March 22, 2019

ENGROSSED
HOUSE BILL No. 1294

DIGEST OF HB 1294 (Updated March 20, 2019 11:28 am - DI 133)

Citations Affected: IC 12-23; IC 25-1; IC 25-14; IC 25-22.5; IC 25-23; IC 25-26; IC 25-27.5; IC 25-29; IC 34-30; IC 35-31.5; IC 35-48; IC 35-52.

Synopsis: INSPECT program. Moves existing language concerning the central repository for controlled substances data from Title 35 to Title 25 and makes conforming changes. Specifies that a practitioner may obtain information about a patient directly through the Indiana scheduled prescription electronic collection and tracking program data base (INSPECT data base) or through the patient's integrated health record. Decreases the instances in which a Class A misdemeanor is a violation to when a practitioner discloses confidential information without authorization. (Current law provides for a Class A misdemeanor for any violation of the chapter.) Provides for instances in which a practitioner is not required to obtain information from the INSPECT data base.

Effective: Upon passage.

Zent, Barrett, Fleming, Davisson

(SENATE SPONSOR — HOUCHIN)

January 10, 2019, read first time and referred to Committee on Public Health.
January 24, 2019, amended, reported — Do Pass.
January 28, 2019, read second time, ordered engrossed. Engrossed.
January 31, 2019, read third time, passed. Yeas 97, nays 0.

SENATE ACTION

February 27, 2019, read first time and referred to Committee on Health and Provider Services.
March 21, 2019, reported favorably — Do Pass.

March 22, 2019

First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

ENGROSSED
HOUSE BILL No. 1294

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

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

SECTION 1. IC 12-23-18-5.3, AS ADDED BY P.L.8-2016, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.3. Subject to federal law and consistent with standard medical practices in opioid treatment for substance abuse, the division shall adopt rules under IC 4-22-2 concerning opioid treatment by an opioid treatment provider, including the following:

(1) A requirement that the opioid treatment provider periodically review with the patient the patient's treatment plan. In the review, the opioid treatment provider shall consider changes to the plan with the goal of requiring the minimal clinically necessary medication dose, including, when appropriate, the goal of opioid abstinence.

(2) Treatment protocols containing best practice guidelines for the treatment of opiate dependent patients, including the following:

(A) Appropriate clinical use of all drugs approved by the federal Food and Drug Administration for the treatment of opioid addiction, including the following when available:

(i) Opioid maintenance.
(ii) Detoxification.
(iii) Overdose reversal.
(iv) Relapse prevention.
(v) Long acting, nonaddictive medication assisted treatment medications.

(B) Requirement of initial and periodic behavioral health assessments for each patient.

(C) Appropriate use of providing overdose reversal, relapse prevention, counseling, and ancillary services.

(D) Transitioning off agonist and partial agonist therapies with the goal, when appropriate, of opioid abstinence.

(E) Training and experience requirements for providers who treat and manage opiate dependent patients.

(F) Requirement that a provider who prescribes opioid medication for a patient periodically review INSPECT (as defined in ~~IC 35-48-7-5.2)~~ **IC 25-26-24-7)** concerning controlled substance information for the patient.

SECTION 2. IC 12-23-18-8, AS AMENDED BY P.L.165-2017, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) As used in this section, "dispense" means to deliver a controlled substance to an ultimate user.

(b) Subject to the federal patient confidentiality requirements under 42 CFR Part 2, when an opioid treatment program dispenses a controlled substance designated by the Indiana board of pharmacy under IC 35-48-2-5 through IC 35-48-2-10, the opioid treatment program shall provide the following information upon request from the division:

(1) The medications dispensed by the program.

(2) The medication delivery process, which includes whether the medication was in liquid, film, or another form.

(3) The number of doses dispensed of each medication.

(4) The dosage quantities for each medication.

(5) The number of patients receiving take home medications.

(6) The number of days of supply dispensed.

(7) Patient demographic information for each medication, including gender, age, and time in treatment.

(8) The dispenser's United States Drug Enforcement Agency registration number.

(9) The average number of patients served by:

(A) the opioid treatment program annually; and

(B) each employed or contracted prescriber of the opioid

treatment program.

(10) The annual ratio of employed or contracted prescribers to patients served at each opioid treatment program.

(11) The number of patients and the average length of treatment for each medication dispensed by the opioid treatment program.

(12) The number of patients completing an opiate treatment program treatment service having transitioned to opioid abstinence, including the use of long acting, nonaddictive medication for relapse prevention.

