

### **IC 16-19-3**

#### **Chapter 3. Powers and Duties of State Department of Health and Executive Board**

### **IC 16-19-3-1**

#### **Supervision of health and life of citizens; necessary powers**

Sec. 1. The state department shall supervise the health and life of the citizens of Indiana and shall possess all powers necessary to fulfill the duties prescribed in the statutes and to bring action in the courts for the enforcement of health laws and health rules.

*As added by P.L.2-1993, SEC.2.*

### **IC 16-19-3-2**

#### **Branch offices; purpose; legislative intent**

Sec. 2. (a) The state department may establish, operate, and maintain branch offices. The number of branch offices shall be determined by the state department.

(b) The purpose of authorizing the creation of branch offices is to furnish a more comprehensive and effective health program to the people of Indiana and to provide additional assistance to all local health officials. The legislative intent of this section is to authorize the establishment of branch offices as a means of assisting, but not limiting, the powers possessed by local health agencies.

*As added by P.L.2-1993, SEC.2.*

### **IC 16-19-3-3**

#### **Facilities for branch offices**

Sec. 3. For the purpose of providing facilities for branch offices, the state department may, with the approval of the governor, purchase or lease real property. Structures may be remodeled, repaired, constructed, and maintained. A building may not be constructed upon property not owned in fee simple by the state. All deeds and leases shall be made to the state for the use of the state department. These procedures and powers shall be exercised under IC 4-13-2 where applicable.

*As added by P.L.2-1993, SEC.2.*

### **IC 16-19-3-4**

#### **Protection and improvement of public health; adoption of rules**

Sec. 4. (a) The executive board may, by an affirmative vote of a majority of its members, adopt reasonable rules on behalf of the state department to protect or to improve the public health in Indiana.

(b) The rules may concern but are not limited to the following:

- (1) Nuisances dangerous to public health.
- (2) The pollution of any water supply other than where jurisdiction is in the water pollution control board and department of environmental management.
- (3) The disposition of excremental and sewage matter.
- (4) The control of fly and mosquito breeding places.
- (5) The detection, reporting, prevention, and control of diseases

that affect public health.

(6) The care of maternity and infant cases and the conduct of maternity homes.

(7) The production, distribution, and sale of human food.

(8) The conduct of camps.

(9) Standards of cleanliness of eating facilities for the public.

(10) Standards of cleanliness of sanitary facilities offered for public use.

(11) The handling, disposal, disinterment, and reburial of dead human bodies.

(12) Vital statistics.

(13) Sanitary conditions and facilities in public buildings and grounds, including plumbing, drainage, sewage disposal, water supply, lighting, heating, and ventilation, other than where jurisdiction is vested by law in the fire prevention and building safety commission or other state agency.

(14) The design, construction, and operation of swimming and wading pools. However, the rules governing swimming and wading pools do not apply to a pool maintained by an individual for the sole use of the individual's household and house guests.

*As added by P.L.2-1993, SEC.2.*

#### **IC 16-19-3-4.1**

##### **Rules**

Sec. 4.1. The executive board shall adopt reasonable rules to regulate the sanitary operation of tattoo parlors.

*As added by P.L.181-1997, SEC.2.*

#### **IC 16-19-3-4.2**

##### **Body piercing facilities; rules**

Sec. 4.2. The executive board shall adopt reasonable rules to regulate the sanitary operation of body piercing facilities.

*As added by P.L.166-1999, SEC.1.*

#### **IC 16-19-3-4.3**

##### **Variances from rules regarding food handling or food establishments**

Sec. 4.3. Upon a showing of good cause, the executive board may grant a variance from one (1) or more of the state rules concerning:

(1) food handling machinery; or

(2) sanitary standards for the operation of food establishments.

*As added by P.L.266-2001, SEC.8.*

#### **IC 16-19-3-5**

##### **Rules for enforcement; exceptions**

Sec. 5. The executive board may adopt rules on behalf of the state department for the efficient enforcement of this title, except as otherwise provided. However, fees for inspections relating to weight and measures may not be established by the rules.

*As added by P.L.2-1993, SEC.2. Amended by P.L.80-1999, SEC.1.*

### **IC 16-19-3-6**

#### **Rules; conformity to laws**

Sec. 6. The rules of the state department may not be inconsistent with this title or any other Indiana statute.

