

# Indiana Local Health Department Duties and Requirements by Indiana Code (IC) & Indiana Administrative Code (IAC)

(Revised October 2021)

This document is designed simply to guide local health departments in providing an outline of duties that are required (“shall do” or “must do”) of local health departments in Indiana and those duties that are allowable (“may do”) and may be conducted by choice by local health departments in Indiana. This was derived as a helpful tool – but has not been formally legally reviewed and is subject to change as needed. It is also subject to interpretation per locality and again, is merely a guide. All sections denoted in blue font below are generalizations of whether or not a statute/rule is funded or unfunded (with “funded” meaning either by way of directly-provided state/federal funds or by the authority provided in the rules to allow a local health department to charge for the services with a local ordinance). This may vary county-to-county based upon whether or not their budget is fully tax-based – in which case, these duties would technically not be considered unfunded as taxes could technically be considered to be funding them. It is merely listed as a tool for local discussion and mainly references whether or not duties are considered a state or federal unfunded mandate.

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*In general, the following are statutorily-required duties that Indiana Local Health Departments must perform via Indiana Code or Indiana Administrative Code:*

### General Rules Governing Local Health Departments and Boards of Health (Formation, Type, Meetings, etc.)

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|--------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| IC 16-19 and 16-20 | <b>Boards of Health and Local Health Department Duties &amp; Restrictions</b><br><i>These chapters go over what Executive Boards of Health must do and discusses budgets, annual reports, salaries, enforcement, etc. – basically prescribes the general duties of a local health department and their board.</i> |
| IC 16-20-1-23      | <b>Inspection of private property by local health officer</b><br><i>This is the section that provides guidance for how to seek consent for inspection of private property, what to do if denied entry, how to seek an inspection warrant, and what circumstances allow for urgent entry, etc.</i>                 |
| IC 16-20-1-25      | <b>Unlawful conditions; abatement order; enforcement; providing false information</b>                                                                                                                                                                                                                             |
| IC 16-20-1-26      | <b>Injunctive enforcement; legal representation of health authorities</b>                                                                                                                                                                                                                                         |

### Vital Records/Birth/Death

**Collection, recording, filing, and submission of Vital Statistics and all associated duties**

**FUNDED OR UNFUNDED:** In general, local health departments have the statutory authority to and do charge fees for services for Vital Records associated duties, so this is not considered an unfunded mandate.

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|---------------|------------------------------------------------------------------------------------------------------------------|
| IC 16-20-1-17 | (Vital Statistics; birth and death records)                                                                      |
| IC 16-21-11-6 | (Disposition by cremation or interment; costs; permits; confidential information – regarding a miscarried fetus) |

IC 16-34-3-4	(Disposition by cremation or interment; permits; confidential information – regarding an aborted fetus)
IC 16-35-7	(Child Deaths)
IC 16-37	(General Statutes regarding Vital Records)
IC 16-37-1-9	(Coroner’s Continuing Education Fund) <b>Unfunded Mandate</b>
IC 16-38-2-7	(Release of Confidential Information – regarding cancer patients and information released by ISDH to local health departments)
IC 16-38-4	(Birth Problems Registry)
IC 16-38-6-7	(Releasing Confidential Information – regarding ISDH releasing information to local health officers about chronic disease patients)
IC 16-41-6-9	(Information on confidential part of birth certificate- regarding HIV tests performed under certain conditions)
IC 23-14-31	(Cremation)
IC 23-14-57	(Disinterment, Disentombment and Disinurnment)
IC 31-19-5	(Indiana Putative Father Registry)
IC 31-19-13	(New Birth Certificate Following Adoption)
IC 34-28-2	(Change of Name)
IC 36-2-14	(County Coroner)
IC 10-13-5-11	(Indiana Clearinghouse for Information on Missing Children)
410 IAC 18	(Vital Records)

**Control of Disease**

**Public Health Measures for the Prevention and Treatment of Disease as well as all required follow-up of Reportable Communicable Diseases**