(13) The number of patients demonstrating improvement in functioning, as defined by the division, while in treatment at an opiate treatment program.

(14) An annual submission of each opiate treatment program's policy concerning:

(A) the use of INSPECT (as defined in ~~IC 35-48-7-5.2);~~ **IC 25-26-24-7);**

(B) the protocol for addressing patients who are found, using INSPECT data, to have prescriptions for a controlled substance, including benzodiazepines or other opiate medications; and

(C) the protocol for addressing patients who have illicit urine drug screens indicating the use of a controlled substance, including benzodiazepines or other opiates, whether prescribed or not.

(15) The number of patients denied access to services due to inability to pay, including the demographic information of the patient concerning race.

(16) The number of patients who are receiving behavioral health services in addition to medication.

(17) The average mileage a patient is traveling to receive treatment.

(18) The patient relapse rate or the average time an individual is receiving treatment from the opioid treatment program.

(19) The number of admissions and discharges of patients at the opioid treatment program.

(20) The number of pregnant women being treated.

(21) Whether an individual is employed at the time of admission and whether the patient obtains employment during treatment.

(22) The number of patients who are eligible for the Medicaid program.

(23) A description of programs offered by the opioid treatment program.

(24) A description of any community outreach or education to the public offered by the opioid treatment program.

(25) The number of patients who have eliminated the use of an illegal substance after the first year of treatment at the opioid treatment program.

(c) An opioid treatment program shall provide the information required under this section to the division in a manner prescribed by the division.

(d) The division shall annually report the information collected under this section to the legislative council in an electronic format under IC 5-14-6 not later than October 1.

SECTION 3. IC 25-1-9.5-8, AS AMENDED BY P.L.150-2017, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) A prescriber may issue a prescription to a patient who is receiving services through the use of telemedicine if the patient has not been examined previously by the prescriber in person if the following conditions are met:

(1) The prescriber has satisfied the applicable standard of care in the treatment of the patient.

(2) The issuance of the prescription by the prescriber is within the prescriber's scope of practice and certification.

(3) The prescription:

(A) meets the requirements of subsection (b); and

(B) is not for an opioid. However, an opioid may be prescribed if the opioid is a partial agonist that is used to treat or manage opioid dependence.

(4) The prescription is not for an abortion inducing drug (as defined in IC 16-18-2-1.6).

(5) The prescription is not for an ophthalmic device, including:

(A) glasses;

(B) contact lenses; or

(C) low vision devices.

(b) Except as provided in subsection (a), a prescriber may issue a prescription for a controlled substance (as defined in IC 35-48-1-9) to a patient who is receiving services through the use of telemedicine, even if the patient has not been examined previously by the prescriber in person, if the following conditions are met:

(1) The prescriber maintains a valid controlled substance registration under IC 35-48-3.

(2) The prescriber meets the conditions set forth in 21 U.S.C. 829 et seq.

(3) The patient has been examined in person by a licensed Indiana

health care provider and the licensed health care provider has established a treatment plan to assist the prescriber in the diagnosis of the patient.

(4) The prescriber has reviewed and approved the treatment plan described in subdivision (3) and is prescribing for the patient pursuant to the treatment plan.

(5) The prescriber complies with the requirements of the INSPECT program ~~(IC 35-48-7).~~ **(IC 25-26-24).**

(c) A prescription for a controlled substance under this section must be prescribed and dispensed in accordance with ~~IC 35-48-7.~~ **IC 25-26-24.**

SECTION 4. IC 25-1-13-6, AS ADDED BY P.L.65-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. The INSPECT program shall collect and process information received under ~~IC 35-48-7-8.1~~ **IC 25-26-24-17** and has duties described in ~~IC 35-48-7-10.1~~ **IC 25-26-24-18** and ~~IC 35-48-7-11.1.~~ **IC 25-26-24-19.**

SECTION 5. IC 25-14-1-23.5, AS ADDED BY P.L.82-2016, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23.5. A dentist may include a report from the INSPECT program in a patient's medical file. Any disclosure or release of a patient's medical file must be in compliance with ~~IC 35-48-7-11.1.~~ **IC 25-26-24-19.**

SECTION 6. IC 25-22.5-13-7, AS ADDED BY P.L.82-2016, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. A physician may include a report from the INSPECT program in a patient's medical file. Any disclosure or release of a patient's medical file must be in compliance with ~~IC 35-48-7-11.1.~~ **IC 25-26-24-19.**

SECTION 7. IC 25-23-1-19.9, AS AMENDED BY P.L.129-2018, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19.9. (a) This section does not apply to certified registered nurse anesthetists.