*As added by P.L.2-1993, SEC.2.*

### **IC 16-19-3-7**

#### **Sanitary inspections and surveys; indoor air quality inspections; inspection of private property**

Sec. 7. (a) The state department may make sanitary inspections and surveys throughout Indiana and of all public buildings and institutions.

(b) The state department may make indoor air quality inspections of all public buildings and institutions that are occupied by an agency of state or local government.

(c) After due notice is given, the state department may enter upon and inspect private property in regard to the presence of cases of infectious and contagious diseases and the possible cause and source of diseases.

*As added by P.L.2-1993, SEC.2. Amended by P.L.104-2003, SEC.3.*

### **IC 16-19-3-8**

#### **Sanitation of public buildings and institutions; enforcement**

Sec. 8. The state department may enforce all laws and rules concerning the character and location of plumbing, drainage, water supply, disposal of sewage, lighting, heating, and ventilation and all sanitary features of all public buildings and institutions.

*As added by P.L.2-1993, SEC.2.*

### **IC 16-19-3-9**

#### **Quarantine**

Sec. 9. The state department may establish quarantine and may do what is reasonable and necessary for the prevention and suppression of disease.

*As added by P.L.2-1993, SEC.2.*

### **IC 16-19-3-10**

#### **Epidemics**

Sec. 10. The state department may order schools and churches closed and forbid public gatherings when considered necessary to prevent and stop epidemics.

*As added by P.L.2-1993, SEC.2.*

### **IC 16-19-3-11**

#### **Condemnation or abatement of conditions causative of disease**

Sec. 11. The state department may issue an order condemning or abating conditions causative of disease.

*As added by P.L.2-1993, SEC.2.*

### **IC 16-19-3-12**

**Rules and regulations; enforcement; local health officers; removal**

Sec. 12. (a) When, in the opinion of the state department:

- (1) a local health authority fails or refuses to enforce the laws and rules necessary to prevent and control the spread of communicable or infectious disease declared to be dangerous to the public health; or
- (2) a public health emergency exists;

the state department may enforce the orders and rules of the state department within the territorial jurisdiction of the local health authorities. In that situation, the state department may exercise all the powers given by law to local health authorities. All expenses incurred are charges against the respective counties or cities.

(b) In such cases, the failure or refusal of any local health officer or local health board to carry out and enforce the lawful orders and rules of the state department is sufficient cause for the removal of the local health officer or the members of the local health board from office.

(c) Upon removal of a local health officer or a member of the local health board, the proper county or city authorities shall immediately appoint a successor, other than the person removed, as provided by law for original appointments.

*As added by P.L.2-1993, SEC.2.*

**IC 16-19-3-13**

**Local health officers; removal from office; grounds**

Sec. 13. The state department may remove a local health officer in the state for any of the following reasons:

- (1) Intemperance.
- (2) Failure to collect vital statistics.
- (3) Failure to obey rules.
- (4) Failure to keep records.
- (5) Failure to make reports.
- (6) Failure to answer letters of inquiry of the state department concerning the health of the people.
- (7) Neglect of official duty.

*As added by P.L.2-1993, SEC.2.*

**IC 16-19-3-14**

**Local health officers; removal from office; procedure**

Sec. 14. A local health officer may not be removed by the state department except under the procedure provided by law for the removal of an officer or employee for cause by a state officer or agency.

*As added by P.L.2-1993, SEC.2.*

**IC 16-19-3-15**

**Local health officers; removal from office; ineligibility to reappointment; filling of vacancy**

Sec. 15. A health officer removed as provided in this chapter is ineligible to hold the position of health officer for four (4) years. The

vacancy shall be filled for the unexpired term in the same manner as the original appointment or employment.

*As added by P.L.2-1993, SEC.2.*

#### **IC 16-19-3-16**

##### **Water pollution; proceedings to abate or prevent; regulation of sanitary systems**

Sec. 16. The state department may conduct hearings, issue orders, and take action on behalf of the state for the enforcement of orders as necessary to regulate the use of existing or proposed sanitary systems that do not meet or would not meet health standards established by the state department under law or rule as means, by the use of the state department's police power, to abate or prevent the pollution of streams, rivers, lakes, and other bodies of water.

