



Reprinted
April 11, 2003

ENGROSSED

SENATE BILL No. 343

DIGEST OF SB 343 (Updated April 10, 2003 4:19 PM - DI 77)

Citations Affected: IC 12-15; IC 12-21; IC 16-18; IC 16-38; IC 16-41; IC 34-30.

Synopsis: Health management and chronic disease registry. Specifies authority to determine initial placement designations in mental health facilities. Removes HIV and AIDS and population parameters from the state's disease management program and adds hypertension to the program. Sets implementation dates for the statewide program. Creates a chronic disease registry administered by the state department of health. Provides for testing and notification to an emergency medical services provider who has potentially been exposed to a dangerous communicable disease.

Effective: Upon passage; July 1, 2003.

Miller, Simpson

(HOUSE SPONSOR — BROWN C)

January 15, 2003, read first time and referred to Committee on Health and Provider Services.

January 23, 2003, amended, reported favorably — Do Pass.

January 27, 2003, read second time, ordered engrossed.

January 28, 2003, engrossed. Read third time, passed. Yeas 43, nays 0.

HOUSE ACTION

March 4, 2003, read first time and referred to Committee on Public Health.

March 27, 2003, reported — Do Pass.

April 10, 2003, read second time, amended, ordered engrossed.

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ES 343—LS 7530/DI 104+



Reprinted
April 11, 2003

First Regular Session 113th General Assembly (2003)

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 2002 Regular or Special Session of the General Assembly.

ENGROSSED SENATE BILL No. 343

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 12-15-12-19, AS AMENDED BY P.L.66-2002,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 19. (a) This section applies to an individual
4 who:
5 (1) is a Medicaid recipient; **and**
6 (2) is not enrolled in the risk-based managed care program. ~~and~~
7 (~~3~~) **resides in a county having a population of more than one**
8 **hundred thousand (100,000).**
9 (b) Subject to subsection (c), the office shall develop the following
10 programs regarding individuals described in subsection (a):
11 (1) A disease management program for recipients with any of the
12 following **chronic** diseases:
13 (A) Asthma.
14 (B) Diabetes.
15 (C) Congestive heart failure or coronary heart disease.
16 (~~D~~) **HHV or AIDS. (D) Hypertension.**
17 (2) A case management program for recipients ~~whose per~~

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1 recipient Medicaid cost is in the highest ten percent (10%) of all
 2 individuals described in subsection (a), who are at high risk of
 3 chronic disease, that is based on a combination of cost
 4 measures and clinical measures and health outcomes
 5 identified and developed by the office with input and guidance
 6 from the state department of health and other experts in
 7 health care case management or disease management
 8 programs.

9 (c) The office shall implement:

10 (1) a pilot program for at least two (2) of the diseases listed in
 11 subsection (b) not later than July 1, 2003; and

12 (2) a statewide chronic disease program as soon as practicable
 13 after the office has done the following:

14 (A) Evaluated a pilot program described in subdivision (1).

15 (B) Made any necessary changes in the program based on
 16 the evaluation performed under clause (A).

17 (d) The office shall develop and implement a program required
 18 under this section in cooperation with the state department of
 19 health and shall use the following health care providers to the
 20 extent possible:

21 (1) Community health centers.

22 (2) Federally qualified health centers (as defined in 42 U.S.C.
 23 1396d(l)(2)(B)).

24 (3) Rural health clinics (as defined in 42 U.S.C. 1396d(l)(1)).

25 (4) Local health departments.

26 (5) Hospitals.

27 (e) The office ~~shall~~ may contract with an outside vendor or vendors
 28 to ~~assist in the develop development and implement implementation~~
 29 ~~of the programs required under subsection (b): this section. The office~~
 30 ~~shall begin the contract procurement process not later than October 1,~~
 31 ~~2001. The contract required under this subsection must be effective not~~
 32 ~~later than July 1, 2002.~~

33 (d) (f) The vendor or vendors with whom the office contracts under
 34 subsection (e) and the state department of health shall provide the
 35 office and the select joint commission on Medicaid oversight
 36 established by IC 2-5-26-3 with an evaluation and recommendations on
 37 the costs, benefits, and health outcomes of the pilot programs required
 38 under subsection (b): this section. The evaluations required under this
 39 subsection must be provided not more than ~~nine (9)~~ twelve (12) months
 40 after the effective implementation date of the contract. pilot
 41 programs.

