

# SENATE BILL No. 213

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 16-31-3-14; IC 22-15-5-16; IC 25-1-1.1-2; IC 35-48-4-11.

**Synopsis:** Possession of marijuana. Provides that a person who knowingly or intentionally possesses more than two ounces of marijuana commits the offense of possession of marijuana. (Current law provides that the offense of possession of marijuana can be for any amount of marijuana.) Repeals the offense of possession of marijuana, hash oil, hashish, or salvia as a Level 6 felony. Makes conforming amendments.

**Effective:** July 1, 2019.

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January 3, 2019, read first time and referred to Committee on Corrections and Criminal Law.

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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.

## SENATE BILL No. 213

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A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

1 SECTION 1. IC 16-31-3-14, AS AMENDED BY P.L.85-2017,  
2 SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2019]: Sec. 14. (a) A person holding a certificate or license  
4 issued under this article must comply with the applicable standards and  
5 rules established under this article. A certificate holder or license  
6 holder is subject to disciplinary sanctions under subsection (b) if the  
7 department of homeland security determines that the certificate holder  
8 or license holder:  
9 (1) engaged in or knowingly cooperated in fraud or material  
10 deception in order to obtain a certificate or license, including  
11 cheating on a certification or licensure examination;  
12 (2) engaged in fraud or material deception in the course of  
13 professional services or activities;  
14 (3) advertised services or goods in a false or misleading manner;  
15 (4) falsified or knowingly allowed another person to falsify  
16 attendance records or certificates of completion of continuing  
17 education courses required under this article or rules adopted



- 1 under this article;
- 2 (5) is convicted of a crime, if the act that resulted in the
- 3 conviction has a direct bearing on determining if the certificate
- 4 holder or license holder should be entrusted to provide emergency
- 5 medical services;
- 6 (6) is convicted of violating IC 9-19-14.5;
- 7 (7) fails to comply and maintain compliance with or violates any
- 8 applicable provision, standard, or other requirement of this article
- 9 or rules adopted under this article;
- 10 (8) continues to practice if the certificate holder or license holder
- 11 becomes unfit to practice due to:
- 12 (A) professional incompetence that includes the undertaking
- 13 of professional activities that the certificate holder or license
- 14 holder is not qualified by training or experience to undertake;
- 15 (B) failure to keep abreast of current professional theory or
- 16 practice;
- 17 (C) physical or mental disability; or
- 18 (D) addiction to, abuse of, or dependency on alcohol or other
- 19 drugs that endanger the public by impairing the certificate
- 20 holder's or license holder's ability to practice safely;
- 21 (9) engages in a course of lewd or immoral conduct in connection
- 22 with the delivery of services to the public;
- 23 (10) allows the certificate holder's or license holder's name or a
- 24 certificate or license issued under this article to be used in
- 25 connection with a person who renders services beyond the scope
- 26 of that person's training, experience, or competence;
- 27 (11) is subjected to disciplinary action in another state or
- 28 jurisdiction on grounds similar to those contained in this chapter.
- 29 For purposes of this subdivision, a certified copy of a record of
- 30 disciplinary action constitutes prima facie evidence of a
- 31 disciplinary action in another jurisdiction;
- 32 (12) assists another person in committing an act that would
- 33 constitute a ground for disciplinary sanction under this chapter;
- 34 or
- 35 (13) allows a certificate or license issued by the commission to
- 36 be:
- 37 (A) used by another person; or
- 38 (B) displayed to the public when the certificate or license is
- 39 expired, inactive, invalid, revoked, or suspended.
- 40 (b) The department of homeland security may issue an order under
- 41 IC 4-21.5-3-6 to impose one (1) or more of the following sanctions if
- 42 the department of homeland security determines that a certificate



1 holder or license holder is subject to disciplinary sanctions under  
2 subsection (a):

3 (1) Revocation of a certificate holder's certificate or license  
4 holder's license for a period not to exceed seven (7) years.

5 (2) Suspension of a certificate holder's certificate or license  
6 holder's license for a period not to exceed seven (7) years.

7 (3) Censure of a certificate holder or license holder.

8 (4) Issuance of a letter of reprimand.

9 (5) Assessment of a civil penalty against the certificate holder or  
10 license holder in accordance with the following:

11 (A) The civil penalty may not exceed five hundred dollars  
12 (\$500) per day per violation.

13 (B) If the certificate holder or license holder fails to pay the  
14 civil penalty within the time specified by the department of  
15 homeland security, the department of homeland security may  
16 suspend the certificate holder's certificate or license holder's  
17 license without additional proceedings.

18 (6) Placement of a certificate holder or license holder on  
19 probation status and requirement of the certificate holder or  
20 license holder to:

21 (A) report regularly to the department of homeland security  
22 upon the matters that are the basis of probation;

23 (B) limit practice to those areas prescribed by the department  
24 of homeland security;

25 (C) continue or renew professional education approved by the  
26 department of homeland security until a satisfactory degree of  
27 skill has been attained in those areas that are the basis of the  
28 probation; or

29 (D) perform or refrain from performing any acts, including  
30 community restitution or service without compensation, that  
31 the department of homeland security considers appropriate to  
32 the public interest or to the rehabilitation or treatment of the  
33 certificate holder or license holder.

