

Indiana State Department of Health – HIV/STD Viral Hepatitis Division

Updates to Indiana's Syringe Exchange Program Law IC 16-41-7.5 (as Amended per HEA 1438)

[Please review the entire statute as amended when assessing syringe exchange program (SEP) requirements. This document is limited only to a summary of amendments made by HEA 1438. Previously existing requirements in the SEP law that were not amended still apply. ISDH recommends that counties seek the advice of legal counsel when interpreting or applying the law.]

On April 26, 2017, Governor Eric J. Holcomb signed into law amendments to the Indiana SEP law. The SEP law as amended and attached hereto became effective immediately upon signing. This document provides a high level summary of the changes to the law.

- I. Initial Approval of an SEP – IC 16-41-7.5-5(2) and (3). The legislative body of the municipality or the executive body of the county may, if the SEP complies with Section 6 of the law and is within the jurisdictional limits of the county or municipality that the body represents, either: (a) submit a request to the State Health Commissioner to declare a public health emergency and approve operation of the program; or (b) approve the operation of the program itself.

Section (3) requires a county that has made an approval independent of the State Health Commissioner, to notify him/her of the period of time considered medically appropriate for the program; whether a renewal or an extension of the program can occur; and other measures taken concerning the epidemic that have proven ineffective.

- II. Renewals or Terminations of an Existing SEP – IC 16-41-7.5-11(b) and (c). A SEP may now remain in effect for up to two (2) years. The State Health Commissioner may, at the request of the executive body of the county or the legislative body of the municipality that requested the initial declaration and approval, renew his/her public health emergency declaration and operation of the program; or terminate the program. In the alternative, the county or municipality that initially approved the SEP may, through official action: (a) renew the program for up to (2) years; or (b) terminate the program; when warranted.

The legislative body of the municipality or the executive body of the county must notify the State Health Commissioner in writing immediately of any of the following: (a) a renewal of the SEP and the period of time of the renewal; (b) the expiration or termination of the SEP; or (c) a change in the qualified entity administering the SEP.

- III. Stock and Administer Naloxone – IC 16-41-7.5-6(9). A qualified entity must keep sufficient quantities of an overdose intervention drug (naloxone) in stock and to administer in accordance with IC 16-42-27.
- IV. Program Reports – IC 16-41-7.5-10. The amended statute authorizes ISDH to ask that a qualified entity supply additional information concerning an SEP, to include data regarding referrals made to other services.
- V. Expiration of Chapter – IC 16-41-7.5-14. The expiration date of the law, as amended, was extended to July 1, 2021.

IC 16-41-7.5 Chapter 7.5. Communicable Disease: Syringe Exchange Program

16-41-7.5-1	"Local health department"
16-41-7.5-2	"Program"
16-41-7.5-3	"Qualified entity"
16-41-7.5-4	Location of programs; complying with requirements
16-41-7.5-5	Requirements to operate a program
16-41-7.5-6	Duties
16-41-7.5-7	Termination
16-41-7.5-8	Use of state funds
16-41-7.5-9	Attending a program does not constitute reasonable suspicion or probable cause
16-41-7.5-10	Program reports
16-41-7.5-11	Request for public health emergency declaration; approval and denial; renewal; notification of state health commissioner
16-41-7.5-12	State department report
16-41-7.5-13	Governor's authority
16-41-7.5-14	Expiration of chapter

IC 16-41-7.5-1 "Local health department"

Sec. 1. As used in this chapter, "local health department" refers to:

- (1) a local health department established under IC 16-20; or
- (2) the health and hospital corporation created under IC 16-22-8.

As added by P.L.208-2015, SEC.9.

IC 16-41-7.5-2 "Program"

Sec. 2. As used in this chapter, "program" means a syringe exchange program operated under this chapter.

As added by P.L.208-2015, SEC.9.

IC 16-41-7.5-3 "Qualified entity"

Sec. 3. 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 operates a program and has been approved by official action to operate the program by:
 - (A) the local health department;
 - (B) the executive body of the county; or
 - (C) the legislative body of a municipality for the operation of a program within the boundaries of the municipality.

As added by P.L.208-2015, SEC.9.

IC 16-41-7.5-4 Location of programs; complying with requirements

Sec. 4. (a) A qualified entity may operate a program only in a county or municipality where:

- (1) a public health emergency has been declared; or

(2) a program has been approved; under section 5 of this chapter. However, a qualified entity may not operate a program outside of the jurisdictional area of the governmental body that approved the qualified entity.

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

As added by P.L.208-2015, SEC.9. Amended by P.L.198-2017, SEC.1.

IC 16-41-7.5-5 Requirements to operate a program

Sec. 5. Before a qualified entity may operate a program in a county, the following shall occur:

(1) The local health officer or the executive director must declare to the executive body of the county or the legislative body of the municipality the following:

- (A) There is an epidemic of hepatitis C or HIV.
- (B) That the primary mode of transmission of hepatitis C or HIV in the county is through intravenous drug use.
- (C) That a syringe exchange program is medically appropriate as part of a comprehensive public health response.

(2) The legislative body of the municipality or the executive body of the county must do the following:

- (A) Conduct a public hearing that allows for public testimony.
- (B) Take official action adopting the declarations under subdivision (1) by the local health officer or the executive director in consideration of the public health for the area and, if the program complies with section 6 of this chapter and is within the jurisdictional limits of the county or municipality that the body represents, either:
 - (i) approve the operation of the program; or
 - (ii) submit a request under subdivision (3) to the state health commissioner.