**FUNDED OR UNFUNDED:** With the exception of certain ISDH-provided medications, large pandemics receiving federal funding initiatives such as H1N1 and some ISDH-provided STD testing, the performance of these duties is considered an unfunded mandate as no monies are provided to local health departments to perform these duties and they are often performed under emergency circumstances to protect the community. For many years, these services were provided completely free of charge in most local health departments (TB testing, TB treatment, STD testing, STD treatment, etc.). Some local health departments may now seek reimbursement from Medicaid/Medicare/Private Insurance, and some may have begun charging fees for some clinical services to begin to offset the costs of providing these services if local tax funding is falling short of covering all departmental costs. Large outbreaks of communicable diseases and the required responses, however, are still generally unfunded and take a large toll on local budgets. Further, all investigations of reportable diseases generally are considered just “regular required” duties for local health departments.

IC 16-20-1-21	(Communicable disease control; powers)
IC 16-20-1-24	(Epidemic control; powers)
IC 16-41	(Public Health Measures for the Prevention and Control of Disease --All General Communicable Disease Prevention Rules)
410 IAC 1-2.2-5	(Reports to Local Health Officers regarding Communicable Disease)
410 IAC 1-2.5	(Communicable Disease Reporting Rule)
410 IAC 2-1	(Tuberculosis Control)
410 IAC 2-2	(Payment for TB treatment under certain circumstances & Patient Movement/Transfers)
410 IAC 29	(Childhood Lead Poisoning)
IC 16-41-19	(Vaccination Provisions for Indigent Persons; payment and forms)
410 IAC 6-9-5(b)	(Agricultural Labor Camps; notification of communicable disease only)

## **Food Protection**

Food Protection, Inspection, Sanitary Requirements, Food Handler Certification, Bed & Breakfast Establishments

**FUNDED OR UNFUNDED: In general, local health departments have the statutory authority to and do charge fees for services for Food Establishment Permitting and Inspection-associated duties, so this is not considered an unfunded mandate.**

IC 16-18-2-137	(Food Establishment Sanitary Requirements Exception)
IC 16-20-8	(Food Service Inspections)
IC 16-41-31	(Regulation of Lodging Facilities and Bedding Materials: Bed & Breakfast Establishments – these are the authorities ISDH has in this regard but defines some basic things)
IC 16-42	(Regulation of Food, Drugs, and Cosmetics)
IC 16-42-5	(Sanitary Food Requirements for Food Establishments)
410 IAC 7-15.5	(Bed & Breakfast Rule)
410 IAC 7-22	(Food Handler Certification Rule)
410 IAC 7-23	(Civil Penalties Rule)
410 IAC 7-24	(Indiana Food Sanitation Rule)

*NOTE: HEA 1260 (in 2018) made changes to ISDH's hospital survey/inspection processes, and resulted in the retail food inspection portion of accredited hospitals being passed down to local health departments to carry out starting 1/1/2019.*

## **Pollution Control**

Monitoring and Regulation of Wastewater/Sewage Disposal

**FUNDED OR UNFUNDED: In general, local health departments have the statutory authority to and do charge fees for services for Pollution Control/Onsite Sewage System Permitting and Inspection-associated duties, so this is not considered an unfunded mandate.**

410 IAC 6-8.3	(Residential Sewage Disposal Rule)
410 IAC 6-10.1	(Commercial On-Site Wastewater Disposal)
410 IAC 6-12	(Plan Review, Construction Permits, and Fees for Service)
IC 16-41-25	(Health, Sanitation, and Safety: Residential Septic Systems, Required Lid Covering, Fill Soil, Notice Regarding Sewer Districts)
IC 13-26-5-2.5-2.6	(Septic tank soil absorption system exemption from Sewer Connection and Local Health Department Duties in this Regard)

## **Vector Control**

Pest Control and Vector Abatement Programs

**FUNDED OR UNFUNDED: Direct funding isn't provided to carry out these duties. It is sometimes considered covered under local tax monies allocated in local health department budgets. This section allows for the creation of a tax levy for these services, but the current tax caps laws likely would make this allowance moot.**

IC 16-41-33	(Pest Control – General Provisions)
IC 16-41-34	(Pest Control – Eradication of Rats)