42 (e) (g) The office and the state department of health shall report



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1 to the select joint commission on Medicaid oversight established by
 2 IC 2-5-26-3 not later than ~~December 31, 2002~~, **November 1 of each**
 3 **year** regarding the programs developed under this section.

4 SECTION 2. IC 12-21-2-5, AS AMENDED BY HEA 1395-2003,
 5 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2003]: Sec. 5. (a) Subject to subsection (b), the director may
 7 delegate statutory duties or powers of the division, a bureau of the
 8 division, the director, or other statutorily created personnel.

9 (b) If the director decides that a final decision is to be made
 10 concerning the placement of a mentally ill individual in a mental health
 11 facility, the final decision must be made:

12 (1) by the director, if the director is a licensed psychiatrist or
 13 licensed psychologist; or

14 (2) by a licensed psychiatrist or licensed psychologist who is
 15 delegated the authority by the director;

16 in consultation with the patient's psychiatrist or psychologist.

17 **(c) Subsection (b) does not apply to an initial placement**
 18 **designation made under IC 12-24-12-10(b).**

19 SECTION 3. IC 16-18-2-55.5 IS ADDED TO THE INDIANA
 20 CODE AS A NEW SECTION TO READ AS FOLLOWS
 21 [EFFECTIVE UPON PASSAGE]: **Sec. 55.5. "Chronic disease", for**
 22 **purposes of IC 16-38-6, has the meaning set forth in IC 16-38-6-1.**

23 SECTION 4. IC 16-38-6 IS ADDED TO THE INDIANA CODE AS
 24 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
 25 PASSAGE]:

26 **Chapter 6. Chronic Disease Registry**

27 **Sec. 1. As used in this chapter, "chronic disease" means one (1)**
 28 **of the following conditions:**

29 (1) **Asthma.**

30 (2) **Diabetes.**

31 (3) **Congestive heart failure or coronary heart disease.**

32 (4) **Hypertension.**

33 **Sec. 2. The state department, with the cooperation of the office**
 34 **of Medicaid policy and planning, shall establish a chronic disease**
 35 **registry for the purpose of:**

36 (1) **recording chronic disease cases that are diagnosed or**
 37 **treated in Indiana; and**

38 (2) **compiling necessary and appropriate information**
 39 **determined by the state department concerning cases**
 40 **described in subdivision (1) in order to do the following:**

41 (A) **Conduct epidemiologic and environmental surveys of**
 42 **chronic disease and use appropriate preventive and control**

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measures.

(B) Inform citizens regarding programs designed to manage chronic disease.

(C) Provide guidance to the office of Medicaid policy and planning to identify and develop cost and clinical measures for use in a program required by IC 12-15-12-19.

Sec. 3. The state department shall use information compiled by a public or private entity to the greatest extent possible in the development of a statewide chronic disease registry under this chapter.

Sec. 4. (a) The following persons may report confirmed cases of chronic disease to the chronic disease registry:

- (1) Physicians.
- (2) Hospitals.
- (3) Medical laboratories.

(b) A person who reports information to the state chronic disease registry under this section may use:

- (1) information submitted to any other public or private chronic disease registry; or
- (2) information required to be filed with federal, state, or local agencies;

when completing a report under this chapter. However, the state department may require additional, definitive information.

(c) The office of Medicaid policy and planning shall provide data concerning services for chronic diseases reimbursed by the state Medicaid program to the chronic disease registry. The office shall work with the state department to identify the data available and to determine a means to transmit the information to assist the state department in data collection for the chronic disease registry.

Sec. 5. Except as provided in sections 6, 7, and 8 of this chapter, information obtained by the state department under this chapter concerning chronic disease patients is confidential and may be used by the state department only for the purposes of this chapter.

Sec. 6. The state department may grant a researcher access to confidential information obtained under this chapter concerning individual chronic disease patients if the researcher who is requesting additional information for research purposes or soliciting the patient's participation in a research project obtains the following:

- (1) First, the oral or written consent of the patient's attending physician.
- (2) Second, the patient's written consent by completing a

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confidential medical release form.
Sec. 7. The state department may release confidential information obtained under this chapter concerning individual chronic disease patients to the following:

(1) The chronic disease registry of another state if the following conditions are met:

(A) The other state has entered into a reciprocal agreement with the state department.

(B) The reciprocal agreement under clause (A) states that information that identifies a patient will not be released to any other person without the written consent of the patient.

(2) Physicians and local health officers for diagnostic and treatment purposes if the following conditions are met:

(A) The patient's attending physician gives oral or written consent to the release of the information.