(b) An advanced practice registered nurse may include a report from the INSPECT program in a patient's medical file. Any disclosure or release of a patient's medical file must be in compliance with ~~IC 35-48-7-11.1.~~ **IC 25-26-24-19.**

SECTION 8. IC 25-26-24 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 24. Central Repository for Controlled Substances Data

Sec. 1. As used in this chapter, "board" refers to the Indiana

board of pharmacy.

Sec. 2. As used in this chapter, "committee" refers to the INSPECT oversight committee established by section 24 of this chapter.

Sec. 3. (a) As used in this chapter, "dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner and includes the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

(b) The term does not apply to the following:

(1) A drug administered directly to a patient.

(2) A drug dispensed by a practitioner, if the quantity dispensed is not more than a seventy-two (72) hour supply of a controlled substance listed in schedule II, III, IV, or V as set forth in IC 35-48-3-9.

Sec. 4. As used in this chapter, "ephedrine" includes only ephedrine that is dispensed pursuant to a prescription or drug order.

Sec. 5. As used in this chapter, "exception report" means a record of data concerning:

(1) a practitioner practicing a particular specialty or field of health care;

(2) a dispenser doing business in a particular location; or

(3) a recipient;

that indicates dispensing or receiving of controlled substances outside norms for dispensing or receiving controlled substances established by the board under this chapter.

Sec. 6. As used in this chapter, "identification number" refers to the following:

(1) The unique number contained on any of the following:

(A) A valid driver's license of a recipient or a recipient's representative issued under Indiana law or the law of any other state.

(B) A recipient's or a recipient representative's valid military identification card.

(C) A valid identification card of a recipient or a recipient's representative issued by:

(i) the bureau of motor vehicles as described in IC 9-24-16-3; or

(ii) any other state and that is similar to the identification card issued by the bureau of motor vehicles.

(D) A valid photo exempt identification card of a recipient

or a recipient's representative issued by:

(i) the bureau of motor vehicles as described in IC 9-24-16.5-1; or

(ii) any other state and that is similar to the photo exempt identification card issued by the bureau of motor vehicles.

(E) If the recipient is an animal:

(i) the valid driver's license issued under Indiana law or the law of any other state;

(ii) the valid military identification card; or

(iii) the valid identification card issued by the bureau of motor vehicles and described in IC 9-24-16-3, a valid photo exempt identification card issued by the bureau of motor vehicles as described in IC 9-24-16.5-1, or a valid identification card or photo exempt identification card of similar description that is issued by any other state;

of the animal's owner.

(2) The identification number or phrase designated by the central repository.

Sec. 7. As used in this chapter, "INSPECT" means the Indiana scheduled prescription electronic collection and tracking program established by IC 25-1-13-4.

Sec. 8. As used in this chapter, "interoperability" refers to the INSPECT program electronically sharing reported information with another state concerning the dispensing of a controlled substance:

(1) to a recipient who resides in the other state; or

(2) prescribed by a practitioner whose principal place of business is located in another state.

Sec. 9. (a) As used in this chapter, "pain management clinic" means a publicly or privately owned facility that primarily engages in the treatment of pain or pain management through prescribing controlled substances.

(b) The term does not include the following:

(1) A hospital licensed under IC 16-21, including a facility owned by the hospital or an office of a hospital employed physician.

(2) An accredited school, college, university, or other educational institution or program that is related to providing instruction to individuals preparing to practice as a dentist, physician, physician assistant, nurse, optometrist, podiatrist, or veterinarian.

(3) A hospice program licensed under IC 16-25-3.

(4) An ambulatory outpatient surgical center licensed under IC 16-21-2.

(5) A long term care facility licensed under IC 16-28-2.

Sec. 10. As used in this chapter, "patient" means an individual who has requested or received health care services from a provider for the examination, treatment, diagnosis, or prevention of a physical or mental condition.

Sec. 11. As used in this chapter, "practitioner" means a physician, dentist, veterinarian, podiatrist, nurse practitioner, scientific investigator, pharmacist, hospital, or other institution or individual licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled substance in the course of professional practice or research in the United States.

Sec. 12. As used in this chapter, "prescription" means an order for medication that is dispensed to or for a recipient. The term does not include an order for medication that is dispensed for immediate administration to the recipient.

