

**CONFERENCE COMMITTEE REPORT
DIGEST FOR ESB 343**

Citations Affected: IC 12-15-12-19; IC 16-18-2-55.5; IC 16-38-6; IC 16-41-6-1; IC 16-41-10; IC 34-30-2-77.4; IC 34-30-2-81.5.

Synopsis: Health management and chronic disease registry. Conference committee report for ESB 343. 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. **(This conference committee report: (1) removes a provision specifying authority to determine initial placement designations in mental health facilities; (2) adds licensed physicians to the definition of "emergency medical services provider"; (3) makes a cross reference concerning consent for testing of communicable diseases; and (4) makes technical stylistic changes.)**

Effective: Upon passage; July 1, 2003.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill No. 343 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
2 SECTION 1. IC 12-15-12-19, AS AMENDED BY P.L.66-2002,
3 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 UPON PASSAGE]: Sec. 19. (a) This section applies to an individual
5 who:
6 (1) is a Medicaid recipient; **and**
7 (2) is not enrolled in the risk-based managed care program. **and**
8 ~~(3) resides in a county having a population of more than one~~
9 ~~hundred thousand (100,000);~~
10 (b) Subject to subsection (c), the office shall develop the following
11 programs regarding individuals described in subsection (a):
12 (1) A disease management program for recipients with any of the
13 following **chronic** diseases:
14 (A) Asthma.
15 (B) Diabetes.
16 (C) Congestive heart failure or coronary heart disease.
17 ~~(D) HIV or AIDS.~~ **(D) Hypertension.**
18 (2) A case management program for recipients ~~whose per recipient~~
19 ~~Medicaid cost is in the highest ten percent (10%) of all individuals~~
20 ~~described in subsection (a) who are at high risk of chronic~~
21 ~~disease, that is based on a combination of cost measures,~~
22 ~~clinical measures, and health outcomes identified and~~

1 developed by the office with input and guidance from the state
2 department of health and other experts in health care case
3 management or disease management programs.

4 (c) The office shall implement:

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

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

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

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

12 (d) The office shall develop and implement a program required
13 under this section in cooperation with the state department of
14 health and shall use the following health care providers to the
15 extent possible:

16 (1) Community health centers.

17 (2) Federally qualified health centers (as defined in 42 U.S.C.
18 1396d(l)(2)(B)).

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

20 (4) Local health departments.

21 (5) Hospitals.

22 (e) The office ~~shall~~ may contract with an outside vendor or vendors
23 to assist in the develop development and implement implementation
24 of the programs required under subsection (b): this section. The office
25 shall begin the contract procurement process not later than October 1,
26 2001. The contract required under this subsection must be effective not
27 later than July 1, 2002.

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

37 (e) (g) The office and the state department of health shall report
38 to the select joint commission on Medicaid oversight established by
39 IC 2-5-26-3 not later than December 31, 2002, November 1 of each
40 year regarding the programs developed under this section.

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

45 SECTION 3. IC 16-38-6 IS ADDED TO THE INDIANA CODE AS
46 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
47 PASSAGE]:

48 **Chapter 6. Chronic Disease Registry**

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

51 (1) Asthma.

- 1 (2) Diabetes.
 2 (3) Congestive heart failure or coronary heart disease.
 3 (4) Hypertension.

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

- 7 (1) recording chronic disease cases that are diagnosed or
 8 treated in Indiana; and
 9 (2) compiling necessary and appropriate information
 10 determined by the state department concerning cases described
 11 in subdivision (1) in order to do the following:
 12 (A) Conduct epidemiologic and environmental surveys of
 13 chronic disease and use appropriate preventive and control
 14 measures.
 15 (B) Inform citizens regarding programs designed to manage
 16 chronic disease.
 17 (C) Provide guidance to the office of Medicaid policy and
 18 planning to identify and develop cost and clinical measures
 19 for use in a program required by IC 12-15-12-19.

