

Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1001

AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 12-8-1.5-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.5. (a) Notwithstanding any other law, the secretary, through the offices, may issue a waiver, in writing, of provisions of this title and rules adopted under IC 4-22-2 concerning provisions of this title if the secretary determines that the waiver is necessary to claim any enhanced federal matching funds available from:**

(1) the federal Families First Coronavirus Response Act;
(2) the federal American Rescue Plan Act of 2021; or
(3) any other federal law, regulation, guidance, or policy pertaining to COVID-19 (as defined in IC 16-39-11-1) relief; for the Medicaid program or programs funded through Medicaid.

(b) Not later than March 1, 2022, and every six (6) months thereafter, the secretary shall prepare and submit a report to the budget committee concerning any waiver issued under subsection (a).

(c) Nothing in this section may be construed to obligate the secretary to issue a waiver under this section.

(d) This section expires on the day after the date that the funds described in subsection (a)(1) through (a)(3) are no longer available to the state.

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SECTION 2. IC 12-14-30-7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7. (a) The secretary may issue an emergency declaration for the purpose of participating in SNAP emergency allotments authorized under the federal Families First Coronavirus Response Act.**

(b) The secretary shall prepare and submit a report to the budget committee when any emergency declaration is issued under this section.

(c) This section expires April 16, 2022.

SECTION 3. IC 16-18-2-187.8 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 187.8. "Indiana governmental entity", for purposes of IC 16-39-11, has the meaning set forth in IC 16-39-11-4.5.**

SECTION 4. IC 16-19-4-11, AS AMENDED BY P.L.218-2019, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 11. (a) The state health commissioner or the commissioner's designated public health authority who is a licensed prescriber may, as part of the individual's official capacity, issue a standing order, prescription, or protocol that allows a pharmacist to administer or dispense any of the following:**

(1) An immunization that is recommended by the federal Centers for Disease Control and Prevention Advisory Committee on Immunization Practices for individuals who are not less than eleven (11) years of age.

(2) A smoking cessation product. However, the pharmacist must inform the patient that the patient must have a follow-up consultation with the patient's licensed prescriber.

(b) This subsection does not apply to a pharmacist. The state health commissioner or the commissioner's designated public health authority who is a licensed prescriber may, as part of the individual's official capacity, issue a standing order, prescription, or protocol that allows an individual who is licensed, certified, or registered by a board (as defined in IC 25-1-9-1), and if within the individual's scope of practice, to administer or dispense an immunization that is recommended by the federal Centers for Disease Control and Prevention Advisory Committee on Immunization Practices for individuals who are not less than eleven (11) years of age.

(c) A standing order described in subsection (a), or (b), or (e) must include the following:

(1) The purpose of the order.

(2) The eligible recipients.

(3) The geographic area covered by the standing order.



(4) The procedure for administering or dispensing the immunization or product.

(5) A timeline for renewing or updating the standing order.

(d) The state health commissioner or designated public health authority who issues a standing order, prescription, or protocol under subsection (a), ~~or (b)~~, **or (e)** is immune from civil liability related to the issuing of the standing order, prescription, or protocol.

(e) Notwithstanding subsection (a) and subsection (b), the state health commissioner or the commissioner's designated public health authority may issue a standing order, prescription, or protocol to administer or dispense an immunization that is recommended by the federal Centers for Disease Control and Prevention Advisory Committee on Immunization Practices for individuals who are at least five (5) years of age. Nothing in this subsection authorizes the state health commissioner or the commissioner's designated public health authority to:

(1) require an individual to receive an immunization for COVID-19; or

(2) waive or otherwise allow a minor to receive an immunization without the consent of the parent or guardian as required under IC 16-36-1.

This subsection expires at the conclusion of the federal public health emergency concerning COVID-19 that was renewed on October 15, 2021, or any subsequent renewal of the declared federal public health emergency concerning COVID-19.

SECTION 5. IC 16-39-11-3, AS ADDED BY P.L.196-2021, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. As used in this chapter, "immunization passport" means written, electronic, or printed information regarding an individual's immunization status **against COVID-19**.

SECTION 6. IC 16-39-11-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 4.5. (a) As used in this chapter, "Indiana governmental entity" means:**

(1) the state (as defined in IC 5-11-1-16(b));

(2) a state educational institution (as defined in IC 21-7-13-32);

(3) a political subdivision (as defined in IC 36-1-2-13); or

(4) a public school corporation (as defined in IC 4-4-38.5-6.2).

(b) The term does not include the following:

(1) A state institution (as defined in IC 12-7-2-184).

(2) A hospital organized or operated under IC 16-22-1 through IC 16-22-5, IC 16-22-8, or IC 16-23-1.

