



March 19, 1999

# ENGROSSED HOUSE BILL No. 2035

DIGEST OF HB 2035 (Updated March 17, 1999 1:25 pm - DI 88)

**Citations Affected:** IC 16-18; IC 16-38; IC 16-39.

**Synopsis:** Health records for scientific projects. Allows the Indiana state department of health to develop an immunization data registry. Allows a provider to provide immunization data with a patient's consent. Provides that registry records are confidential. Allows a health provider to disclose health records to a hospital trade association for use in voluntary scientific, statistical, or educational projects with the state department of health. Provides that certain information is confidential.

**Effective:** July 1, 1999.

## Brown C, Becker

(SENATE SPONSORS — MILLER, SIMPSON)

January 27, 1999, read first time and referred to Committee on Public Health.  
February 18, 1999, amended, reported — Do Pass.  
February 24, 1999, read second time, amended, ordered engrossed.  
February 25, 1999, engrossed. Read third time, passed. Yeas 87, nays 2.

### SENATE ACTION

March 11, 1999, read first time and referred to Committee on Health and Provider Services.  
March 18, 1999, amended, reported favorably — Do Pass.

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EH 2035—LS 8126/DI 77+



March 19, 1999

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

## ENGROSSED HOUSE BILL No. 2035

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A BILL FOR AN ACT to amend the Indiana Code concerning health.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 16-18-2-168 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 168. (a) "Health  
3 records", for purposes of IC 16-39, means written, **electronic**, or  
4 printed information possessed by a provider concerning any diagnosis,  
5 treatment, or prognosis of the patient.

6 ~~(b)~~ The term includes mental health records and alcohol and drug  
7 abuse records.

8 **(b) For purposes of IC 16-39-5-3(d), the term includes**  
9 **information that describes services provided to a patient and a**  
10 **provider's charges for services provided to a patient.**

11 SECTION 2. IC 16-18-2-295 IS AMENDED TO READ AS  
12 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 295. (a) "Provider", for  
13 purposes of IC 16-25, means a hospice program certified under  
14 IC 16-25-1.

15 (b) "Provider", for purposes of **IC 16-38-5**, IC 16-39 (except for  
16 IC 16-39-7), ~~and for purposes of~~ IC 16-41-1 through IC 16-41-9, and  
17 IC 16-41-37, means any of the following:

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1 (1) An individual (other than an individual who is an employee or  
 2 a contractor of a hospital, a facility, or an agency described in  
 3 subdivision (2) or (3)) who is licensed, registered, or certified as  
 4 a health care professional, including the following:

- 5 (A) A physician.
- 6 (B) A psychotherapist.
- 7 (C) A dentist.
- 8 (D) A registered nurse.
- 9 (E) A licensed practical nurse.
- 10 (F) An optometrist.
- 11 (G) A podiatrist.
- 12 (H) A chiropractor.
- 13 (I) A physical therapist.
- 14 (J) A psychologist.
- 15 (K) An audiologist.
- 16 (L) A speech-language pathologist.
- 17 (M) A dietitian.
- 18 (N) An occupational therapist.
- 19 (O) A respiratory therapist.
- 20 (P) A pharmacist.

21 (2) A hospital or facility licensed under IC 16-21-2 or IC 12-25 or  
 22 described in IC 12-24-1 or IC 12-29.

23 (3) A health facility licensed under IC 16-28-2.

24 (4) A home health agency licensed under IC 16-27-1.

25 (5) An employer of a certified emergency medical technician, a  
 26 certified advanced emergency medical technician, or a certified  
 27 paramedic.

28 **(6) The state department or a local health department or an**  
 29 **employee, agent, designee, or contractor of the state**  
 30 **department or local health department.**

31 (c) "Provider", for purposes of IC 16-39-7-1, has the meaning set  
 32 forth in IC 16-39-7-1(a).

