

West's Annotated Indiana Code Currentness

Title 16. Health

▢ Article 41. Public Health Measures for the Prevention and Control of Disease

➔ Chapter 39.4. Lead Poisoning

### **16-41-39.4-1 Rules**

Sec. 1. (a) The state department may adopt rules under IC 4-22-2 to implement this chapter.

(b) The state department shall adopt rules under IC 4-22-2 for the case management of a child with lead poisoning.

### **16-41-39.4-2 Powers of state department**

Sec. 2. (a) The state department may do the following:

- (1) Determine the magnitude of lead poisoning in Indiana's residents.
- (2) Provide consultation and education to a medical provider network that screens for lead poisoning throughout Indiana.
- (3) Receive and analyze blood samples or assist regional lab sites to receive and analyze blood samples for lead poisoning.
- (4) Develop and maintain a data base of unduplicated children with lead poisoning.
- (5) Provide consultation to local health departments regarding medical case follow-up and environmental inspections connected to reducing the incidence of lead poisoning.
- (6) Coordinate lead exposure detection activities with local health departments.
- (7) Coordinate with social service organizations for outreach programs regarding lead poisoning.
- (8) Notify and update pediatricians and family practice physicians of lead hazards in a timely fashion.
- (9) Provide consumer alerts and consumer education regarding lead hazards.

(b) The state department shall establish reporting, monitoring, and preventive procedures to protect from lead poisoning.

### **16-41-39.4-3 Reporting examination of individuals**

Sec. 3. (a) A person that examines the blood of an individual described in [section 2](#) of this chapter for the presence of lead must report to the state department the results of the examination not later than one (1) week after completing the examination. The report must include at least the following:

(1) With respect to the individual whose blood is examined:

(A) the name;

(B) the date of birth;

(C) the gender;

(D) the race; and

(E) any other information that is required to be included to qualify to receive federal funding.

(2) With respect to the examination:

(A) the date;

(B) the type of blood test performed;

(C) the person's normal limits for the test;

(D) the results of the test; and

(E) the person's interpretation of the results of the test.

(3) The names, addresses, and telephone numbers of:

(A) the person; and

(B) the attending physician, hospital, clinic, or other specimen submitter.

(b) If a person required to report under subsection (a) has submitted more than fifty (50) results in the previous calendar year, the person must submit subsequent reports in an electronic format determined by the state department.

(c) Except as provided in subsection (d), if a person required to report under subsection (a) fails to provide complete information within ten (10) days after notification by the state department, the state department may, in accordance with IC 4-21.5, assess a civil penalty against the person in an amount equal to one thousand five hundred dollars (\$1,500) for each incomplete report that is submitted after receipt of the notification. Money received by the state department under this subsection shall be deposited in the fund.

(d) Subsection (c) does not apply to a person who acts in good faith to provide a complete report required under subsection (a), but who:

(1) is unable to collect all of the information required for a complete report; or

(2) provides incorrect information on a completed report.

#### **16-41-39.4-3.1 Childhood lead poisoning prevention fund**

Sec. 3.1. (a) The childhood lead poisoning prevention fund is established for the purpose of funding childhood lead poisoning outreach and prevention activities. The fund shall be administered by the state department.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The fund consists of:

(1) civil penalties assessed under [section 3](#) of this chapter;

(2) gifts; and

(3) appropriations from the general assembly.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

#### **16-41-39.4-4 Sharing of information among local, state, and federal agencies**

Sec. 4. (a) The state department, the office of the secretary of family and social services, and local health departments shall share among themselves and with the United States Department of Health and Human Services and the United States Department of Housing and Urban Development information, including a child's name, address, and demographic information, that is gathered after January 1, 1990, concerning the concentration of lead in the blood of a child less than seven (7) years of age to the extent necessary to determine the prevalence and distribution of lead poisoning in children less than seven (7) years of age.

(b) The state department, the office of the secretary of family and social services, and local health departments shall share information described in subsection (a) that is gathered after July 1, 2002, among themselves and with organizations that administer federal, state, and local programs covered by the United States Department of Housing and Urban Development regulations concerning lead-based paint poisoning prevention in certain residential structures under 24 CFR Subpart A, Part 35 to the extent necessary to ensure that children potentially affected by lead-based paint and lead hazards are adequately protected from lead poisoning.

(c) A person who shares data under this section is not liable for any damages caused by compliance with this section.