Sec. 13. As used in this chapter, "pseudoephedrine" includes only pseudoephedrine that is dispensed pursuant to a prescription or drug order.

Sec. 14. As used in this chapter, "recipient" means an individual for whom a controlled substance is dispensed.

Sec. 15. As used in this chapter, "recipient representative" means the individual to whom a controlled substance is dispensed if the recipient is either less than eighteen (18) years of age or unavailable to receive the controlled substance.

Sec. 16. As used in this chapter, "state" means any state of the United States or the District of Columbia.

Sec. 17. (a) The board shall provide for an ephedrine, pseudoephedrine, and controlled substance prescription monitoring program that includes the following components:

(1) Each time ephedrine, pseudoephedrine, or a controlled substance designated by the board under IC 35-48-2-5 through IC 35-48-2-10 is dispensed, the dispenser shall transmit to the INSPECT program the following information:

(A) The ephedrine, pseudoephedrine, or controlled substance recipient's name.

(B) The ephedrine, pseudoephedrine, or controlled substance recipient's or the recipient representative's identification number or the identification number or

phrase designated by the INSPECT program.

(C) The ephedrine, pseudoephedrine, or controlled substance recipient's date of birth.

(D) The national drug code number of the ephedrine, pseudoephedrine, or controlled substance dispensed.

(E) The date the ephedrine, pseudoephedrine, or controlled substance is dispensed.

(F) The quantity of the ephedrine, pseudoephedrine, or controlled substance dispensed.

(G) The number of days of supply dispensed.

(H) The dispenser's United States Drug Enforcement Agency registration number.

(I) The prescriber's United States Drug Enforcement Agency registration number.

(J) An indication as to whether the prescription was transmitted to the pharmacist orally or in writing.

(K) Other data required by the board.

(2) The information required to be transmitted under this section must be transmitted not more than twenty-four (24) hours after the date on which ephedrine, pseudoephedrine, or a controlled substance is dispensed. However, if the dispenser's pharmacy is closed the day following the dispensing, the information must be transmitted by the end of the next business day.

(3) A dispenser shall transmit the information required under this section by:

(A) uploading to the INSPECT Internet web site; or

(B) another electronic method that meets specifications prescribed by the board.

(4) The board may require that prescriptions for ephedrine, pseudoephedrine, or controlled substances be written on a one (1) part form that cannot be duplicated. However, the board may not apply such a requirement to prescriptions filled at a pharmacy with a Category II permit (as described in IC 25-26-13-17) and operated by a hospital licensed under IC 16-21, or prescriptions ordered for and dispensed to bona fide enrolled patients in facilities licensed under IC 16-28. The board may not require multiple copy prescription forms for any prescriptions written. The board may not require different prescription forms for any individual drug or group of drugs. Prescription forms required under this subdivision must be approved by the Indiana board of pharmacy created

by IC 25-26-13-3.

(5) The costs of the program.

(6) As part of the information to be completed in the data base and, if available, an entry where a dispenser indicates that a patient is participating in a pain management contract with a designated practitioner.

(b) The board shall consider the recommendations of the committee concerning the INSPECT program.

(c) This subsection applies only to a retail pharmacy. A pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense ephedrine, pseudoephedrine, or a controlled substance may not dispense ephedrine, pseudoephedrine, or a controlled substance to a person who is not personally known to the pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense a controlled substance unless the person taking possession of the ephedrine, pseudoephedrine, or controlled substance provides documented proof of the person's identification to the pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense ephedrine, pseudoephedrine, or a controlled substance.

Sec. 18. (a) The INSPECT program must do the following:

(1) Create a data base for information required to be transmitted under section 17 of this chapter in the form required under rules adopted by the board, including search capability for the following:

(A) An ephedrine, pseudoephedrine, or a controlled substance recipient's name.

(B) An ephedrine, pseudoephedrine, or a controlled substance recipient's or recipient representative's identification number.

(C) An ephedrine, pseudoephedrine, or a controlled substance recipient's date of birth.

(D) The national drug code number of ephedrine, pseudoephedrine, or a controlled substance dispensed.

(E) The dates ephedrine, pseudoephedrine, or a controlled substance are dispensed.

(F) The quantities of ephedrine, pseudoephedrine, or controlled substance dispensed.

(G) The number of days of supply dispensed.

(H) A dispenser's United States Drug Enforcement Agency registration number.

(I) A prescriber's United States Drug Enforcement Agency

registration number.