(3) The legislative body of the municipality or the executive body of the county that took official action under subdivision (2) either:

(A) notifies the state health commissioner of the body's actions under subdivision (2), including:

- (i) the period of time considered medically appropriate for the program;
- (ii) whether a renewal or an extension of the program can occur; and(iii) other measures taken concerning the epidemic that have proven ineffective; or

(B) if the body does not approve the operation of a program under subdivision (2)(B)(i) and submits a request under subdivision (2)(B)(ii), request that the state health commissioner declare a public health emergency and approve the operation of a program.

(4) If subdivision (3)(B) applies, the state health commissioner has declared a public health emergency for the county or municipality and approved the operation of a program.

As added by P.L.208-2015, SEC.9. Amended by P.L.198-2017, SEC.2.

IC 16-41-7.5-6 Duties

Sec. 6. A qualified entity that operates a program under this chapter must do the following:

(1) Annually register the program in a manner prescribed by the state department with the:

- (A) state department; and
- (B) local health department in the county or municipality where services will be provided by the qualified entity if the qualified entity is not the local health department.

(2) Have one (1) of the following licensed in Indiana provide oversight to the qualified entity's programs:

- (A) A physician.
- (B) A registered nurse.
- (C) A physician assistant.

(3) Store and dispose of all syringes and needles collected in a safe and legal manner. (4) Provide education and training on drug overdose response and treatment, including the administration of an overdose intervention drug.

(5) Provide drug addiction treatment information and referrals to drug treatment programs, including programs in the local area and programs that offer medication assisted treatment that includes a federal Food and Drug Administration approved long acting, non-addictive medication for the treatment of opioid or alcohol dependence.

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

(7) Operate in a manner consistent with public health and safety.

(8) Ensure the program is medically appropriate and part of a comprehensive public health response.

(9) Keep sufficient quantities of an overdose intervention drug (as defined in IC 16-18-2-263.9) in stock and to administer in accordance with IC 16-42-27.

As added by P.L.208-2015, SEC.9. Amended by P.L.198-2017, SEC.3.

IC 16-41-7.5-7 Termination

Sec. 7. (a) The following may terminate the approval of a qualified entity:

(1) The legislative body of the municipality, the executive body of the county, or the local health department that approved the qualified entity.

(2) The state health commissioner, if the state health commissioner determines that the qualified entity has failed to comply with section 6 of this chapter.

(b) If a person described in subsection (a)(1) or (a)(2) terminates the approval of a qualified entity, the person shall notify the other person with authority to terminate that is described in subsection (a) of the termination. *As added by P.L.208-2015, SEC.9.*

IC 16-41-7.5-8 Use of state funds

Sec. 8. A state agency may not provide funds to a qualified entity to purchase or otherwise acquire hypodermic syringes or needles for a program under this chapter.

As added by P.L.208-2015, SEC.9.

IC 16-41-7.5-9 Attending a program does not constitute reasonable suspicion or probable cause

Sec. 9. (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, in whole or in part, for a determination of probable cause or reasonable suspicion by a law enforcement officer.

As added by P.L.208-2015, SEC.9. Amended by P.L.44-2016, SEC.1.

IC 16-41-7.5-10 Program reports

Sec. 10. 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.

The state department may request that a qualified entity supply additional information concerning the program operated by the qualified entity, including data concerning referrals to services.

As added by P.L.208-2015, SEC.9. Amended by P.L.198-2017, SEC.4.

IC 16-41-7.5-11 Request for public health emergency declaration; approval and denial; renewal; notification of state health commissioner

Sec. 11. (a) If the state health commissioner receives a request to declare a public health emergency under this chapter, the state health commissioner shall approve, deny, or request additional information concerning the request under section 5 of this chapter not later than ten (10) calendar days from the date the request is submitted to the state health commissioner.

If additional information is:

- (1) requested by the state health commissioner; and
- (2) provided by the entity seeking the declaration; the state health commissioner shall approve or deny the request not later than ten (10) calendar days from the submission date of the additional information.

(b) A program established under this chapter may remain in effect for not more than two (2) years from the date approved under this chapter. However:

- (1) the state health commissioner may:
 - (A) upon the request of the executive body of the county or the legislative body of the municipality that requested the initial declaration and approval, renew the declaration of a public health emergency and operation of the program for not more than two (2) years; or
 - (B) terminate a program; or
- (2) the legislative body of the municipality or the executive body of the county that initially approved the program may, through official action:
 - (A) renew the program for not more than two (2) years; or
 - (B) terminate a program; when warranted.

(c) The legislative body of the municipality or the executive body of the county shall notify the state health commissioner in writing immediately of any of the following:

- (1) A renewal of a program under subsection (b) and the period of time of the renewal.
- (2) The expiration or termination of a program.
- (3) A change in the qualified entity administering the program.

As added by P.L.208-2015, SEC.9. Amended by P.L.198-2017, SEC.5.

IC 16-41-7.5-12 State department report

Sec. 12. Before November 1 of each year, the state department shall submit a report concerning syringe exchange programs operated under this chapter to the governor and to the general assembly in an electronic format under IC 5-14-6.

As added by P.L.208-2015, SEC.9.

IC 16-41-7.5-13 Governor's authority

Sec. 13. This chapter may not be construed to preclude the governor from taking any action within the governor's authority.

As added by P.L.208-2015, SEC.9.

IC 16-41-7.5-14 Expiration of chapter

Sec. 14. This chapter expires July 1, 2021.

As added by P.L.208-2015, SEC.9. Amended by P.L.198-2017, SEC.6.