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 2016 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 151

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 35-48-7-8.1, AS AMENDED BY P.L.5-2016, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 8.1. (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 as follows:

(A) Before July 1, 2015, not more than seven (7) days after the date on which ephedrine, pseudoephedrine, or a controlled substance is dispensed.

(B) Beginning July 1, 2015, and until December 31, 2015, not more than three (3) days after the date on which ephedrine, pseudoephedrine, or a controlled substance is dispensed.

(C) Beginning January 1, 2016, and thereafter, 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 web site;

(B) a computer diskette; or

(C) a CD-ROM disk;

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 established 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.

SECTION 2. IC 35-48-7-11.1, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2017 GENERAL ASSEMBLY, AND AS AMENDED BY HEA 1308-2017, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 11.1. (a) Information received by the INSPECT program under section 8.1 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* ~~a~~ 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 IC 25; 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 temporary fellowship permit *issued* under IC 25-22.5-5-4.6.

(10) Beginning July 1, 2016, a county coroner conducting a medical investigation of the cause of death.

(11) The management performance hub established by Indiana Executive Order 14-06 and continued by Executive Order 17-09.

~~(11)~~ **(12)** The state epidemiologist **under the state department of health.**

(e) Information provided to ~~an individual~~ **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; ~~and~~

(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 that involves *ephedrine, pseudoephedrine, or* a controlled substance.

(3) A criminal proceeding or a proceeding in juvenile court that involves *ephedrine, pseudoephedrine, or* a controlled substance.

(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 IC 25-22.5-13, this section may not be construed to require a practitioner to obtain information about a patient from the data base.

(l) A practitioner *who checks the INSPECT program 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 ~~*or not 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 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 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.

SECTION 3. [EFFECTIVE JULY 1, 2017] **(a) As used in this SECTION, "agency" means the Indiana professional licensing agency.**

(b) As used in this SECTION, "emergency medical services provider" has the meaning set forth in IC 16-41-10-1.

(c) As used in this SECTION, "emergency medical technician" has the meaning set forth in IC 16-18-2-112.

(d) As used in this SECTION, "INSPECT" has the meaning set forth in IC 35-48-7-5.2.

(e) As used in this SECTION, "law enforcement officer" means a:

(1) constable;

(2) correctional police officer;

(3) police officer;

(4) sheriff;

(5) marshal; or

(6) deputy of any of the individuals described in subdivisions (1) through (5).

(f) As used in this SECTION, "opiate" has the meaning set forth in IC 35-48-1-21.

(g) As used in this SECTION, "overdose intervention drug" has the meaning set forth in IC 16-18-2-263.9.

(h) As used in this SECTION, "paramedic" has the meaning set forth in IC 16-18-2-266.

(i) As used in this SECTION, "pharmacist" has the meaning set forth in IC 16-18-2-281.

(j) As used in this SECTION, "physician" has the meaning set forth in IC 16-18-2-282.

(k) As used in this SECTION, "registered nurse" has the meaning set forth in IC 25-23-1-1.1.

(l) The agency shall establish a workgroup consisting of:

(1) emergency medical technicians;

(2) law enforcement officers;

(3) registered nurses;

(4) paramedics;

(5) pharmacists;

(6) physicians;

(7) physician assistants;

(8) a representative of the National Association of Boards of Pharmacy;

(9) a representative of the Indiana board of pharmacy (created by IC 25-26-13-3);

(10) a representative of the office of technology (established by IC 4-13.1-2-1);

(11) a representative of the Indiana Hospital Association;

(12) a representative of a health information exchange; and

(13) any other persons selected by the agency.

(m) The workgroup described in subsection (l) shall evaluate the following:

(1) The cost and feasibility of using the INSPECT data base to catalog each emergency administration of an overdose intervention drug by an emergency medical services provider.

(2) The cost and feasibility of using the INSPECT data base to catalog data related to law enforcement investigations involving both:

(A) a controlled substance that is not an opiate; and

(B) one (1) more of the following occurrences:

(i) Death.

(ii) Overdose.

(iii) Forgery.

(iv) Fraud.

(v) Theft.

(3) INSPECT operations and interoperability of data, including:

(A) the security requirements for data sharing; and

(B) the use of identifiable data and data that has been de-identified.

(n) Not later than December 1, 2017, the agency shall submit:

(1) any statutory recommendations; and

(2) a written report of the workgroup's findings;

to the legislative council in an electronic format under IC 5-14-6.

(o) This SECTION expires December 31, 2017.

President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____