(J) Whether a prescription was transmitted to the pharmacist orally or in writing.

(K) An ephedrine, pseudoephedrine, or a controlled substance recipient's method of payment for the ephedrine, pseudoephedrine, or controlled substance dispensed.

To the extent considered appropriate by the board, the data base must be interoperable with other similar registries operated by federal and state governments.

(2) Provide the board with continuing twenty-four (24) hour a day online access to the data base.

(3) Secure the information collected and the data base maintained against access by unauthorized persons.

(b) The board may not execute a contract with a vendor designated by the board to perform any function associated with the administration of the INSPECT program, unless the contract has been approved by the committee.

(c) The INSPECT program may gather prescription data from the Medicaid retrospective and prospective drug utilization review (DUR) program established under IC 12-15-35.

(d) The board may accept and designate grants, public and private financial assistance, and licensure fees to provide funding for the INSPECT program.

Sec. 19. (a) Information received by the INSPECT program under section 17 of this chapter is confidential.

(b) The board shall carry out a program to protect the confidentiality of the information described in subsection (a). The board may disclose the information to another person only under subsection (c), (d), or (g).

(c) The board may disclose confidential information described in subsection (a) to any person who is authorized to engage in receiving, processing, or storing the information.

(d) Except as provided in subsections (e) and (f), the board may release confidential information described in subsection (a) to the following persons:

(1) A member of the board or another governing body that licenses practitioners and is engaged in an investigation, an adjudication, or a prosecution of a violation under any state or federal law that involves ephedrine, pseudoephedrine, or a controlled substance.

(2) An investigator for the consumer protection division of the office of the attorney general, a prosecuting attorney, the

attorney general, a deputy attorney general, or an investigator from the office of the attorney general, who is engaged in:

(A) an investigation;

(B) an adjudication; or

(C) a prosecution;

of a violation under any state or federal law that involves ephedrine, pseudoephedrine, or a controlled substance.

(3) A law enforcement officer who is an employee of:

(A) a local, state, or federal law enforcement agency; or

(B) an entity that regulates ephedrine, pseudoephedrine, or controlled substances or enforces ephedrine, pseudoephedrine, or controlled substances rules or laws in another state;

that is certified to receive ephedrine, pseudoephedrine, or controlled substance prescription drug information from the INSPECT program.

(4) A practitioner or practitioner's agent certified to receive information from the INSPECT program.

(5) An ephedrine, pseudoephedrine, or controlled substance monitoring program in another state with which Indiana has established an interoperability agreement.

(6) The state toxicologist.

(7) A certified representative of the Medicaid retrospective and prospective drug utilization review program.

(8) A substance abuse assistance program for a licensed health care provider who:

(A) has prescriptive authority under this title; and

(B) is participating in the assistance program.

(9) An individual who holds a valid temporary medical permit issued under IC 25-22.5-5-4 or a noneducational commission for foreign medical graduates certified graduate permit issued under IC 25-22.5-5-4.6.

(10) A county coroner conducting a medical investigation of the cause of death.

(11) The management performance hub established by IC 4-3-26-8.

(12) The state epidemiologist under the state department of health.

(e) Information provided to a person under:

(1) subsection (d)(3) is limited to information:

(A) concerning an individual or proceeding involving the

unlawful diversion or misuse of a schedule II, III, IV, or V controlled substance; and

(B) that will assist in an investigation or proceeding;

(2) subsection (d)(4) may be released only for the purpose of:

(A) providing medical or pharmaceutical treatment; or

(B) evaluating the need for providing medical or pharmaceutical treatment to a patient; and

(3) subsection (d)(11) must be released to the extent disclosure of the information is not prohibited by applicable federal law.

(f) Before the board releases confidential information under subsection (d), the applicant must be approved by the INSPECT program in a manner prescribed by the board.

(g) The board may release to:

(1) a member of the board or another governing body that licenses practitioners;

(2) an investigator for the consumer protection division of the office of the attorney general, a prosecuting attorney, the attorney general, a deputy attorney general, or an investigator from the office of the attorney general; or

(3) a law enforcement officer who is:

(A) authorized by the state police department to receive ephedrine, pseudoephedrine, or controlled substance prescription drug information; and

(B) approved by the board to receive the type of information released;

confidential information generated from computer records that identifies practitioners who are prescribing or dispensing large quantities of a controlled substance.

