

COMMITTEE REPORT

Madam President: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedure, to which was referred Engrossed House Bill 1200 because it conflicts with SEA 52-2012 without properly recognizing the existence of SEA 52-2012, has had Engrossed House Bill 1200 under consideration and begs leave to report back to the Senate with the recommendation that Engrossed House Bill 1200 be corrected as follows:

- 1 In the conference committee report on EHB 1200, page 7, delete
- 2 lines 49 through 50, begin a new paragraph and insert:
- 3 "SECTION 4. IC 16-41-6-1, AS AMENDED BY SEA 52-2012,
- 4 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5 JULY 1, 2012]: Sec. 1. (a) As used in this section, "physician's
- 6 authorized representative" means:
- 7 (1) an advanced practice nurse (as defined by IC 25-23-1-1(b))
- 8 who is operating in collaboration with a licensed physician; or
- 9 (2) an individual acting under the supervision of a licensed
- 10 physician and within the individual's scope of employment.
- 11 (b) If a physician or the physician's authorized representative
- 12 determines that it is medically necessary to conduct an HIV test on an
- 13 individual under the care of a physician, the physician or physician's
- 14 authorized representative may order the test if the physician or the
- 15 physician's authorized representative:
- 16 (1) informs the patient of the test;
- 17 (2) provides an explanation of the test; and
- 18 (3) informs the patient of the patient's right to refuse the test.
- 19 Subject to subsection (d), if the patient refuses the test, the physician
- 20 or the physician's authorized representative may not perform the test
- 21 and shall document the patient's refusal in the patient's medical record.
- 22 (c) After ordering an HIV test for a patient, the physician or the
- 23 physician's authorized representative shall:
- 24 (1) discuss with the patient the availability of counseling
- 25 concerning the test results; and

- 1 (2) notify the patient of the test results.
 2 If a test conducted under this section indicates that a patient is HIV
 3 infected, in addition to the requirements set forth in IC 16-41-2, the
 4 physician or the physician's authorized representative shall inform the
 5 patient of treatment and referral options available to the patient.
- 6 (d) A physician or a physician's authorized representative may order
 7 an HIV test to be performed without informing the patient or the
 8 patient's representative (as defined in IC 16-36-1-2) of the test or
 9 regardless of the patient's or the patient's representative's refusal of the
 10 HIV test if any of the following conditions apply:
- 11 (1) If ordered by a physician, consent can be implied due to
 12 emergency circumstances and the test is medically necessary to
 13 diagnose or treat the patient's condition.
- 14 (2) Under a court order based on clear and convincing evidence
 15 of a serious and present health threat to others posed by an
 16 individual. A hearing held under this subdivision shall be held in
 17 camera at the request of the individual.
- 18 (3) If the test is done on blood collected or tested anonymously as
 19 part of an epidemiologic survey under IC 16-41-2-3 or
 20 IC 16-41-17-10(a)(5).
- 21 (4) The test is ordered under section 4 of this chapter.
- 22 (5) The test is required or authorized under IC 11-10-3-2.5.
- 23 (6) The individual upon whom the test will be performed is
 24 described in IC 16-41-8-6 or IC 16-41-10-2.5.
- 25 (7) A court has ordered the individual to undergo testing for HIV
 26 under IC 35-38-1-10.5(a) or ~~IC 35-38-2-2.3(a)(16)~~.
 27 **IC 35-38-2-2.3(a)(17).**
- 28 (8) Both of the following are met:
- 29 (A) The individual is not capable of providing consent and an
 30 authorized representative of the individual is not immediately
 31 available to provide consent or refusal of the test.
- 32 (B) A health care provider acting within the scope of the
 33 health care provider's employment comes into contact with the
 34 blood or body fluids of the individual in a manner that has
 35 been epidemiologically demonstrated to transmit HIV.
- 36 (e) The state department shall make HIV testing and treatment
 37 information from the federal Centers for Disease Control and
 38 Prevention available to health care providers.
- 39 (f) The state department may adopt rules under IC 4-22-2 necessary
 40 to implement this section."

1 In the conference committee report on EHB 1200, page 8, delete
2 lines 1 through 27.

(Reference is to EHB 1200 as printed February 17, 2012, as amended by the Conference Committee Report to EHB 1200.)

Senator LONG, Chairperson

Senator SIMPSON, R.M.M.

Senator BRAY