33 SECTION 3. IC 16-38-5 IS ADDED TO THE INDIANA CODE AS  
 34 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
 35 1, 1999]: **Chapter 5. Immunization Data Registry**

36 **Sec. 1. The state department may develop an immunization data**  
 37 **registry.**

38 **Sec. 2. A provider may provide immunization data to the**  
 39 **immunization data registry with specific written authorization of**  
 40 **the patient.**

41 **Sec. 3. (a) Records maintained as part of the immunization data**  
 42 **registry are confidential.**



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1           **(b) The state department may release confidential information**  
 2 **concerning individual immunization patient records to the**  
 3 **immunization data registry of another state or a provider if the**  
 4 **following conditions are met:**

5           **(1) The other state registry or provider has entered into an**  
 6 **agreement with the state department.**

7           **(2) The agreement provides that information that identifies a**  
 8 **patient will not be released to any other person without the**  
 9 **written consent of the patient.**

10          SECTION 4. IC 16-39-5-3 IS AMENDED TO READ AS  
 11 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) Except as  
 12 provided in IC 16-39-4-5, the original health record of the patient is the  
 13 property of the provider and as such may be used by the provider  
 14 without specific written authorization for legitimate business purposes,  
 15 including the following:

16           (1) Submission of claims for payment from third parties.

17           (2) Collection of accounts.

18           (3) Litigation defense.

19           (4) Quality assurance.

20           (5) Peer review.

21           (6) Scientific, statistical, and educational purposes.

22          (b) In use under subsection (a), the provider shall at all times protect  
 23 the confidentiality of the health record and may disclose the identity of  
 24 the patient only when disclosure is essential to the provider's business  
 25 use or to quality assurance and peer review.

26          (c) A provider may disclose a health record to another provider or  
 27 to a nonprofit medical research organization to be used in connection  
 28 with a joint scientific, statistical, or educational project. Each party that  
 29 receives information from a health record in connection with the joint  
 30 project shall protect the confidentiality of the health record and may not  
 31 disclose the patient's identity except as allowed under this article.

32          **(d) A provider may disclose a health record or information**  
 33 **obtained from a health record to an Indiana hospital trade**  
 34 **association founded in 1921 for use in connection with a voluntary**  
 35 **scientific, statistical, or educational project undertaken by the**  
 36 **association. The hospital trade association may disclose the**  
 37 **information it receives from a provider under this subsection to the**  
 38 **state department to be used in connection with a voluntary**  
 39 **scientific, statistical, or educational project undertaken jointly by**  
 40 **the association and the state department if the association and the**  
 41 **state department have agreed to the project's scope, nature, and**  
 42 **duration. The information disclosed by:**



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**(1) a provider to the hospital trade association; or  
(2) the hospital trade association to the state department;  
under this subsection is confidential.**

**(e) Information contained in final results obtained by the state department for a voluntary scientific, statistical, or educational project undertaken jointly by the state department and the hospital trade association that:**

- (1) uses information disclosed under subsection (d); and**
- (2) identifies or could be used to determine the identity of a patient;**

**is confidential. All other information contained in the final results is not confidential.**

**(f) Information that is:**

- (1) advisory or deliberative material of a speculative nature; or**
- (2) an expression of opinion;**

**including preliminary reports produced in the course of a voluntary scientific, statistical, or educational project undertaken jointly by the state department and the hospital trade association using information disclosed under subsection (d), is confidential and may only be disclosed by the state department to the hospital trade association and to the provider who disclosed the information to the hospital trade association.**

~~(d)~~ **(g)** A person who recklessly violates or fails to comply with ~~subsection~~ **subsections (c) through (f)** commits a Class C infraction. Each day a violation continues constitutes a separate offense.

~~(e)~~ **(h)** This chapter does not do any of the following:

- (1) Repeal, modify, or amend any statute requiring or authorizing the disclosure of information about any person.**
- (2) Prevent disclosure or confirmation of information about patients involved in incidents that are reported or required to be reported to governmental agencies and not required to be kept confidential by the governmental agencies.**

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 2035, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 18, delete "joint" and insert "**voluntary**".

Page 2, line 19, delete "." and insert "**undertaken by the association.**".

Page 2, line 21, after "provider" insert "**under this subsection**".

Page 2, line 22, delete "joint" and insert "**voluntary**".

Page 2, line 22, after "project" insert "**undertaken jointly by the association and the state department**".

Page 2, line 22, delete "both parties" and insert "**the association and the state department**".

Page 2, line 24, delete "Information produced from a joint project under this subsection:" and insert "**The information disclosed by:**

(1) **a provider to the hospital trade association; or**

(2) **the hospital trade association to the state department;**".

Page 2, delete lines 25 through 29.

Page 2, line 30, before "is" insert "**under this subsection**".

Page 2, line 30, delete "Confidential information in the final results may".

Page 2, delete lines 31 through 32.