SECTION 7. IC 16-39-11-5, AS ADDED BY P.L.196-2021, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



UPON PASSAGE]: Sec. 5. (a) Except as provided in subsection (b), ~~the state or a local unit an~~ **Indiana governmental entity** may not issue or require an immunization passport.

(b) This section does not prohibit ~~the state or a local unit an~~ **Indiana governmental entity** from doing any of the following:

- (1) Maintaining, creating, or storing a medical record of an individual's immunization status.
- (2) Providing a medical record of an individual's immunization status to the individual's medical provider in accordance with the federal Health Insurance Portability and Accountability Act (HIPAA) (P.L.104-191).
- (3) Providing the individual with a record of an immunization at the time the individual receives the immunization or upon request by the individual.
- (4) Maintaining an immunization record for the purpose of public health administration.

SECTION 8. IC 22-4-15-1, AS AMENDED BY P.L.224-2017, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Regarding an individual's most recent separation from employment before filing an initial or additional claim for benefits, an individual who voluntarily left the employment without good cause in connection with the work or was discharged from the employment for just cause is ineligible for waiting period or benefit rights for the week in which the disqualifying separation occurred and until:

- (1) the individual has earned remuneration in employment in at least eight (8) weeks; and
- (2) the remuneration earned equals or exceeds the product of the weekly benefit amount multiplied by eight (8).

If the qualification amount has not been earned at the expiration of an individual's benefit period, the unearned amount shall be carried forward to an extended benefit period or to the benefit period of a subsequent claim.

(b) When it has been determined that an individual has been separated from employment under disqualifying conditions as outlined in this section, the maximum benefit amount of the individual's current claim, as initially determined, shall be reduced by an amount determined as follows:

- (1) For the first separation from employment under disqualifying conditions, the maximum benefit amount of the individual's current claim is equal to the result of:
 - (A) the maximum benefit amount of the individual's current claim, as initially determined; multiplied by
 - (B) seventy-five percent (75%);



rounded (if not already a multiple of one dollar (\$1)) to the next higher dollar.

(2) For the second separation from employment under disqualifying conditions, the maximum benefit amount of the individual's current claim is equal to the result of:

(A) the maximum benefit amount of the individual's current claim determined under subdivision (1); multiplied by

(B) eighty-five percent (85%);

rounded (if not already a multiple of one dollar (\$1)) to the next higher dollar.

(3) For the third and any subsequent separation from employment under disqualifying conditions, the maximum benefit amount of the individual's current claim is equal to the result of:

(A) the maximum benefit amount of the individual's current claim determined under subdivision (2); multiplied by

(B) ninety percent (90%);

rounded (if not already a multiple of one dollar (\$1)) to the next higher dollar.

(c) The disqualifications provided in this section shall be subject to the following modifications:

(1) An individual shall not be subject to disqualification because of separation from the individual's employment if:

(A) the individual left to accept with another employer previously secured permanent full-time work which offered reasonable expectation of continued covered employment and betterment of wages or working conditions and thereafter was employed on said job;

(B) having been simultaneously employed by two (2) employers, the individual leaves one (1) such employer voluntarily without good cause in connection with the work but remains in employment with the second employer with a reasonable expectation of continued employment; or

(C) the individual left to accept recall made by a base period employer.

(2) An individual whose unemployment is the result of medically substantiated physical disability and who is involuntarily unemployed after having made reasonable efforts to maintain the employment relationship shall not be subject to disqualification under this section for such separation.

(3) An individual who left work to enter the armed forces of the United States shall not be subject to disqualification under this section for such leaving of work.

(4) An individual whose employment is terminated under the compulsory retirement provision of a collective bargaining



agreement to which the employer is a party, or under any other plan, system, or program, public or private, providing for compulsory retirement and who is otherwise eligible shall not be deemed to have left the individual's work voluntarily without good cause in connection with the work. However, if such individual subsequently becomes reemployed and thereafter voluntarily leaves work without good cause in connection with the work, the individual shall be deemed ineligible as outlined in this section.

(5) An otherwise eligible individual shall not be denied benefits for any week because the individual is in training approved under Section 236(a)(1) of the Trade Act of 1974, nor shall the individual be denied benefits by reason of leaving work to enter such training, provided the work left is not suitable employment, or because of the application to any week in training of provisions in this law (or any applicable federal unemployment compensation law), relating to availability for work, active search for work, or refusal to accept work. For purposes of this subdivision, the term "suitable employment" means with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment (as defined for purposes of the Trade Act of 1974), and wages for such work at not less than eighty percent (80%) of the individual's average weekly wage as determined for the purposes of the Trade Act of 1974.

