been immunized against human papillomavirus (HPV) infection;
 21 and the number of female students in grade 6 whose parent chose
 22 not to provide the information to the school concerning whether
 23 the student was immunized.

24 the first Friday in February each year. The state department of
 25 health shall use the data to create aggregate reports.

26 (b) The state department of health and the local health department
 27 shall, for good cause shown that there exists a substantial threat to the
 28 health and safety of a student or the school community, be able to
 29 validate immunization reports by onsite reviews or examinations of
 30 nonidentifying immunization record data. This section does not
 31 independently authorize the state department of health, a local
 32 department of health, or an agent of the state department of health or
 33 local department of health to have access to identifying medical or
 34 academic record data of individual students attending nonaccredited
 35 nonpublic schools.

36 (c) A school shall file a report for each student who enrolls after the
 37 filing of the report for students who enrolled at the beginning of the
 38 school year. The state department of health has exclusive power to
 39 adopt rules for the administration of this section.

40 SECTION 15. IC 35-48-4-8.5, AS AMENDED BY P.L.158-2013,
 41 SECTION 636, IS AMENDED TO READ AS FOLLOWS
 42 [EFFECTIVE UPON PASSAGE]: Sec. 8.5. (a) A person who keeps for



1 sale, offers for sale, delivers, or finances the delivery of a raw material,
 2 an instrument, a device, or other object that is intended to be or that is
 3 designed or marketed to be used primarily for:

- 4 (1) ingesting, inhaling, or otherwise introducing into the human
 5 body marijuana, hash oil, hashish, salvia, a synthetic drug, or a
 6 controlled substance;
- 7 (2) testing the strength, effectiveness, or purity of marijuana, hash
 8 oil, hashish, salvia, a synthetic drug, or a controlled substance;
- 9 (3) enhancing the effect of a controlled substance;
- 10 (4) manufacturing, compounding, converting, producing,
 11 processing, or preparing marijuana, hash oil, hashish, salvia, a
 12 synthetic drug, or a controlled substance;
- 13 (5) diluting or adulterating marijuana, hash oil, hashish, salvia, a
 14 synthetic drug, or a controlled substance by individuals; or
- 15 (6) any purpose announced or described by the seller that is in
 16 violation of this chapter;

17 commits a Class A infraction for dealing in paraphernalia.

18 (b) A person who knowingly or intentionally violates subsection (a)
 19 commits a Class A misdemeanor. However, the offense is a Level 6
 20 felony if the person has a prior unrelated judgment or conviction under
 21 this section.

22 (c) This section does not apply to the following:

- 23 (1) Items marketed for use in the preparation, compounding,
 24 packaging, labeling, or other use of marijuana, hash oil, hashish,
 25 salvia, a synthetic drug, or a controlled substance as an incident
 26 to lawful research, teaching, or chemical analysis and not for sale.
- 27 (2) Items marketed for or historically and customarily used in
 28 connection with the planting, propagating, cultivating, growing,
 29 harvesting, manufacturing, compounding, converting, producing,
 30 processing, preparing, testing, analyzing, packaging, repackaging,
 31 storing, containing, concealing, injecting, ingesting, or inhaling
 32 of tobacco or any other lawful substance.

33 **(3) A qualified entity (as defined by IC 16-41-7.5-2) that**
 34 **provides a syringe or needle as part of a program under**
 35 **IC 16-41-7.5.**

36 SECTION 16. IC 36-7-8-3 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) The legislative
 38 body of a county having a county department of buildings or joint
 39 city-county building department may, by ordinance, adopt building,
 40 heating, ventilating, air conditioning, electrical, plumbing, and
 41 sanitation standards for unincorporated areas of the county. These
 42 standards take effect only on the legislative body's receipt of written



1 approval from the fire prevention and building safety commission.

2 (b) An ordinance adopted under this section must be based on
3 occupancy, and it applies to:

4 (1) the construction, alteration, equipment, use, occupancy,
5 location, and maintenance of buildings, structures, and
6 appurtenances that are on land or over water and are:

7 (A) erected after the ordinance takes effect; and

8 (B) if expressly provided by the ordinance, existing when the
9 ordinance takes effect;

10 (2) conversions of buildings and structures, or parts of them, from
11 one occupancy classification to another; and

12 (3) the movement or demolition of buildings, structures, and
13 equipment for the operation of buildings and structures.