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

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

- 26 (1) Physicians.
 27 (2) Hospitals.
 28 (3) Medical laboratories.
 29 (b) A person who reports information to the state chronic disease
 30 registry under this section may use:
 31 (1) information submitted to any other public or private
 32 chronic disease registry; or
 33 (2) information required to be filed with federal, state, or local
 34 agencies;

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

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

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

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

1 **the following:**

2 **(1) First, the oral or written consent of the patient's attending**
3 **physician.**

4 **(2) Second, the patient's written consent by completing a**
5 **confidential medical release form.**

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

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

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

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

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

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

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

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

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

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

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

33 SECTION 4. IC 16-41-6-1, AS AMENDED BY P.L.293-2001,
34 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
35 JULY 1, 2003]: Sec. 1. (a) Except as provided in **IC 16-41-10-2.5** and
36 subsection (b), a person may not perform a screening or confirmatory
37 test for the antibody or antigen to the human immunodeficiency virus
38 (HIV) without the consent of the individual to be tested or a
39 representative as authorized under IC 16-36-1. A physician ordering
40 the test or the physician's authorized representative shall document
41 whether or not the individual has consented.

42 (b) The test for the antibody or antigen to HIV may be performed if
43 one (1) of the following conditions exists:

44 (1) If ordered by a physician who has obtained a health care
45 consent under IC 16-36-1 or an implied consent under emergency
46 circumstances and the test is medically necessary to diagnose or
47 treat the patient's condition.

48 (2) Under a court order based on clear and convincing evidence of
49 a serious and present health threat to others posed by an individual.
50 A hearing held under this subsection shall be held in camera at the
51 request of the individual.

1 (3) If the test is done on blood collected or tested anonymously as
 2 part of an epidemiologic survey under IC 16-41-2-3 or
 3 IC 16-41-17-10(a)(5).

4 (4) The test is ordered under section 4 of this chapter.

5 (5) The test is required or authorized under IC 11-10-3-2.5.

6 (c) A court may order a person to undergo testing for HIV under
 7 IC 35-38-1-10.5(a) or IC 35-38-2-2.3(a)(16).

8 SECTION 5. IC 16-41-10-1 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. As used in this
 10 chapter, "emergency medical services provider" means a firefighter, a
 11 law enforcement officer, a paramedic, an emergency medical
 12 technician, a **physician licensed under IC 25-22.5, a nurse licensed**
 13 **under IC 25-23**, or other person who provides emergency medical
 14 services in the course of the person's employment.

15 SECTION 6. IC 16-41-10-2 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) ~~A provider of An~~
 17 emergency medical services **provider** who is exposed to blood or body
 18 fluids while providing emergency medical services to a patient may
 19 request notification concerning exposure to a dangerous communicable
 20 disease under this chapter if the exposure is of a type that has been
 21 demonstrated epidemiologically to transmit a dangerous communicable
 22 disease.

23 (b) If a ~~provider of an~~ emergency medical services **provider** desires
 24 to be notified **of results of testing following a possible exposure to**
 25 **a dangerous communicable disease** under this chapter, the ~~provider~~
 26 ~~of emergency medical services~~ **provider** shall notify the emergency
 27 ~~service facility~~ **medical services provider's employer** not more than
 28 twenty-four (24) hours after the ~~patient~~ **emergency medical services**
 29 **provider** is ~~admitted to the facility~~ **exposed** on a form that is
 30 prescribed by the state department and the Indiana emergency medical
 31 services commission.

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

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

37 (A) **to which the patient was admitted following the**
 38 **exposure; or**

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

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

43 (3) The state department.