(6) An individual is not subject to disqualification because of separation from the individual's employment if:

- (A) the employment was outside the individual's labor market;
- (B) the individual left to accept previously secured full-time work with an employer in the individual's labor market; and
- (C) the individual actually became employed with the employer in the individual's labor market.

(7) An individual who, but for the voluntary separation to move to another labor market to join a spouse who had moved to that labor market, shall not be disqualified for that voluntary separation, if the individual is otherwise eligible for benefits. Benefits paid to the spouse whose eligibility is established under this subdivision shall not be charged against the employer from whom the spouse voluntarily separated.

(8) An individual shall not be subject to disqualification if the individual voluntarily left employment or was discharged due to circumstances directly caused by domestic or family violence (as defined in IC 31-9-2-42). An individual who may be entitled to benefits based on this modification may apply to the office of the



attorney general under IC 5-26.5 to have an address designated by the office of the attorney general to serve as the individual's address for purposes of this article.

(9) An individual shall not be subject to disqualification if the individual:

(A) has requested an exemption from an employer's COVID-19 immunization requirement;

(B) has complied with the requirements set forth in IC 22-5-4.6; and

(C) was discharged from employment for failing or refusing to receive an immunization against COVID-19.

As used in this subsection, "labor market" means the area surrounding an individual's permanent residence, outside which the individual cannot reasonably commute on a daily basis. In determining whether an individual can reasonably commute under this subdivision, the department shall consider the nature of the individual's job.

(d) "Discharge for just cause" as used in this section is defined to include but not be limited to:

(1) separation initiated by an employer for falsification of an employment application to obtain employment through subterfuge;

(2) knowing violation of a reasonable and uniformly enforced rule of an employer, including a rule regarding attendance;

(3) if an employer does not have a rule regarding attendance, an individual's unsatisfactory attendance, if good cause for absences or tardiness is not established;

(4) damaging the employer's property through willful negligence;

(5) refusing to obey instructions;

(6) reporting to work under the influence of alcohol or drugs or consuming alcohol or drugs on employer's premises during working hours;

(7) conduct endangering safety of self or coworkers;

(8) incarceration in jail following conviction of a misdemeanor or felony by a court of competent jurisdiction;

(9) any breach of duty in connection with work which is reasonably owed an employer by an employee; or

(10) testing positive on a drug test under IC 16-27-2.5.

(e) To verify that domestic or family violence has occurred, an individual who applies for benefits under subsection (c)(8) shall provide one (1) of the following:

(1) A report of a law enforcement agency (as defined in IC 10-13-3-10).

(2) A protection order issued under IC 34-26-5.

(3) A foreign protection order (as defined in IC 34-6-2-48.5).



- (4) An affidavit from a domestic violence service provider verifying services provided to the individual by the domestic violence service provider.

SECTION 9. IC 22-5-4.6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 4.6. Exemptions from COVID-19 Immunization Requirements

Sec. 0.5. (a) This chapter does not apply to the following:

- (1) An employee when the employee is working in another state, if the employer provides accommodations for a COVID-19 immunization requirement for the employee in accordance with:

- (A) Title VII of the federal Civil Rights Act of 1964, as amended (42 U.S.C. 2000e et seq.); and
 (B) the Americans with Disabilities Act (42 U.S.C. 12101 et seq.).

- (2) An employer who has entered into a federally awarded or amended contract, subcontract, or postsecondary grant as a condition to receive federal funds, if:

- (A) a COVID-19 immunization requirement is imposed on parties that contract with the federal government under federal law, federal regulation, or federal executive order;
 (B) compliance with this chapter would result in a breach of contract or a loss of federal funding;
 (C) the employer provides accommodations for the COVID-19 immunization requirement for an employee in accordance with:

- (i) Title VII of the federal Civil Rights Act of 1964, as amended (42 U.S.C. 2000e et seq.); and
 (ii) the Americans with Disabilities Act (42 U.S.C. 12101 et seq.); and

- (D) an employer files with the secretary of state business services division evidence that:

- (i) a COVID-19 immunization requirement is imposed on parties that contract with the federal government under federal law, federal regulation, or federal executive order; and
 (ii) the employer has entered into a federally awarded or amended contract, subcontract, or postsecondary grant as a condition to receive federal funds.

- (3) A health care facility that is subject to a federal immunization requirement against COVID-19 for the health care facility's employees.