*As added by P.L.2-1993, SEC.2.*

#### **IC 16-19-3-17**

##### **Hearings; agent or representative of department**

Sec. 17. Whenever a hearing is provided for or authorized to be held by the state department, the state department may designate a person as the state department's agent or representative to conduct the hearings. The agent or representative shall conduct the hearings in the manner provided by law.

*As added by P.L.2-1993, SEC.2.*

#### **IC 16-19-3-18**

##### **Enforcement proceedings; injunction**

Sec. 18. (a) The state department may bring a proceeding against any person against whom a final order or determination has been made to compel compliance. The court in such an action has jurisdiction to enforce the order or determination by injunction.

(b) Except as otherwise provided, the state department may bring an action to enforce this title, except as otherwise stated. Such an action shall be brought in the name of the state. The court in such an action has jurisdiction to compel or enforce the provisions of this title by injunction.

*As added by P.L.2-1993, SEC.2.*

#### **IC 16-19-3-19**

##### **Vital statistics studies; death and sickness records; provision of information to election division regarding deceased voters**

Sec. 19. (a) The state department shall study the vital statistics and endeavor to make intelligent and profitable use of the collected records of death and sickness among the people.

(b) As required under 42 U.S.C. 15483, after January 1, 2006, the department shall provide information to the election division to coordinate the computerized list of voters maintained under IC 3-7-26.3 with the department records concerning individuals identified as deceased under IC 3-7-45.

*As added by P.L.2-1993, SEC.2. Amended by P.L.209-2003,*

SEC.202.

### **IC 16-19-3-20**

#### **Dental public health**

Sec. 20. The state department shall provide facilities and personnel for investigation, research, and dissemination of knowledge to the public concerning dental public health.

*As added by P.L.2-1993, SEC.2. Amended by P.L.142-1995, SEC.5.*

### **IC 16-19-3-21**

#### **Programs for residential care of certain individuals; eligibility; fees**

Sec. 21. The state department may:

- (1) operate; and
- (2) designate local boards that qualify to operate;

programs in the public interest, to provide for the care of certain individuals in each individual's place of residence. Eligibility for participation includes individuals who come within the purview of the federal Social Security Act (42 U.S.C. 301 et seq.). The state department and the designated local boards shall periodically establish a schedule of reasonable fees for this service and shall collect the fees as prescribed by IC 16-20-1-27.

*As added by P.L.2-1993, SEC.2.*

### **IC 16-19-3-22**

#### **Poisons; safety and emergency information; telephone answering service**

Sec. 22. (a) The state department shall maintain a toll-free telephone answering service to provide information on safety precautions and emergency procedures with regard to poisons.

(b) The telephone number shall be widely disseminated throughout Indiana and shall be manned on a twenty-four (24) hour per day basis.

(c) The telephone companies in Indiana, the state department, all hospitals, and all other boards or commissions registering or licensing health care professions or emergency medical services shall cooperate in making the toll-free telephone number available to the public.

*As added by P.L.2-1993, SEC.2.*

### **IC 16-19-3-23**

#### **Health care programs; telephone information service**

Sec. 23. (a) The state department shall maintain a toll-free telephone line to provide information, referral, follow-up, and personal assistance concerning federal, state, local, and private programs that provide services to children less than twenty-one (21) years of age with long term health care needs. The state department shall provide the telephone service to the following:

- (1) Families with children having long term health care needs.
- (2) Health care providers.
- (3) Employees of state and local governmental entities.

(4) Educators.

(5) Other entities that provide services to children with long term health care needs.

(b) The state department may adopt rules under IC 4-22-2 to implement this section.

*As added by P.L.2-1993, SEC.2.*

#### **IC 16-19-3-24**

##### **Acquired immune deficiency drug assistance program; administration**

Sec. 24. The state department shall administer the Indiana acquired immune deficiency drug assistance program.

*As added by P.L.2-1993, SEC.2.*

#### **IC 16-19-3-25**

##### **Inspection report; guidelines for release to public**

Sec. 25. (a) This section applies to inspections performed by the state department.

(b) Except as provided in this section, until the recipient of an inspection report has had ten (10) calendar days to respond to the inspection report the state department may not release to the public:

- (1) the inspection report; or
- (2) records relating to the inspection.