## **Dwellings Unfit for Human Habitation**

General Health, Sanitation, Inspection and Safety Provisions

**FUNDED OR UNFUNDED: Direct funding isn't provided to carry out these duties, however, it's a core duty of local health departments that is considered covered under local tax monies allocated in local health department budgets.**

IC 16-41-20	(Dwellings Unfit for Human Habitation – and associated duties, powers, orders to vacate, costs)
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## **Childhood Lead Poisoning**

Reporting, Monitoring, Case Management, and Preventive Procedures for Childhood Lead Poisoning

**FUNDED OR UNFUNDED:** These duties are considered unfunded mandates. These duties originated with *some* available ISDH (CDC pass-through) funding many years ago when the legislation initially passed (and some local health departments applied for the funding), but those funds have gone away and the duties remain. For some local health departments, this is a very large unfunded mandate.

410 IAC 29 (Lead Poisoning Rule)  
IC 16-41-39.4 (Childhood Lead Poisoning, Sales of Consumer Products, Lead Safe Rules, Local Health Department Responsibilities)

## **Railroad Camp Cars**

Requiring inspection and allowing licensing of railroad mobile camp cars

**FUNDED OR UNFUNDED:** In general, local health departments have the statutory authority to and can charge fees for services for Railroad Camp Car Permitting and Inspection-associated duties if they perform these duties, so this is not considered an unfunded mandate. It is worth noting that it is not a duty that seems to fit within the LOCAL health department duties since these trains move throughout the state and therefore it seems more fitting to be inspected at the STATE level. These are lengthy inspections and often involve inspectional aspects that are not related to public health but must be done (electrical, heating, mechanical, etc.).

IC 8-9-10 (Indiana Camp Car Sanitary Rules)  
IC 16-10-3-4.4 (Mobile Camps – railroads)  
410 IAC 6-14 (Indiana Camp Car Sanitary Rule)

## **“OTHER Miscellaneous Requirements”**

IC 13-23-16 (*Unfunded Mandate*) (LHD Reporting of Spills & Overfills from UST’s)  
---Local health departments have to pay to have these spills advertised for IDEM

318 IAC 1 (*Unfunded Mandate*) (Referred to as the “Methamphetamine Rule”)  
---Depending on the level of response and involvement each local health department engages in with identified meth/ clandestine labs, this is a very large unfunded mandate. It is often difficult to think of charging fees for local health department services as most of the time those who are responsible for these meth labs are incarcerated, etc. This is a very difficult thing to enforce as well as capture any reimbursement for provision of services.

IC 24-5-13, sections 4.1, 16.1, 16.2, and 24 (Methamphetamine Labs in Vehicles) (*Unfunded Mandate*)  
410 IAC 6-7.1-16 and 7.1-33 (Campgrounds / Temporary Campgrounds)  
IC 10-14-3 (Emergency Mgmt. and Disaster Law – health related areas)  
IC 5-14-1.5 (Public Meetings – OPEN DOOR LAW)  
IC 5-14-3 (Access to Public Records)  
410 IAC 24-1 (Local Health Maintenance Funds and Fees for Service)  
IC 16-20 (Throughout this statute, there are many duties LHD’s “may” do – please read this section in full as it defines what must be done, what cannot be done, and what can be done.)  
IC 16-20-1-25 (Investigation and Ordered Abatement of all conditions that may transmit, generate, or promote disease; complaints)  
IC 16-41-8 (Communicable Disease Confidentiality Requirements)  
IC 16-41-19-2 (*Unfunded Mandate*) (Antitoxins and Vaccines – this section requires “all counties, cities and towns” --- doesn’t specifically obligate the local health department, but it is usually construed that way --- to “provide diphtheria, scarlet fever, and tetanus

*antitoxin and rabies vaccine to persons financially unable to purchase the antitoxin or vaccine, upon the application of a licensed physician.” This is an old rule and work continues to get it removed.*

IC 16-41-22-12 (Health, Sanitation, and Safety: Mass Gatherings) – see Section 12.