(h) The information described in subsection (g) may not be released until it has been reviewed by:

(1) a member of the board who is licensed in the same profession as the prescribing or dispensing practitioner identified by the data; or

(2) the board's designee;

and until that member or the designee has certified that further investigation is warranted. However, failure to comply with this subsection does not invalidate the use of any evidence that is otherwise admissible in a proceeding described in subsection (i).

(i) An investigator or a law enforcement officer receiving confidential information under subsection (c), (d), or (g) may disclose the information to a law enforcement officer or an attorney for the office of the attorney general for use as evidence

in the following:

(1) A proceeding under IC 16-42-20.

(2) A proceeding under any state or federal law.

(3) A criminal proceeding or a proceeding in juvenile court.

(j) The board may compile statistical reports from the information described in subsection (a). The reports must not include information that identifies any practitioner, ultimate user, or other person administering ephedrine, pseudoephedrine, or a controlled substance. Statistical reports compiled under this subsection are public records.

(k) Except as provided in subsection (q), and in addition to any requirements provided in IC 25-22.5-13, the following practitioners shall obtain information about a patient from the data base either directly or through the patient's integrated health record before prescribing an opioid or benzodiazepine to the patient:

(1) A practitioner who has had the information from the data base integrated into the patient's electronic health records.

(2) A practitioner who provides services to the patient in:

(A) the emergency department of a hospital licensed under IC 16-21; or

(B) a pain management clinic.

(3) Beginning January 1, 2020, a practitioner who provides services to the patient in a hospital licensed under IC 16-21.

(4) Beginning January 1, 2021, all practitioners.

However, a practitioner is not required to obtain information about a patient who is subject to a pain management contract from the data base more than once every ninety (90) days.

(l) A practitioner who checks the INSPECT program either directly through the data base or through the patient's integrated health record for the available data on a patient is immune from civil liability for an injury, death, or loss to a person solely due to a practitioner:

(1) seeking information from the INSPECT program; and

(2) in good faith using the information for the treatment of the patient.

The civil immunity described in this subsection does not extend to a practitioner if the practitioner receives information directly from the INSPECT program or through the patient's integrated health record and then negligently misuses this information. This subsection does not apply to an act or omission that is a result of gross negligence or intentional misconduct.

(m) The board may review the records of the INSPECT

program. If the board determines that a violation of the law may have occurred, the board shall notify the appropriate law enforcement agency or the relevant government body responsible for the licensure, regulation, or discipline of practitioners authorized by law to prescribe controlled substances.

(n) A practitioner who in good faith discloses information based on a report from the INSPECT program either directly through the data base or through the patient's integrated health record to a law enforcement agency is immune from criminal or civil liability. A practitioner that discloses information to a law enforcement agency under this subsection is presumed to have acted in good faith.

(o) A practitioner's agent may act as a delegate and check INSPECT program reports on behalf of the practitioner.

(p) A patient may access a report from the INSPECT program that has been included in the patient's medical file by a practitioner.

(q) A practitioner is not required under subsection (k) to obtain information about a patient from the data base or through the patient's integrated health record before prescribing an opioid or benzodiazepine if any of the following apply:

(1) The practitioner has obtained a waiver from the board because the practitioner does not have access to the Internet at the practitioner's place of business.

(2) The patient is:

(A) recovering; or

(B) in the process of completing a prescription that was prescribed by another practitioner;

while still being treated as an inpatient or in observation status.

(3) The data base described in section 18 of this chapter is suspended or is not operational if the practitioner documents in writing or electronically the date and time in the patient's medical record that the practitioner, dispenser, or delegate attempted to use the data base.

Sec. 20. A practitioner who is permitted to distribute, dispense, prescribe, conduct research with respect to, or administer ephedrine, pseudoephedrine, or a controlled substance in the course of the practitioner's professional practice or research in the United States must be certified under section 19(d)(4) of this chapter to receive information from the INSPECT program.

Sec. 21. (a) Each board described in IC 25-0.5-11-1 that

regulates a health care provider that prescribes or dispenses prescription drugs may review and act upon the unsolicited dissemination of exception reports under section 19 of this chapter.

(b) Upon receipt of an exception report, the board may:

(1) send the exception report to a law enforcement agency for purposes of an investigation; or

(2) send the exception report to the office of the attorney general for purposes of an investigation.

(c) If the board sends an exception report as described in subsection (b)(1) or (b)(2), it shall ensure compliance with section 19 of this chapter.

(d) Notwithstanding subsection (a), the board may disseminate exception reports to prescribers and dispensers specific to recipients.