44 SECTION 7. IC 16-41-10-2.5 IS ADDED TO THE INDIANA CODE
 45 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 46 1, 2003]: Sec. 2.5. (a) **A patient (including a patient who is unable**
 47 **to consent due to physical or mental incapacity) to whose blood or**
 48 **body fluids an emergency medical services provider is exposed as**
 49 **described in section 2 of this chapter is considered to have**
 50 **consented to:**

51 (1) **testing for the presence of a dangerous communicable**

1 disease of a type that has been epidemiologically demonstrated
2 to be transmittable by an exposure of the kind experienced by
3 the emergency medical services provider; and

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

6 The medical director or physician shall notify the emergency
7 medical services provider of the test results.

8 (b) If a patient described in subsection (a) refuses to provide a
9 blood or body fluid specimen for testing for a dangerous
10 communicable disease, the exposed emergency medical services
11 provider, the exposed emergency medical services provider's
12 employer, or the state department may petition the circuit or
13 superior court having jurisdiction in the county:

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

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

17 for an order requiring that the patient provide a blood or body
18 fluid specimen.

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

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

29 (A) cause a blood or body fluid specimen to be obtained from
30 the patient and testing to be performed for a dangerous
31 communicable disease of a type that has been
32 epidemiologically demonstrated to be transmittable by an
33 exposure of the kind experienced by the emergency medical
34 services provider; and

35 (B) notify the medical director of a facility employing the
36 provider of emergency medical services described in section 2
37 of this chapter if (1) not more than seventy-two (72) hours after
38 a patient is admitted to the facility the facility obtains
39 information from the patient's records or a diagnosis at the
40 facility that the patient has a dangerous communicable disease;
41 and (2) the provider of emergency medical services has complied
42 with section 2 of this chapter; provider's employer; or

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

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

47 (B) petition the circuit or superior court having jurisdiction
48 in the county of the patient's residence or where the
49 employer of the exposed emergency medical services
50 provider has the employer's principal office for an order
51 requiring that the patient provide a blood or body fluid

1 specimen.

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

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

15 SECTION 9. IC 16-41-10-3.5 IS ADDED TO THE INDIANA CODE
 16 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY
 17 1, 2003]: **Sec. 3.5. (a) A medical facility may not physically restrain**
 18 **a patient described in section 2.5 of this chapter in order to test the**
 19 **patient for the presence of a dangerous 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 3 of this chapter; or**
 23 (2) **the results of a test are released under section 3 of this**
 24 **chapter.**

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

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

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

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

46 SECTION 11. IC 16-41-10-5 IS AMENDED TO READ AS
 47 FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 5. (a) Except as**
 48 **otherwise provided in sections 3 and 4 of this chapter, the medical**
 49 **information referred to in this chapter is confidential, and a person**
 50 **may not disclose or be compelled to disclose medical or**
 51 **epidemiological information referred to in this chapter.**

1 (b) A person responsible for recording, reporting, or maintaining
2 information referred to in this chapter who recklessly, knowingly, or
3 intentionally discloses or fails to protect medical or epidemiological
4 information classified as confidential under this section commits a
5 Class A misdemeanor.

6 (c) In addition to the penalty prescribed by subsection (b), a public
7 employee who violates this section is subject to discharge or other
8 disciplinary action under the personnel rules of the agency that
9 employs the employee.

10 SECTION 12. IC 34-30-2-77.4 IS ADDED TO THE INDIANA
11 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
12 **[EFFECTIVE UPON PASSAGE]: Sec. 77.4. IC 16-38-6-8**
13 **(Concerning persons who report information to the chronic disease**
14 **registry).**

15 SECTION 13. IC 34-30-2-81.5 IS ADDED TO THE INDIANA
16 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
17 **[EFFECTIVE JULY 1, 2003]: Sec. 81.5. IC 16-41-10-3.5 (Concerning**
18 **a provider who tests a patient for the presence of a dangerous**
19 **communicable disease).**

20 SECTION 14. **An emergency is declared for this act.**
(Reference is to ESB 343 as reprinted April 11, 2003.)

Conference Committee Report
on
Engrossed Senate Bill 343

Signed by:

Senator Miller
Chairperson

Representative Brown C

Senator Simpson

Representative Brown T

Senate Conferees

House Conferees