14 (c) The rules of the fire prevention and building safety commission
15 are the minimum standards upon which ordinances adopted under this
16 section must be based.

17 (d) An ordinance adopted under this section does not apply to
18 private homes that are built by individuals and used for their own
19 occupancy. **However, onsite sewage systems of a private home**
20 **described in this subsection must comply with state laws and rules.**

21 SECTION 17. **An emergency is declared for this act.**



COMMITTEE REPORT

Madam President: The Senate Committee on Health & Provider Services, to which was referred Senate Bill No. 461, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 461 as introduced.)

MILLER PATRICIA, Chairperson

Committee Vote: Yeas 10, Nays 0

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Senate Bill 461, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 16-18-2-193 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 193. "Invasive medical care", for purposes of IC 16-31, does not include:

- (1) the administration of a nonvisualized airway; **or**
- (2) blood glucose monitoring.**

SECTION 2. IC 16-18-2-294.5, AS AMENDED BY P.L.95-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 294.5. (a) "Program", for purposes of IC 16-40-4, has the meaning set forth in IC 16-40-4-3.

(b) "Program", for purposes of IC 16-41-7.5, has the meaning set forth in IC 16-41-7.5-1.

~~(b)~~ (c) "Program", for purposes of IC 16-47-1, has the meaning set forth in IC 16-47-1-3.

SECTION 3. IC 16-18-2-301.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 301.7. "Qualified entity", for purposes of IC 16-41-7.5, has the meaning set forth in IC 16-41-7.5-2."**

Page 3, between lines 13 and 14, begin a new paragraph and insert:

"SECTION 5. IC 16-41-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

ES 461—LS 7344/DI 104



Chapter 7.5. Communicable Disease: Needle Distribution and Collection Program

Sec. 1. As used in this chapter, "program" means a syringe and needle distribution and collection program operated under this chapter.

Sec. 2. As used in this chapter, "qualified entity" means any of the following:

- (1) A local health department.
- (2) A municipality (as defined by IC 36-1-2-11) that operates a program within the boundaries of the municipality.
- (3) A nonprofit organization that has been approved by the local health department or the legislative body of a municipality.

Sec. 3. (a) The state department annually shall determine a three (3) year rolling average number of newly reported cases of hepatitis C for each county using the most recent data from the previous three (3) years.

(b) The state department shall convert each county's average number of newly reported cases of hepatitis C, as determined under subsection (a), into a standardized case rate of newly reported cases per one hundred thousand (100,000) people.

(c) The state department shall rank the standardized case rate of each county under subsection (b) into four (4) quartiles, with the fourth quartile consisting of the counties containing the highest standardized case rates of hepatitis C through the first quartile consisting of the counties containing the lowest standardized case rates of hepatitis C.

Sec. 4. (a) A qualified entity must be located in a county with a standardized case rate of hepatitis C ranked in the:

- (1) fourth quartile as determined in section 3(c) of this chapter; or
- (2) third quartile as determined in section 3(c) of this chapter and approved under section 5 or 6 of this chapter to operate a program.

(b) A qualified entity that meets the requirements in subsection (a) and complies with the requirements of this chapter may operate a program.

Sec. 5. (a) If a qualified entity wants to operate a countywide program in a county with a standardized case rate of hepatitis C ranked in the third quartile, as determined in section 3(c) of this chapter, the qualified entity must apply for and receive approval from the executive body of the county.



(b) Before the executive body of the county may approve a qualified entity to operate a program in a county, the executive body of the county must conduct a public hearing that allows for public testimony.

(c) After conducting a public hearing under subsection (b), the executive body of the county may approve a qualified entity to operate a program in the county for one (1) year.

Sec. 6. (a) This section does not apply to a qualified entity that has received approval to operate a program in the county under section 5 of this chapter.

(b) If a qualified entity wants to operate a program in a municipality that is located in a county with a standardized case rate of hepatitis C ranked in the third quartile, as determined in section 3(c) of this chapter, the qualified entity must apply for and receive approval from the legislative body of the municipality.

(c) Before the legislative body of the municipality may approve a qualified entity to operate a program in the municipality, the legislative body of the municipality must conduct a public hearing that allows for public testimony.

(d) After conducting a public hearing under subsection (c), the legislative body of the municipality may approve a qualified entity to operate a program in the municipality for one (1) year.