Sec. 22. (a) The board shall adopt rules under IC 4-22-2 to implement this chapter, including the following:

(1) Information collection and retrieval procedures for the INSPECT program, including the controlled substances to be included in the program required under section 17 of this chapter.

(2) Design for the creation of the data base required under section 18 of this chapter.

(3) Requirements for the development and installation of online electronic access by the board to information collected by the INSPECT program.

(4) Identification of emergency situations or other circumstances in which a practitioner may prescribe, dispense, and administer a prescription drug specified in section 17 of this chapter without a written prescription or on a form other than a form specified in section 17(a)(4) of this chapter.

(5) Requirements for a practitioner providing treatment for a patient at an opioid treatment program operating under IC 12-23-18 to check the INSPECT program:

(A) before initially prescribing ephedrine, pseudoephedrine, or a controlled substance to a patient; and

(B) periodically during the course of treatment that uses ephedrine, pseudoephedrine, or a controlled substance.

(b) The board may:

(1) set standards for education courses for individuals authorized to use the INSPECT program;

(2) identify treatment programs for individuals addicted to controlled substances monitored by the INSPECT program; and

(3) work with impaired practitioner associations to provide intervention and treatment.

(c) The executive director of the Indiana professional licensing agency may hire a person to serve as the director of the INSPECT program, with the approval of the chairperson of the board.

(d) The board shall do the following:

(1) Establish a procedure for a practitioner to request a waiver from the requirements of section 19(k) of this chapter if the practitioner does not have access to the Internet at the practitioner's place of business.

(2) Review a practitioner's written request for a waiver from the requirements of section 19(k) of this chapter and determine whether the practitioner should be granted a waiver.

(3) Upon determination by the board under subdivision (2) that a practitioner should be granted a waiver under this subsection, issue the practitioner a waiver.

Sec. 23. (a) The controlled substances data fund is established to fund the administration of the INSPECT program. The fund shall be administered by the Indiana professional licensing agency.

(b) Expenses of administering the fund shall be paid from money in the fund. The fund consists of grants, public and private financial assistance, and the controlled substances registration fees imposed under rules adopted under IC 35-48-3-1.

(c) 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 money may be invested.

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

Sec. 24. (a) The INSPECT oversight committee is established.

(b) The committee consists of the following members:

(1) The president of the board or the president's designee, who shall serve as the chairperson of the committee.

(2) The commissioner of the state department of health or the commissioner's designee.

(3) The superintendent of the state police department or the superintendent's designee.

(4) The attorney general or the attorney general's designee.

(5) Two (2) lay members who are authorized users of the

INSPECT program appointed by the president pro tempore of the senate, not more than one (1) of whom may be affiliated with the same political party.

(6) Two (2) lay members who are authorized users of the INSPECT program appointed by the speaker of the house of representatives, not more than one (1) of whom may be affiliated with the same political party.

(c) The committee shall provide recommendations to the board concerning the implementation of policies, standards, and rules that promote the effective operation of the program.

(d) The committee shall meet:

(1) at least once each calendar year; and

(2) at the call of the chairperson.

(e) The term of a member of the committee appointed under this section is four (4) years. The term of a member of the committee expires July 1, but a member may continue to serve on the committee until a successor is appointed.

Sec. 25. A person who knowingly or intentionally releases confidential information in an unauthorized manner violates this chapter and commits a Class A misdemeanor.

SECTION 9. IC 25-27.5-5-4.5, AS ADDED BY P.L.82-2016, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.5. A physician assistant may include a report from the INSPECT program in a patient's medical file. Any disclosure or release of a patient's medical file must be in compliance with ~~IC 35-48-7-11.1.~~ **IC 25-26-24-19.**

SECTION 10. IC 25-29-1-17, AS ADDED BY P.L.82-2016, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. A podiatrist may include a report from the INSPECT program in a patient's medical file. Any disclosure or release of a patient's medical file must be in compliance with ~~IC 35-48-7-11.1.~~ **IC 25-26-24-19.**

SECTION 11. IC 34-30-2-101.8, AS ADDED BY P.L.119-2011, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 101.8. **(a)** IC 25-26-23-8 (Concerning an entity participating in a returning unused medication program).

(b) IC 25-26-24-19(l) (Concerning a practitioner obtaining information from the Indiana scheduled prescription electronic collection and tracking program and using the information for the treatment of a patient).