(B) The patient gives written consent by completing a confidential medical release form.

(3) The office of Medicaid policy and planning for purposes related to administering the state Medicaid plan.

Sec. 8. A person who reports information for the chronic disease registry under this chapter is immune from any civil or criminal liability that might otherwise be imposed because of the release of confidential information.

Sec. 9. This chapter does not prevent the release to any interested person of epidemiological information that does not identify a chronic disease patient.

Sec. 10. The state department may adopt rules under IC 4-22-2 necessary to carry out this chapter.

SECTION 5. IC 16-41-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: 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 nurse licensed under IC 25-23, or other person who provides emergency medical services in the course of the person's employment.

SECTION 6. IC 16-41-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) A provider of 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

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1 demonstrated epidemiologically to transmit a dangerous communicable
2 disease.

3 (b) If a ~~provider of an~~ emergency medical services ~~provider~~ desires
4 to be notified **of results of testing following a possible exposure to**
5 **a dangerous communicable disease** under this chapter, the ~~provider~~
6 ~~of emergency medical services provider~~ shall notify the emergency
7 ~~service facility~~ **medical services provider's employer** not more than
8 twenty-four (24) hours after the ~~patient~~ **emergency medical services**
9 **provider** is ~~admitted to the facility~~ **exposed** on a form that is
10 prescribed by the state department and the Indiana emergency medical
11 services commission.

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

15 (1) **If applicable**, the ~~receiving~~ **medical director of the**
16 **emergency department of the** medical facility:

17 (A) **to which the patient was admitted following the**
18 **exposure; or**

19 (B) **in which the patient was located at the time of the**
20 **exposure.**

21 (2) The ~~facility that employs the~~ provider of emergency medical
22 services **provider's employer.**

23 (3) The state department.

24 SECTION 7. IC 16-41-10-2.5 IS ADDED TO THE INDIANA
25 CODE AS A NEW SECTION TO READ AS FOLLOWS
26 [EFFECTIVE JULY 1, 2003]: **Sec. 2.5. (a) A patient (including a**
27 **patient who is unable to consent due to physical or mental**
28 **incapacity) to whose blood or body fluids an emergency medical**
29 **services provider is exposed as described in section 2 of this**
30 **chapter is considered to have consented to:**

31 (1) **testing for the presence of a dangerous communicable**
32 **disease of a type that has been epidemiologically**
33 **demonstrated to be transmittable by an exposure of the kind**
34 **experienced by the emergency medical services provider; and**

35 (2) **release of the testing results to a medical director or**
36 **physician described in section 3 of this chapter.**

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

39 (b) **If a patient described in subsection (a) refuses to provide a**
40 **blood or body fluid specimen for testing for a dangerous**
41 **communicable disease, the exposed emergency medical services**
42 **provider, the exposed emergency medical services provider's**

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1 employer, or the state department may petition the circuit or
2 superior court having jurisdiction in the county;

3 (1) of the patient's residence; or

4 (2) where the employer of the exposed emergency medical
5 services provider has the employer's principal office;

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

8 SECTION 8. IC 16-41-10-3 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) Except as
10 provided in subsection (b), if a patient to whose blood or body fluids
11 an emergency medical services provider is exposed as described in
12 section 2 of this chapter:

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

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

24 (B) notify the medical director of a facility employing the
25 provider of emergency medical services described in section
26 2 of this chapter if (1) not more than seventy-two (72) hours
27 after a patient is admitted to the facility the facility obtains
28 information from the patient's records or a diagnosis at the
29 facility that the patient has a dangerous communicable disease;
30 and (2) the provider of emergency medical services has
31 complied with section 2 of this chapter; provider's employer;
32 or

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

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

37 (B) petition the circuit or superior court having
38 jurisdiction in the county of the patient's residence or
39 where the employer of the exposed emergency medical
40 services provider has the employer's principal office for an
41 order requiring that the patient provide a blood or body
42 fluid specimen.