Page 2, between lines 32 and 33, begin a new paragraph and insert:

**"(e) The final results obtained by the state department for a voluntary scientific, statistical, or educational project undertaken jointly by the state department and the hospital trade association using information disclosed under subsection (d) are not confidential except for information contained in the final results that:**

(1) **identifies; or**

(2) **could be used to determine the identity of;**

**a patient. However, information contained in the final results that identifies or could be used to determine the identity of a patient may, in the state department's discretion, be disclosed to the hospital trade association and to the provider who disclosed the information to the hospital trade association.**

**(f) Information that is:**

(1) **advisory or deliberative material of a speculative nature;**  
or

(2) **an expression of opinion;**

**including preliminary reports produced in the course of a**



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**voluntary scientific, statistical, or educational project undertaken jointly by the state department and the hospital trade association using information disclosed under subsection (d) is confidential and may only be disclosed by the state department to the hospital trade association and to the provider who disclosed the information to the hospital trade association."**

Page 2, line 33, strike "(e)" and insert "(g)".

Page 2, line 34, delete "subsection" and insert "**subsections**".

Page 2, line 34, delete "or (d)" and insert "**through (f)**".

Page 2, line 36, delete "(f)" and insert "(h)".

and when so amended that said bill do pass.

(Reference is to HB 2035 as introduced.)

BROWN C, Chair

Committee Vote: yeas 14, nays 0.

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## HOUSE MOTION

Mr. Speaker: I move that House Bill 2035 be amended to read as follows:

Page 1, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 2. IC 16-18-2-295 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 295. (a) "Provider", for purposes of IC 16-25, means a hospice program certified under IC 16-25-1.

(b) "Provider", for purposes of **IC 16-38-5**, IC 16-39 (except for IC 16-39-7), **and for purposes of IC 16-41-1 through IC 16-41-9, and IC 16-41-37**, means any of the following:

(1) An individual (other than an individual who is an employee or a contractor of a hospital, a facility, or an agency described in subdivision (2) or (3)) who is licensed, registered, or certified as a health care professional, including the following:

- (A) A physician.
- (B) A psychotherapist.
- (C) A dentist.
- (D) A registered nurse.
- (E) A licensed practical nurse.
- (F) An optometrist.
- (G) A podiatrist.
- (H) A chiropractor.
- (I) A physical therapist.
- (J) A psychologist.
- (K) An audiologist.
- (L) A speech-language pathologist.
- (M) A dietitian.
- (N) An occupational therapist.
- (O) A respiratory therapist.
- (P) A pharmacist.

(2) A hospital or facility licensed under IC 16-21-2 or IC 12-25 or described in IC 12-24-1 or IC 12-29.

(3) A health facility licensed under IC 16-28-2.

(4) A home health agency licensed under IC 16-27-1.

(5) An employer of a certified emergency medical technician, a certified advanced emergency medical technician, or a certified paramedic.

**(6) The state department or a local health department or an employee, agent, designee, or contractor of the state department or local health department.**

(c) "Provider", for purposes of IC 16-39-7-1, has the meaning set

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forth in IC 16-39-7-1(a).

SECTION 3. IC 16-38-5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Chapter 5. Immunization Data Registry**

**Sec. 1** The state department may develop an immunization data registry.

**Sec. 2.** A provider may provide immunization data to the immunization data registry without specific written authorization of the patient.

**Sec. 3. (a)** Records maintained as part of the immunization data registry are confidential.

**(b)** The state department may release confidential information concerning individual immunization patient records to the immunization data registry of another state or a provider if the following conditions are met:

- (1)** The other state registry or provider has entered into an agreement with the state department.
- (2)** The agreement provides that information that identifies a patient will not be released to any other person without the written consent of the patient."

Page 3, line 8, after "(d)" insert ",".

Page 3, line 12, after "with" insert: "subsection".

Renumber all SECTIONS consecutively.

(Reference is to HB 2035 as printed February 19, 1999.)

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Health and Provider Services, to which was referred House Bill No. 2035, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 36, after "1" insert ".".

Page 2, line 39, delete "without" and insert "**with**".

Page 4, line 4, delete "The" and insert "**Information contained in**".

Page 4, line 6, delete "association" and insert "**association that:**

**(1) uses information disclosed under subsection (d); and**

**(2) identifies or could be used to determine the identity of a patient;**

**is confidential. All other information contained in the final results is not confidential."**

Page 4, delete lines 7 through 16.

and when so amended that said bill do pass.

(Reference is to HB 2035 as reprinted February 25, 1999.)

MILLER, Chairperson

Committee Vote: Yeas 6, Nays 0.

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