(c) IC 25-26-24-19(n) (Concerning providing information to a law enforcement agency based on a report from the Indiana

scheduled prescription electronic collection and tracking program).

SECTION 12. IC 34-30-2-152.5 IS REPEALED [EFFECTIVE UPON PASSAGE]. ~~Sec. 152.5. (a) IC 35-48-7-11.1(l) (Concerning a practitioner obtaining information from the Indiana scheduled prescription electronic collection and tracking program and using the information for the treatment of a patient).~~

~~(b) IC 35-48-7-11.1(n) (Concerning providing information to a law enforcement agency based on a report from the Indiana scheduled prescription electronic collection and tracking program).~~

SECTION 13. IC 35-31.5-2-96, AS ADDED BY P.L.114-2012, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 96. ~~(a) Except as provided in subsection (b),~~ "Dispense", for purposes of IC 35-48, has the meaning set forth in IC 35-48-1-12.

~~(b) "Dispense", for purposes of IC 35-48-7, has the meaning set forth in IC 35-48-7-2.9(a).~~

SECTION 14. IC 35-31.5-2-123 IS REPEALED [EFFECTIVE UPON PASSAGE]. ~~Sec. 123. "Exception report", for purposes of IC 35-48-7, has the meaning set forth in IC 35-48-7-4.~~

SECTION 15. IC 35-31.5-2-172 IS REPEALED [EFFECTIVE UPON PASSAGE]. ~~Sec. 172. "INSPECT", for purposes of IC 35-48-7, has the meaning set forth in IC 35-48-7-5.2.~~

SECTION 16. IC 35-31.5-2-229 IS REPEALED [EFFECTIVE UPON PASSAGE]. ~~Sec. 229. "Patient", for purposes of IC 35-48-7, has the meaning set forth in IC 35-48-7-5.6.~~

SECTION 17. IC 35-31.5-2-242, AS AMENDED BY P.L.158-2013, SECTION 379, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 242. ~~(a) Except as provided in subsection (b),~~ "Practitioner", for purposes of IC 35-48, has the meaning set forth in IC 35-48-1-24.

~~(b) "Practitioner", for purposes of IC 35-48-7, has the meaning set forth in IC 35-48-7-5.8.~~

SECTION 18. IC 35-31.5-2-270 IS REPEALED [EFFECTIVE UPON PASSAGE]. ~~Sec. 270. "Recipient", for purposes of IC 35-48-7, has the meaning set forth in IC 35-48-7-6.~~

SECTION 19. IC 35-31.5-2-271 IS REPEALED [EFFECTIVE UPON PASSAGE]. ~~Sec. 271. "Recipient representative", for purposes of IC 35-48-7, has the meaning set forth in IC 35-48-7-7.~~

SECTION 20. IC 35-31.5-2-311, AS AMENDED BY P.L.13-2013, SECTION 132, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 311. ~~(a) "State", for purposes of IC 35-48-7, has the meaning set forth in IC 35-48-7-7.5.~~

~~(b)~~ "State", for purposes of IC 35-37-5, has the meaning set forth in IC 35-37-5-1.

SECTION 21. IC 35-48-7 IS REPEALED [EFFECTIVE UPON PASSAGE]. (Central Repository for Controlled Substances Data).

SECTION 22. IC 35-52-25-46.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 46.5. IC 25-26-24-25 defines a crime concerning the INSPECT program.**

SECTION 23. **An emergency is declared for this act.**

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1294, 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 4, delete lines 12 through 21.

Page 14, line 13, delete "law that involves" and insert "**law.**".

Page 14, delete line 14.

Page 14, line 15, after "court" insert "**.**".

Page 14, delete lines 16 through 17.

Page 14, line 26, after "base" insert "**either directly or through the patient's integrated health record**".

Page 14, line 40, after "program" insert "**either directly through the data base or through the patient's integrated health record**".

Page 15, line 6, after "program" insert "**or through the patient's integrated health record**".

Page 15, line 16, after "program" insert "**either directly through the data base or through the patient's integrated health record**".

Page 15, line 26, after "base" insert "**or through the patient's integrated health record**".

Page 15, delete lines 37 through 42.

Page 16, delete lines 1 through 6.

Page 16, line 7, delete "(5)" and insert "**(3)**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1294 as introduced.)

KIRCHHOFER

Committee Vote: yeas 12, nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred House Bill No. 1294, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to HB 1294 as printed January 25, 2019.)

CHARBONNEAU, Chairperson

Committee Vote: Yeas 9, Nays 0