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1 (b) ~~A provider of~~ **An emergency medical services provider** may, **on**
 2 **the form described in section 2 of this chapter**, designate a physician
 3 other than the medical director of the ~~facility that employs the provider~~
 4 ~~of emergency medical services~~ **provider's employer** to receive
 5 ~~notification. on the form described in section 2 of this chapter. the test~~
 6 **results.**

7 (c) ~~The notification required by this section shall be made~~ **The**
 8 **medical director or physician described in section 3 of this chapter**
 9 **shall notify the emergency medical services provider of the test**
 10 **results** not more than forty-eight (48) hours after the ~~facility~~
 11 ~~determines that a patient~~ **medical director or physician receives the**
 12 **test results.** ~~has a dangerous communicable disease that is potentially~~
 13 ~~transmissible through the incident.~~

14 SECTION 9. IC 16-41-10-3.5 IS ADDED TO THE INDIANA
 15 CODE AS A NEW SECTION TO READ AS FOLLOWS
 16 [EFFECTIVE JULY 1, 2003]: **Sec. 3.5. (a) A medical facility may not**
 17 **physically restrain a patient described in section 2.5 of this chapter**
 18 **in order to test the patient for the presence of a dangerous**
 19 **communicable disease.**

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

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

26 (c) **A provider or a facility that tests a patient for the presence**
 27 **of a dangerous communicable disease under section 2.5 or section**
 28 **3 of this chapter is immune from liability for the performance of**
 29 **the test over the patient's objection or without the patient's**
 30 **consent. However, this subsection does not apply to an act or**
 31 **omission that constitutes gross negligence or willful or wanton**
 32 **misconduct.**

33 SECTION 10. IC 16-41-10-4 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4. (a) If medically**
 35 ~~indicated;~~ **A medical director or physician notified under section 3 of**
 36 **this chapter shall, not more than forty-eight (48) hours after**
 37 **receiving the notification under section 3 of this chapter,** contact the
 38 ~~provider of emergency medical services~~ **provider** described in section
 39 2 of this chapter to do the following:

- 40 (1) **Explain, without disclosing information about the patient, the**
 41 **infectious dangerous communicable disease to which the**
 42 **provider of emergency medical services provider was exposed.**



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1 (2) Provide for any medically necessary treatment and counseling
 2 to the ~~provider of~~ emergency medical services **provider**.
 3 (b) Expenses of **testing or** treatment and counseling are the
 4 responsibility of the ~~provider of~~ emergency medical services **provider**
 5 or the provider's employer.
 6 SECTION 11. IC 16-41-10-5 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) Except as
 8 **otherwise** provided in ~~sections 3 and 4~~ of this chapter, **the medical**
 9 **information referred to in this chapter is confidential, and** a person
 10 may not disclose or be compelled to disclose medical or
 11 epidemiological information referred to in this chapter.
 12 (b) A person responsible for recording, reporting, or maintaining
 13 information referred to in this chapter who recklessly, knowingly, or
 14 intentionally discloses or fails to protect medical or epidemiological
 15 information classified as confidential under this section commits a
 16 Class A misdemeanor.
 17 (c) In addition to the penalty prescribed by subsection (b), a public
 18 employee who violates this section is subject to discharge or other
 19 disciplinary action under the personnel rules of the agency that
 20 employs the employee.
 21 SECTION 12. IC 34-30-2-77.4 IS ADDED TO THE INDIANA
 22 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 23 [EFFECTIVE UPON PASSAGE]: **Sec. 77.4. IC 16-38-6-8**
 24 **(Concerning persons who report information to the chronic disease**
 25 **registry).**
 26 SECTION 13. IC 34-30-2-81.5 IS ADDED TO THE INDIANA
 27 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 28 [EFFECTIVE JULY 1, 2003]: **Sec. 81.5. IC 16-41-10-3.5 (Concerning**
 29 **a provider who tests a patient for the presence of a dangerous**
 30 **communicable disease).**
 31 SECTION 14. **An emergency is declared for this act.**

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SENATE MOTION

Mr. President: I move that Senator Simpson be added as second author of Senate Bill 343.

MILLER

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COMMITTEE REPORT

Mr. President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 343, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 23, delete "Public hospitals." and insert "**Hospitals.**".

Page 3, line 14, delete "department" and insert "**department, with the cooperation of the office of Medicaid policy and planning.**".

Page 3, line 16, delete "all".

Page 3, line 33, delete "shall" and insert "**may**".

Page 3, line 33, delete "each".

Page 3, line 34, delete "case" and insert "**cases**".

Page 3, line 38, delete "required to report" and insert "**who reports**".

Page 4, line 2, delete "required by" and insert "**under**".

and when so amended that said bill do pass.

(Reference is to SB 343 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 7, Nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Senate Bill 343, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

BROWN C, Chair

Committee Vote: yeas 13, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 343 be amended to read as follows:

Page 1, line 12, after "following" insert "**chronic**".