- (4) An employer or employee when:



- (A) the employer operates:**
- (i) a professional sports organization; or**
 - (ii) an entertainment organization or venue engaged in producing or presenting musical, theatrical, or other types of cultural entertainment;**
- (B) employees of the employer work in close proximity to the live sports or entertainment; and**
- (C) the employer provides accommodations for a COVID-19 immunization requirement for employees in accordance with:**
- (i) Title VII of the federal Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.); and**
 - (ii) the Americans with Disabilities Act (42 U.S.C. 12101 et seq.).**

(b) Subsection (a)(2)(D) does not require an employer to disclose confidential or proprietary information to the secretary of state. An employer may redact any confidential or proprietary information prior to submitting the evidence described in subsection (a)(2)(D).

(c) The information collected or maintained by the secretary of state under subsection (a)(2)(D) shall be:

- (1) public information; and**
- (2) available electronically for inspection by the public.**

Sec. 1. As used in this chapter, "COVID-19" has the meaning set forth in IC 34-30-32-3.

Sec. 2. As used in this chapter, "employee" means an individual who works for an employer on a full-time or part-time basis, either paid or unpaid. The term includes:

- (1) an independent contractor;**
- (2) a subcontractor; and**
- (3) a student who works as a trainee or an intern.**

Sec. 3. As used in this chapter, "employer" means a sole proprietor, corporation, partnership, limited liability company, or other entity with one (1) or more employees. However, the term does not include the United States and its agencies and instrumentalities.

Sec. 4. As used in this chapter, "immunization" means the treatment of an individual with a vaccine to produce immunity.

Sec. 5. (a) An employer may not impose a requirement that employees receive an immunization against COVID-19 unless the employer provides individual exemptions that allow an employee to opt out of the requirement on the basis of any of the following:

- (1) Medical reasons.**
- (2) Religious reasons.**
- (3) An employee has immunity from COVID-19 acquired**



from a prior infection with COVID-19.

(b) Subject to subsection (c), an employer may require an employee to submit to testing for the presence of COVID-19 not more than twice a week, if the employee receives an exemption based on:

- (1) medical reasons under subsection (a)(1);
- (2) religious reasons under subsection (a)(2); or
- (3) immunity from COVID-19 acquired from a prior infection with COVID-19 under subsection (a)(3).

(c) An employer may not require a test for the presence of COVID-19 unless the test:

- (1) has been approved by the federal Food and Drug Administration;
- (2) is the least invasive testing option available; and
- (3) does not create an undue burden on the employee to receive the test.

Sec. 6. (a) Unless an employer waives the documentation requirements under this subsection, to claim an exemption based on medical reasons, an employee must present to the employer an exemption statement in writing, dated and signed by:

- (1) a licensed physician;
- (2) a licensed physician's assistant; or
- (3) an advanced practice registered nurse;

who has examined the employee. The statement must provide that, in the professional opinion of the licensed physician, licensed physician's assistant, or advanced practice registered nurse, the immunization against COVID-19 is medically contraindicated (as defined in IC 16-18-2-223.7) for the employee.

(b) To claim an exemption based on religious reasons, an employee must present to the employer an exemption statement in writing indicating that the employee declines the immunization against COVID-19 because of a sincerely held religious belief.

(c) Unless an employer waives the documentation requirements under this subsection, to claim an exemption based on immunity from COVID-19 acquired from a prior infection with COVID-19, an employee must present to the employer the result of a laboratory test performed on the employee that has been approved by the federal Food and Drug Administration, including any of the following:

- (1) A polymerase chain reaction test (PCR) test.
- (2) An antigen test.
- (3) An antibody or serology test.

An employer may request that an employee submit a new laboratory test result as described in this subsection not more than once every three (3) months.



Sec. 7. (a) If an employer receives a completed exemption statement for an exemption based on:

- (1) medical reasons; or**
- (2) immunity from COVID-19 acquired from a prior infection with COVID-19;**

in accordance with section 6 of this chapter, the employer must allow the employee to opt out of the employer's COVID-19 immunization requirement as provided in section 5 of this chapter without further inquiry.

(b) If an employer receives a completed exemption statement for an exemption based on religious reasons in accordance with section 6(b) of this chapter, the employer must make a religious accommodation in compliance with Title VII of the federal Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) and the Americans with Disabilities Act (42 U.S.C. 12101 et seq.).

Sec. 8. A:

- (1) contract;**
- (2) bid specification; or**
- (3) agreement;**

entered into after March 31, 2022, may not contain a provision requiring an employee to receive an immunization against COVID-19 that limits in any way the rights and protections provided to an employee under this chapter.

Sec. 9. Nothing in this chapter shall be construed to:

- (1) require an employer to impose a requirement that employees receive an immunization against COVID-19; or**
- (2) preclude an employer from allowing additional exemptions from an employer's COVID-19 immunization requirement.**

SECTION 10. An emergency is declared for this act.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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