IC 16-41-22 (Health, Sanitation & Safety of Mass Gatherings – see IC 16-41-22-12 as it relates to local health dept. responsibilities)

IC 16-41-30 Regulation of Lodging Facilities and Bedding Materials: Fresh Bedding for Hotel Guests

IC 16-41-34 (**Unfunded Mandate**) (Pest Control: Eradication of Rats, inspections) – note that there are both some required and allowed duties under this statute. (NOTE: There is an older provision in the statutes that allows for local health departments to request an increase to their tax levy to cover the costs of this sort of program. However, when the tax cap laws took effect, this eliminated even the possibility of requesting this as taxes are now capped in most counties and no new levies can be implemented without offsetting other taxes.)

IC 16-49-2 & 3 (Establishing Local Child Fatality Review Teams)

15 U.S.C. 8001-8008.  
(“Virginia Graeme Baker Pool and Spa Safety Act”) – section 32(e)  
(**Unfunded Mandate**)

All public and semi-public pools and spas must comply with this rule relative to drain covers and local health departments who regulate pools OR receive complaints on this issue are, in general, responsible for ensuring compliance with this federal rule (this is because although the federal rule may designate state’s as the enforcers of this rule, in Indiana, the State does not regulate swimming pools and usually defers to local health departments for this type of enforcement, therefore compliance with this act falls on any local health department who regulates swimming pools).

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*In general, the following are duties Indiana Local Health Departments MAY/CAN perform but they are not required duties under the statutes/rules (and since these are not required, none are considered unfunded mandates per se, as conceivably fees could be charged to administer most of them or you can choose not to do these duties). **SEVERAL COUNTIES HAVE LOCAL ORDINANCES OR PROGRAMS THAT GOVERN THESE ACTIVITIES FOR THEIR AREA:***

**ADDITIONAL OPTIONAL PROGRAMS WHICH ARE MENTIONED IN STATE STATUTES OR ADMINISTRATIVE RULES (therefore, if counties opt to pass local ordinances to do them, they generally adopt the state rules in that regard to enforce, but likely add to them for local needs):**

**Syringe Services Programs (SSPs)**

IC 16-41-7.5 (Communicable Disease: Syringe Exchange Programs)

**STD’s, HIV Prevention (the clinical side of things – testing, treatment, partner services, etc.)**

IC 16-41-15 (Communicable Disease: Prevention and Control of Venereal Diseases)

**Mobile Homes**

IC 16-41-27 (Health, Sanitation, & Safety of Mobile Homes – see IC 16-41-27-32)

***Pest/Vector/Mosquito/Rodent Control***

*IC 16-41-33 (Pest Control; Local and State Programs for Vector Abatement)*

***Swimming & Wading Pools***

*410 IAC 6-2.1 (Swimming and Wading Pool Operations Rule)*

***Tattoo & Body Piercing***

*410 IAC 1-5 (Sanitary Operation of Tattoo Parlors & Body Piercing Establishments)*

***Campgrounds and Bathing Beaches***

*410 IAC 6-7.1 (Campgrounds and Bathing Beaches; inspections/investigations, testing)*

***Youth Camps***

*410 IAC 6-7.2 (Youth Camps; inspections/investigations, testing)*

***OTHER:***

*IC 16-46 (State Health Grants and Programs to Local Boards of Health)*

*IC 7.1-5-12 (Smoking Ban)*

*IC 8-2.1-27 (Transportation of Food)*

**OTHER PUBLIC HEALTH PROGRAM ACTIVITIES THAT ARE DONE IN MANY HEALTH DEPARTMENTS BY THEIR OWN (or their elected official's own) CHOICE – BUT ARE NOT COVERED IN INDIANA STATUTE OR ADMINISTRATIVE RULES:**