#### **16-41-39.4-5 Report to general assembly**

Sec. 5. (a) The state department shall, in cooperation with other state agencies, collect data under this chapter and, before March 15 of each year, report the results to the general assembly for the previous calendar [FN1] year. A copy of the report shall be transmitted in an electronic format under IC 5-14-6 to the executive director of the legislative services agency for distribution to the members of the general assembly.

(b) The report transmitted under subsection (a) must include for each county the following information concern-

ing children who are less than seven (7) years of age:

- (1) The number of children who received a blood lead test.
- (2) The number of children who had a blood test result of at least ten (10) micrograms of lead per deciliter of blood.
- (3) The number of children identified under subdivision (2) who received a blood test to confirm that they had lead poisoning.
- (4) The number of children identified under subdivision (3) who had lead poisoning.
- (5) The number of children identified under subdivision (4) who had a blood test result of less than ten (10) micrograms of lead per deciliter of blood.
- (6) The average number of days taken to confirm a blood lead test.
- (7) The number of risk assessments performed for children identified under subdivision (4) and the average number of days taken to perform the risk assessment.
- (8) The number of housing units in which risk assessments performed under subdivision (7) documented lead hazards as defined by 40 CFR 745.
- (9) The number of housing units identified under subdivision (8) that were covered by orders issued under [IC 13-14-10-2](#) or by another governmental authority to eliminate lead hazards.
- (10) The number of housing units identified under subdivision (9) for which lead hazards have been eliminated within thirty (30) days, three (3) months, and six (6) months.

[FN1] So in original. Should probably read: "calendar."

#### **16-41-39.4-6 Lead-safe housing advisory council; members; reports**

Sec. 6. (a) The lead-safe housing advisory council is established to advise the state department concerning housing related lead poisoning prevention activities.

(b) The advisory council consists of the following members:

- (1) The state health commissioner, or the state health commissioner's designee, who shall serve as the chairperson of the advisory council.
- (2) The director of the Indiana housing and community development authority or the director's designee.
- (3) The local health officer of each of three (3) local health departments, appointed by the state health commissioner to represent a diverse geographic and population mix, or the local health officer's designee.
- (4) The following individuals, appointed by the governor:

- (A) A representative of realtors in Indiana.
- (B) A representative of home builders or remodelers in Indiana.
- (C) A pediatrician or other physician with knowledge of lead poisoning.
- (D) A representative of the private lead-based paint abatement industry who is licensed under IC 16-41-39.8 to perform or supervise lead-based paint activities.
- (E) A representative of a community based organization located in a community with a significant concentration of high risk lead-contaminated properties, as determined by a high prevalence in the community of:
  - (i) low income families having children with lead poisoning; and
  - (ii) housing units that were built before 1978.
- (F) A parent of a child with lead poisoning.
- (G) A representative from a child or health advocacy organization.
- (H) A residential tenant.
- (I) A representative of the paint and coatings industry.
- (J) A representative of public housing administrators.
- (K) A representative of residential rental property owners.
- (L) A representative of licensed lead-based paint activities training providers.
- (M) A representative of community action program agencies.
- (N) A representative of the banking industry.
- (O) An individual who is licensed as a lead-based paint activities inspector under IC 16-41-39.8.
- (P) A child care provider.

(c) The advisory council shall meet at least quarterly. The first meeting of the advisory council must occur not later than July 1, 2008.

(d) The advisory council shall submit to the governor, the attorney general, and, in an electronic format under IC 5-14-6, the legislative council the following:

- (1) A preliminary report before November 1, 2008.
- (2) A final report before November 1, 2009.

(e) The reports required by subsection (d) shall contain the recommendations of the advisory council concerning the following:

- (1) Development of a primary prevention program to address housing related lead poisoning.
  - (2) Development of a sufficient number of licensed lead inspectors, risk assessors, clearance examiners, individuals who are trained in lead-safe work practices, abatement workers, and contractors.
  - (3) Ensuring lead-safe work practices in remodeling, rehabilitation, and weatherization work.
  - (4) Funding mechanisms to assist child care and residential property owners with the cost of lead abatement, remediation, and mitigation, including interim controls.
  - (5) A procedure for distribution of funds from the Indiana lead trust fund established by [IC 16-41-39.8-7](#) to pay the cost of implementation of 40 CFR 745 for lead-based paint activities in target housing and child occupied facilities.
  - (6) A program to ensure that the resale of recycled building products does not pose a significant risk of lead poisoning to children.
  - (7) Necessary statutory or administrative rule changes to improve the effectiveness of state and local lead abatement, remediation, including interim controls, and other lead poisoning prevention and control activities.
  - (8) The content of a basic lead training course for child care workers concerning lead hazards that:
    - (A) includes lead-based paint rules awareness; and
    - (B) includes information concerning how the course should be made available to child care workers.
  - (9) For the preliminary report, recommendations for legislation to be introduced in the 2009 session of the general assembly.
- (f) The state department shall staff and provide administrative and logistical support to the advisory council, including conference telephone capability for meetings of the advisory council.
- (g) Each member of the advisory council who is a state employee is entitled to reimbursement for traveling expenses as provided under [IC 4-13-1-4](#) and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.
- (h) A majority of the members appointed to the advisory council is required for the advisory council to take action on any measure, including final reports.
- (i) This section expires July 1, 2011.

**[16-41-39.4-7 Sale or distribution of consumer products; guidelines for products containing lead](#)**

Sec. 7. (a) A retail establishment that sells paint or paint products shall do all of the following:

- (1) Offer for sale a lead test kit that is capable of determining the presence of a lead-based paint hazard.
- (2) Provide to customers the federal Environmental Protection Agency pamphlet "Protect Your Family from Lead in Your Home" or a similar source of information approved by the state department.
- (3) Ensure that at least one (1) employee who provides advice to customers concerning paint and paint products:
  - (A) attends a training program concerning lead hazards; and
  - (B) provides training to other employees who provide advice to customers concerning paint and paint products.

This subsection does not apply to a paint or paint product that is used solely for a craft or hobby.

(b) A person that sells, offers for sale, or distributes a consumer product shall not remove, erase, or obscure the visibility of a statement that:

- (1) the manufacturer or wholesaler of the consumer product has placed on the consumer product or the container or wrapper in which the consumer product is contained; and
- (2) specifies that the consumer product contains or may contain lead.

(c) A person shall not sell or offer for sale at wholesale or retail or distribute a consumer product, surface coating material, a food product, or food packaging that:

- (1) is a banned hazardous substance under the federal Hazardous Substances Act ([15 U.S.C. 1261\(q\)\(1\)](#)); or
- (2) has been determined by the state department to:
  - (A) have a lead content that is greater than the lesser of the lead content specifications for lead paint in [16 CFR 1303.2](#) or state law; and
  - (B) pose a danger of childhood lead poisoning because the product, material, or packaging is reasonably expected to be accessible to, chewed by, or ingested by a child who is less than seven (7) years of age.

(d) If the state department, based on:

- (1) test results performed by a certified laboratory at the state department's request;
- (2) information received from a federal agency; or
- (3) other reliable information;

has reason to believe that a person has violated this section, the state department may, with or without a prior hearing, issue to the person a cease and desist order if the commissioner determines a cease and desist order is in

the public interest. In addition to all other remedies, the commissioner may bring an action in the name and on behalf of the state against the person to enjoin the person from violating this section.

(e) The state department or a local health department may at any time during regular business hours inspect any premises where consumer products are sold, offered for sale, or distributed to establish compliance with this section.

(f) The state department may seize an item that is sold, offered for sale, or distributed in violation of this section.

(g) The state department shall, not later than May 1, 2009, adopt rules under IC 4-22-2 to implement this section. The rules adopted under this subsection:

(1) may:

(A) establish exceptions under which items described in subsection (c) may be sold, offered for sale, or distributed upon the state department's determination that the risk posed to children by the items is minimal; or

(B) require labeling of an item or signage to reflect that the item contains lead; and

(2) must be consistent with federal law.

#### **16-41-39.4-9 Lead-safe work practices training program**

Sec. 9. (a) The state department shall, not later than July 1, 2009, adopt rules under IC 4-22-2 to establish a lead-safe work practices training program for contractors, renovators, and remodelers who:

(1) perform work on housing units that were built before 1978; and

(2) disturb lead-based paint in the housing units.

(b) The rules adopted under subsection (a) must:

(1) be consistent with the federal Department of Housing and Urban Development Lead Safe Housing Rule requirements for lead safe work practices training (24 CFR 53.1330(a)(4)); and

(2) provide for training courses taught in English and Spanish.

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