Page 1, line 16, insert "**(D) Hypertension**".

Page 2, line 3, before "disease" insert "**chronic**".

Page 2, line 4, after "measures" insert "**and health outcomes**".

Page 2, line 2, after "health" insert "**and other experts in health care case management or disease management programs**".

Page 3, line 14, begin a new line block indented and insert: "**(4) Hypertension**".

(Reference is to ESB 343 as printed March 28, 2003.)

BROWN C

 HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 343 be amended to read as follows:

Page 2, after line 42, begin a new paragraph and insert:

"SECTION 2. IC 12-21-2-5, AS AMENDED BY HEA 1395-2003, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) Subject to subsection (b), the director may delegate statutory duties or powers of the division, a bureau of the division, the director, or other statutorily created personnel.

(b) If the director decides that a final decision is to be made concerning the placement of a mentally ill individual in a mental health facility, the final decision must be made:

(1) by the director, if the director is a licensed psychiatrist or licensed psychologist; or

(2) by a licensed psychiatrist or licensed psychologist who is delegated the authority by the director;

in consultation with the patient's psychiatrist or psychologist.

(c) Subsection (b) does not apply to an initial placement designation made under IC 12-24-12-10(b)."

Page 5, line 11, delete "IC 34-30-2-77.2" and insert "IC 34-30-2-77.4".

Page 5, line 13, delete "77.2." and insert "**77.4**".

Page 5, line 14, delete "(concerning" and insert "**(Concerning)**".

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Renumber all SECTIONS consecutively.

(Reference is to ESB 343 as printed March 28, 2003.)

BECKER

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 343 be amended to read as follows:

Page 5, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 1. IC 16-41-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: 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 nurse licensed under IC 25-23, or other person who provides emergency medical services in the course of the person's employment.

SECTION 2. IC 16-41-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) ~~A provider of 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 a ~~provider of 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 ~~provider of emergency medical services~~ **provider** shall notify the emergency ~~service facility~~ **medical services provider's employer** not more than twenty-four (24) hours after the ~~patient~~ **emergency medical services provider** is ~~admitted to the facility~~ **exposed** on a form that is prescribed by the state department and the Indiana emergency medical services commission.

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

(1) **If applicable, the receiving medical director of the emergency department of the medical facility:**

(A) **to which the patient was admitted following the**

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exposure; or

(B) in which the patient was located at the time of the exposure.

(2) The facility that employs the provider of emergency medical services **provider's employer.**

(3) The state department.

SECTION 3. IC 16-41-10-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **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.

SECTION 4. IC 16-41-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **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 an emergency the medical service facility shall, not more than seventy-two (72) hours after the medical facility is notified under section 2 of this chapter:**

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(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 a facility employing the provider of emergency medical services described in section 2 of this chapter if (1) not more than seventy-two (72) hours after a patient is admitted to the facility the facility obtains information from the patient's records or a diagnosis at the facility that the patient has a dangerous communicable disease; and (2) the provider of emergency medical services has complied with section 2 of this chapter; **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) ~~A provider of~~ **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 facility that ~~employs the provider~~ of emergency medical services **provider's employer** to receive notification: ~~on the form described in section 2 of this chapter: the test results.~~

(c) The notification required by this section shall be made ~~The medical director or physician described in section 3 of this chapter shall notify the emergency medical services provider of the test results~~ not more than forty-eight (48) hours after the facility determines that a patient ~~medical director or physician receives the test results.~~ has a dangerous communicable disease that is potentially transmissible through the incident.

SECTION 5. IC 16-41-10-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3.5. (a) A medical facility may not physically restrain a patient described in section 2.5 of this chapter**



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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 section 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.

SECTION 6. IC 16-41-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) ~~If medically indicated,~~ 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 ~~provider of emergency medical services~~ **provider** described in section 2 of this chapter to do the following:

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

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

SECTION 7. IC 16-41-10-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) Except as **otherwise** provided in ~~sections 3 and 4~~ of 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

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employee who violates this section is subject to discharge or other disciplinary action under the personnel rules of the agency that employs the employee."

Page 5, between lines 15 and 16, begin a new paragraph and insert:

"SECTION 8. IC 34-30-2-81.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 81.5. IC 16-41-10-3.5 (Concerning a provider who tests a patient for the presence of a dangerous communicable disease).**"

Re-number all SECTIONS consecutively.

(Reference is to ESB 343 as printed March 28, 2003.)

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