- Housing/Unfit for Human Habitation Complaints and Inspections
- Public Nuisance Ordinances
- Open Burning Enforcement
- Lead Risk Assessments, Mold Programs, etc.
- Massage Parlor Establishments
- Health-related programs for either education or attempting to lower the impacts of infant mortality, obesity, smoking, maternal child issues, etc.
- Refugee Care
- Travel Clinics – Immunizations, Medications, Counsel on International Travel & Disease
- Random Ordinances already in existence in cities/counties (not mentioned in current statutes or administrative rules)
  - Beekeeping Ordinances
  - CPR Ordinances
  - Patient Safety or other Safety-related Ordinances
  - Well Ordinances
  - Onsite Wastewater Management District Ordinance (Allen County only per IDEM requirements)
- Fee Ordinances – that cover a large portion of LHD operations (for permits, vital records, etc.)
- WIC Clinics for those who have this included in with their Health Department.
- Civil Surgeon Exam programs

*~Childhood and/or Adult Immunizations (although most LHDs offer some sort of immunization services, they are not generally required duties -- other than those required in accordance with IC 16-41-19 or if they are associated with some form of outbreak where ISDH/CDC prescribes a required response). In general, though, this is one of the unrequired, but core programs health departments offer across the state.*

*~Emergency Preparedness Planning and Response (other than any implied duties found under IC 10-14-3)*

*~HOTELS/MOTELS/LODGING FACILITIES – although there are no specific statutes/rules pertaining the regulation of hotels/motels/lodging facilities, local health departments are responsible for the sanitation standards of those types of facilities and generally do follow-up inspections upon receiving complaints from the public. Some counties have developed local ordinances to set forth standards, penalties and for outlining inspectional requirements, but most counties in Indiana do complaint-based inspections.*

*Helpful Links to Statutes/Rules that relate to various specific circumstances encountered by Local Health Departments (some are repeated). **SPECIAL DISCLAIMER:** The below scenarios and interpretations are based on past experience with legal and court-related matters in Allen County only. Therefore, each county may have different legal interpretations or understandings of how these laws apply. This list was compiled simply to direct people who do not know where to find specific language on certain issues as a starting point for enforcement issues or for issues the author (Mindy) has received numerous calls on over the years from other counties inquiring how to handle something. **Helpful tips only!***

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**Sometimes property owners will not allow local health departments on their property to conduct a complaint investigation. The following are excerpts from the various applicable rules to cite on inspection reports, letters, orders, etc...**

**General Public Health Complaint Investigations or Communicable Disease Investigations, for example:**

**IC 16-41-5-1 Entry upon private property; conditions**

“Sec.1. (a) The state department may designate an agent who may enter upon private property to inspect for and investigate possible violations of this article or a rule adopted under this article if all of the following conditions are met:(1) The agent has probable cause to believe that evidence of a health threat exists on private property. (2) The agent presents proper credentials. (3) Emergency circumstances exist or a warrant is issued. (b) This section does not impair the authority of the state department to enter public or private property as authorized by law.” **(NOTE: This section is rarely used for a local health department issue unless ISDH has requested some special inspection on their behalf.)**

**IC 16-20-1-23 Inspection of private property by local health officer; consent by owner; exceptions; court order; property in which officer has interest**

“Sec. 23 (a) Upon:(1) showing official identification; and (2) except as provided in subsection (b), receiving consent of the owner or occupant of the premises; a local health officer or the officer's designee may enter any premises at any reasonable time and inspect, investigate, evaluate, conduct tests, or take specimens or samples for testing that may be reasonably necessary to determine compliance with public health laws and rules and for the prevention and suppression of disease.

(b) A local health officer or the officer's designee shall obtain the consent of the owner or the occupant of the premises under subsection (a), except as provided in any of the following circumstances:(1) Subject to subsection (c), the local health officer or the officer's designee obtains an order from a circuit or superior court in the jurisdiction where the premises is located to authorize the inspection, investigation, evaluation, testing, or taking of specimens or samples for testing.(2) An emergency condition that poses an imminent and serious threat to the health of an

individual or the public and the local health officer or the officer's designee believes that a delay could result in a greater health risk.(3) Entry by a local health officer or the officer's designee to a public place or an area in plain and open view to determine compliance with public health laws and rules. (4) Entry under the terms and conditions of a license issued by the local health department at any reasonable time if reasonably necessary to determine compliance with public health laws and rules and the terms and conditions of the license.