(c) The state department shall release to the public an inspection report and records relating to the inspection earlier than the time stated in subsection (b) if the state department determines that the release is necessary to:

- (1) protect the public from an imminent threat to health or safety;
- (2) protect the consumers of health services from an imminent threat to health or safety; or
- (3) protect the public from a gross deception or fraud.

(d) The state department shall release to the public an inspection report and records relating to the inspection earlier than the time period in subsection (b):

- (1) if the state department orders closure of a regulated entity; or
- (2) after receipt of the regulated entity's written consent to the release of the inspection report and records relating to the inspection.

(e) With respect to a recipient of an inspection performed by the state department, the period of time described in subsection (b) begins as follows:

- (1) If the inspection report is personally delivered to the recipient, on the date of delivery.
- (2) If the inspection report is deposited in the United States mail, three (3) days after the date of deposit in the United States mail.

(f) After an inspection report is released under this section, the inspection report and records relating to the inspection may be

inspected and copied as set forth in IC 5-14-3.  
*As added by P.L.190-1995, SEC.1.*

**IC 16-19-3-26**

**Anatomical gift promotion fund; Indiana Donation Alliance Foundation report**

Sec. 26. (a) The anatomical gift promotion fund is established. The fund consists of amounts distributed to the fund by the auditor of state under IC 9-18-2-16.

(b) 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 funds are invested. Interest that accrues from these investments shall be deposited in the fund.

(c) The state department shall administer the fund. Any expenses incurred in administering the fund shall be paid from the fund.

(d) The money in the fund shall be distributed quarterly to the Indiana Donation Alliance Foundation for the purpose of implementing an organ, tissue, and marrow registry and to promote organ, tissue, and marrow donation.

(e) The Indiana Donation Alliance Foundation shall keep information regarding the identity of an individual who has indicated a desire to make an organ or tissue donation confidential.

(f) The Indiana Donation Alliance Foundation shall submit an annual report, including a list of all expenditures, to the chairperson of the:

- (1) legislative council;
- (2) senate health committee; and
- (3) house public health committee;

before January 15. The report must be in an electronic format under IC 5-14-6.

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

(h) This subsection applies if the Indiana Donation Alliance Foundation:

- (1) loses its status as an organization exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code; or
- (2) ceases its affiliation with at least three (3) of the following organizations:
  - (A) American Red Cross Tissue Service.
  - (B) Children's Organ Transplant Association.
  - (C) Community Tissue Services.
  - (D) Indiana Lions Eye & Tissue Transplant Bank.
  - (E) Indiana Organ Procurement Organization.
  - (F) St. Joseph Hospital Tissue Bank and Indiana Cardiac Retrieval.

The Indiana Donation Alliance Foundation shall report in an electronic format under IC 5-14-6 to the chairpersons of the senate standing committee, as determined by the president pro tempore of the senate, and the house standing committee, as determined by the

speaker of the house of representatives, that have subject matter jurisdiction over health issues. The chairpersons shall review the report and recommend to the state department whether to continue distributions under subsection (d).

(i) This section expires July 1, 2007.

*As added by P.L.96-1997, SEC.3. Amended by P.L.63-2000, SEC.2; P.L.131-2001, SEC.1; P.L.81-2002, SEC.2; P.L.3-2004, SEC.1.*

### **IC 16-19-3-27**

#### **Department study of septic system technologies; development of plans and specifications; rules**

Sec. 27. (a) The state department of health shall:

- (1) study the use of:
  - (A) effluent filters;
  - (B) recirculation media filters;
  - (C) aeration treatment units;
  - (D) drip irrigation;
  - (E) graveless trenches; and
  - (F) new technologies;

for residential septic systems that will cause systems to perform satisfactorily as alternatives to currently operating systems that do not perform satisfactorily because of soil characteristics, lot sizes, topographical conditions, or high water tables; and

- (2) take all actions necessary to develop plans and specifications for use of the technologies listed in subdivision (1) in residential septic systems.

(b) The executive board shall adopt reasonable rules under IC 4-22-2 to:

- (1) promulgate the plans and specifications developed under subsection (a); and
- (2) allow for the issuance of operating permits for:
  - (A) residential septic systems that are installed in compliance with the plans and specifications promulgated under subdivision (1); and
  - (B) onsite residential sewage discharging disposal systems in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000) that comply with IC 13-18-12-9.

*As added by P.L.172-2002, SEC.6.*