Sec. 7. A qualified entity that operates a program under this chapter must do the following:

- (1) Annually register with the:
 - (A) state department; and
 - (B) local health department in the county where services will be provided by the qualified entity.
- (2) Have a physician, registered nurse, pharmacist, or physician assistant who is licensed in Indiana and who provides oversight to the qualified entity's program.
- (3) Store and dispose of all syringes and needles collected in a safe and legal manner.
- (4) Provide drug addiction treatment information, including information on drug treatment programs in the local area.
- (5) Provide the syringe and needle distribution and collection without collecting or recording personally identifiable information.

Sec. 8. (a) A law enforcement officer may not stop, search, or seize an individual based on the fact the individual has attended a program under this chapter.

(b) The fact an individual has attended a program under this



chapter may not be the basis for probable cause by a law enforcement officer.

Sec. 9. A program shall file a quarterly report with the state department. The report must contain the following information listed on a daily basis and by the location, identified by the postal ZIP code, where the program distributed and collected syringes and needles:

- (1) The number of individuals served.
- (2) The number of syringes and needles collected.
- (3) The number of syringes and needles distributed.

Sec. 10. (a) A qualified entity may distribute the greater of the following to an individual per visit:

- (1) Except as provided in subsection (b), the number of needles and syringes equal to the number of needles and syringes the individual has presented to the qualified entity.
- (2) Ten (10) needles and syringes.

(b) If an individual presents the qualified entity with needles and syringes in a manner that is not safe to count or handle the needles and syringes, the qualified entity may distribute needles and syringes to the individual based upon a good faith estimate by the qualified entity.

SECTION 6. IC 16-42-19-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. **(a)** A person may not possess or have under control with intent to violate this chapter a hypodermic syringe or needle or an instrument adapted for the use of a legend drug by injection in a human being.

(b) Subsection (a) does not apply to a hypodermic syringe or needle provided under IC 16-41-7.5."

Page 4, line 38, delete "a state or" and insert "**an**".

Page 5, line 33, delete ":" and insert "**emergency**".

Page 5, delete lines 34 through 36.

Page 5, run in lines 33 through 37.

Page 6, line 36, delete "may" and insert "**shall**".

Page 7, line 18, after "immunization" insert "**data**".

Page 7, line 29, after "immunization" insert "**data**".

Page 8, line 38, after "immunization" insert "**data**".

Page 8, line 40, after "immunization" insert "**data**".

Page 9, between lines 34 and 35, begin a new paragraph and insert:

"SECTION 13. IC 35-48-4-8.5, AS AMENDED BY P.L.158-2013, SECTION 636, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8.5. (a) A person who keeps for sale, offers for sale, delivers, or finances the delivery of a raw material,



an instrument, a device, or other object that is intended to be or that is designed or marketed to be used primarily for:

- (1) ingesting, inhaling, or otherwise introducing into the human body marijuana, hash oil, hashish, salvia, a synthetic drug, or a controlled substance;
- (2) testing the strength, effectiveness, or purity of marijuana, hash oil, hashish, salvia, a synthetic drug, or a controlled substance;
- (3) enhancing the effect of a controlled substance;
- (4) manufacturing, compounding, converting, producing, processing, or preparing marijuana, hash oil, hashish, salvia, a synthetic drug, or a controlled substance;
- (5) diluting or adulterating marijuana, hash oil, hashish, salvia, a synthetic drug, or a controlled substance by individuals; or
- (6) any purpose announced or described by the seller that is in violation of this chapter;

commits a Class A infraction for dealing in paraphernalia.

(b) A person who knowingly or intentionally violates subsection (a) commits a Class A misdemeanor. However, the offense is a Level 6 felony if the person has a prior unrelated judgment or conviction under this section.

(c) This section does not apply to the following:

- (1) Items marketed for use in the preparation, compounding, packaging, labeling, or other use of marijuana, hash oil, hashish, salvia, a synthetic drug, or a controlled substance as an incident to lawful research, teaching, or chemical analysis and not for sale.
- (2) Items marketed for or historically and customarily used in connection with the planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, or inhaling of tobacco or any other lawful substance.

(3) A qualified entity (as defined by IC 16-41-7.5-2) that provides a syringe or needle as part of a program under IC 16-41-7.5."



Page 10, after line 19, begin a new paragraph and insert:
"SECTION 15. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 461 as printed January 23, 2015.)

CLERE

Committee Vote: yeas 10, nays 2.