(c) A court described in subsection (b)(1) may issue an order to inspect, investigate, evaluate, conduct tests, or take specimens or samples for testing if the court finds that the local health officer or the officer's designee, by oath or affirmation, provided reliable information establishing the violation of a public health law or rule at the premises.

(d) However, a local health officer, or the officer's designee, shall not inspect property in which the local health officer has any interest, whether real, equitable, or otherwise. Any such inspection or any attempt to make such inspection is grounds for removal as provided for in this article.

(e) This section does not prevent inspection of premises in which a local health officer has an interest if the premises cannot otherwise be inspected. If the premises cannot otherwise be inspected, the county health officer shall inspect the premises personally.”

**Onsite Septic System-related inspections: 410 IAC 6-8.3-51 Administrative authority**

“Sec. 51. (a) This rule shall be administered by the local boards of health through their health officer and his or her authorized representatives. (b) Nothing in this rule shall be construed as prohibiting more stringent requirements in local ordinances. (c) Each local health department residential on-site sewage system permit program is subject to review by the department. Such review may include, but not be limited to, a review of the permits issued, supporting documentation, and a review of on-site sewage system installations. (d) The department, its agent, or the health officer or his or her agent shall be permitted to enter upon all properties at the proper time for the following purposes necessary to achieve compliance with this rule: (1) Inspection. (2) Observation. (3) Measurement. (4) Sampling. (5) Testing.”

**Food Establishment-related inspections: 410 IAC 7-24-108 Access allowed at reasonable times after due notice**

“Sec. 108. (a) After the regulatory authority presents official credentials and expresses an intent to conduct an inspection, investigation, or to collect food samples, the person-in-charge shall allow the regulatory authority to determine if the retail food establishment is in compliance with this rule by allowing access to the establishment, and providing information and records specified in this rule and to which the regulatory authority is entitled according to law, during the retail food establishment’s hours of operation and other reasonable times. (b) For purposes of this section, a violation of subsection (a) is a noncritical item.”

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***QUESTION RECEIVED: What options are there if a property owner denies access to their property for the purposes of conducting a complaint investigation (at a home for example)?***

- (1) First, refer to your local ordinance if the inspection is being conducted under a local ordinance. Local Ordinances generally have penalty or “failure to comply” clauses and explain what enforcement steps are allowed within your jurisdiction (such as to refer the case to the Prosecuting attorney, or county attorney, or seeking an inspection warrant, etc.).
- (2) Second, reach out to your county attorney for legal advice. Each jurisdiction is different and may have rules set forth for how to handle a statute/rule/ordinance violation or inspection denial issue.
- (3) If you are conducting a general inspection under on the Indiana Statutes or Administrative Rules stated above and are denied access to a property, here are some tips to “make your case”:
  - a. Ensure you have provided due notice to the property owner (THIS IS EXTREMELY IMPORTANT) and you have showed your credentials to prove who you are (as this is



required). Due notice can be interpreted in many ways, so ensure you are complying with what your county attorney feels is applicable. Due notice, in general though, means properly notifying a person/property owner of the issue at hand in advance of entering into or onto their property, informing them of the applicable rules as well as your intended next steps such as an inspection or testing. The property owner does have the right to deny inspection after you given them due notice of your intent. State law implies this denial allowance because it states that “consent” must be granted before entering on to the property. If the local health department is denied the ability to enter upon a property to follow-up on a complaint, the local health department must then work to compel the inspection entry allowance through the court system or other applicable measure defined in state or local laws. Local health departments cannot just enter onto property without some form of consent being granted or other circumstances occurring that preempt consent being needed.

- b. If you feel there is enough cause to believe an issue exists or the issue is worthwhile to investigate for the protection of the public’s health, you may be able to seek an inspection warrant or court order through the courts (see IC 16-20-1-23). However, it is best to exhaust all other potential non-court options such as attempting to gain entry in various ways (i.e.; onsite attempt with property owner providing copies of applicable statutes of authority, certified letter to property owner asking for voluntary cooperation and citing applicable statutes, having your county attorney send an inspection request letter, etc.). Exhausting these options and having proper documentation of all of these efforts coupled your reasons or “evidence” to believe the issue is valid will make the legal/court process a bit easier as you will be able to show why inspection should be compelled.

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***QUESTION: Can local health departments “condemn” a property for public health hazard risks/existence/violations?***

Typically, most of the rules/statutes providing the authorities for local health departments do not specify the authority to “condemn” a property. In general, local health departments are provided the ability to do the following things: (1)“prohibit the inhabitation of a property” or “deem a property unfit for human habitation” (such as in the case of a site used as a methamphetamine lab, or a site with a failing septic system that is not being repaired, for example), OR (2) prescribe reasonable compliance measures/orders for remediation, OR (3) even to issue an “order to vacate” a premises that is not in compliance with a variety of rules (following the steps provided for vacating residents from a home in terms of notice). It seems that in some areas, the word “condemn” is being used as a catch-all for these above activities, when in essence condemning the property is not technically allowed (unless a local rule exists that provides that authority or if the local health department is enforcing another law such as the Unsafe Building Law with designation to do so from local executive officials, for example). In short, local health departments don’t generally have the authority under the public health statutes to take control of a property. They more or less have more of an ability to prevent someone from living in or continuing to allow for a public health risk to occur at a property.

**See the appropriate statute or rule that is being enforced and ensure understanding of the authority allowances and limitations granted therein.**

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***QUESTION: Sometimes a hospital or medical provider may indicate they cannot share medical information or communicable disease information with your local health department “due to HIPAA or medical confidentiality reasons”, which generally IS truly allowed. WHAT STATUTES HELP EXPLAIN THESE RULES?***

**IC 16-41-2-4 Waiver of physician-patient privilege**

Sec. 4. A patient's privilege with respect to a physician under IC 34-46-3-1 is waived regarding information reported to a local or state health officer under this chapter.

**410 IAC 1-2.5 (Indiana Communicable Disease Reporting Rule)**

- Sections 75 & 76 define the reporting requirements for physicians, hospitals and laboratories – which defines what they MUST report to LHDs.
- In addition: “Sec. 77. (a) Case reports submitted to the local health department or the department may be used for: (1) epidemiological investigation; or (2) other disease intervention activities; as warranted. Prior approval from a patient is not required before releasing medical or epidemiological information to the local health department or the department or state designated districts. (b) Unless otherwise indicated, the local health department in the jurisdiction where the patient is a resident is responsible for: (1) performing any epidemiological investigation required; and (2) instituting control measures...”

Also see applicable federal **HIPAA** provisions which allow sharing of information for public health purposes.

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***QUESTION: Can local health departments release a patient’s communicable disease information/records (such as someone’s HIV test results, for example) if they receive a subpoena from an attorney/prosecutor for such information?***

In general, the answer is no you cannot release those records if you are just provided with a general subpoena or records request from an attorney. See **IC 16-41-8-1(b) - Potentially Disease Transmitting Offense** for guidance on what and how this information can be released. However, if the person in question has been charged with certain sexual offenses, the records can sometimes be compelled to be released and testing can be required, but usually only via an actual court order (not a subpoena) and usually only after a hearing specifically held for this matter. In this case see: **IC 16-41-8-4** (Procedure for obtaining medical information concerning a person charged with certain Offenses) AND **IC 16-41-8-5** (Medical Screening of a Person Charged with certain offenses).

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***QUESTION: What if someone refuses to abide by a local health department’s “health directive” issued as required by the Health Officer (with regard to isolation/quarantine for active TB, for example)?***

See **IC 16-41-9-1.5** (Isolation; quarantine; notice; hearing; orders; renewal; crime; rules)

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***QUESTION: Can someone be required to submit to an HIV test?***

See **IC 16-41-6-1** and **IC 16-41-6-2** (discusses circumstances where HIV tests can be ordered with and without consent of the patient)

**Any errors, omissions, or needed changes to this document may be submitted to Mindy Waldron (Allen County Department of Health) at [mindy.waldron@allencounty.us](mailto:mindy.waldron@allencounty.us). Once, again, this was developed as a helpful resource or tool, but does not substitute for consulting with an actual attorney on issues that may need local interpretation or where special local laws exist!**