34 The department of homeland security may withdraw or modify  
35 this probation if the department of homeland security finds after  
36 a hearing that the deficiency that required disciplinary action is  
37 remedied or that changed circumstances warrant a modification  
38 of the order.

39 (c) If an applicant or a certificate holder or license holder has  
40 engaged in or knowingly cooperated in fraud or material deception to  
41 obtain a certificate or license, including cheating on the certification or  
42 licensure examination, the department of homeland security may



1 rescind the certificate or license if it has been granted, void the  
2 examination or other fraudulent or deceptive material, and prohibit the  
3 applicant from reapplying for the certificate or license for a length of  
4 time established by the department of homeland security.

5 (d) The department of homeland security may deny certification or  
6 licensure to an applicant who would be subject to disciplinary sanctions  
7 under subsection (b) if that person were a certificate holder or license  
8 holder, has had disciplinary action taken against the applicant or the  
9 applicant's certificate or license to practice in another state or  
10 jurisdiction, or has practiced without a certificate or license in violation  
11 of the law. A certified copy of the record of disciplinary action is  
12 conclusive evidence of the other jurisdiction's disciplinary action.

13 (e) The department of homeland security may order a certificate  
14 holder or license holder to submit to a reasonable physical or mental  
15 examination if the certificate holder's or license holder's physical or  
16 mental capacity to practice safely and competently is at issue in a  
17 disciplinary proceeding. Failure to comply with a department of  
18 homeland security order to submit to a physical or mental examination  
19 makes a certificate holder or license holder liable to temporary  
20 suspension under subsection (i).

21 (f) Except as provided under subsection (a), subsection (g), and  
22 section 14.5 of this chapter, a certificate or license may not be denied,  
23 revoked, or suspended because the applicant, certificate holder, or  
24 license holder has been convicted of an offense. The acts from which  
25 the applicant's, certificate holder's, or license holder's conviction  
26 resulted may be considered as to whether the applicant or certificate  
27 holder or license holder should be entrusted to serve the public in a  
28 specific capacity.

29 (g) The department of homeland security may deny, suspend, or  
30 revoke a certificate or license issued under this article if the individual  
31 who holds or is applying for the certificate or license is convicted of  
32 any of the following:

- 33 (1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.
- 34 (2) Possession of methamphetamine under IC 35-48-4-6.1.
- 35 (3) Possession of a controlled substance under IC 35-48-4-7(a).
- 36 (4) Fraudulently obtaining a controlled substance under  
37 IC 35-48-4-7(c).
- 38 (5) Manufacture of paraphernalia as a Class D felony (for a crime  
39 committed before July 1, 2014) or Level 6 felony (for a crime  
40 committed after June 30, 2014) under IC 35-48-4-8.1(b).
- 41 (6) Dealing in paraphernalia as a Class D felony (for a crime  
42 committed before July 1, 2014) or Level 6 felony (for a crime



1 committed after June 30, 2014) under IC 35-48-4-8.5(b).

2 (7) Possession of paraphernalia as a Class D felony (for a crime  
3 committed before July 1, 2014) or Level 6 felony (for a crime  
4 committed after June 30, 2014) under IC 35-48-4-8.3(b) (before  
5 its amendment on July 1, 2015).

6 ~~(8) Possession of marijuana, hash oil, hashish, or salvia as a Class  
7 D felony (for a crime committed before July 1, 2014) or Level 6  
8 felony (for a crime committed after June 30, 2014) under  
9 IC 35-48-4-11.~~

10 ~~(9)~~ (8) Possession of a synthetic drug or synthetic drug lookalike  
11 substance as a Class D felony (for a crime committed before July  
12 1, 2014) or Level 6 felony (for a crime committed after June 30,  
13 2014) under IC 35-48-4-11.5 (or under IC 35-48-4-11 before its  
14 amendment in 2013).

15 ~~(10)~~ (9) Maintaining a common nuisance under IC 35-48-4-13  
16 (repealed) or IC 35-45-1-5, if the common nuisance involves a  
17 controlled substance.

18 ~~(11)~~ (10) An offense relating to registration, labeling, and  
19 prescription forms under IC 35-48-4-14.

20 ~~(12)~~ (11) Conspiracy under IC 35-41-5-2 to commit an offense  
21 listed in this section.

22 ~~(13)~~ (12) Attempt under IC 35-41-5-1 to commit an offense listed  
23 in this section.

24 ~~(14)~~ (13) An offense in any other jurisdiction in which the  
25 elements of the offense for which the conviction was entered are  
26 substantially similar to the elements of an offense described in  
27 this section.

28 (h) A decision of the department of homeland security under  
29 subsections (b) through (g) may be appealed to the commission under  
30 IC 4-21.5-3-7.

31 (i) The department of homeland security may temporarily suspend  
32 a certificate holder's certificate or license holder's license under  
33 IC 4-21.5-4 before a final adjudication or during the appeals process if  
34 the department of homeland security finds that a certificate holder or  
35 license holder would represent a clear and immediate danger to the  
36 public's health, safety, or property if the certificate holder or license  
37 holder were allowed to continue to practice.

38 (j) On receipt of a complaint or information alleging that a person  
39 certified or licensed under this chapter or IC 16-31-3.5 has engaged in  
40 or is engaging in a practice that is subject to disciplinary sanctions  
41 under this chapter, the department of homeland security must initiate  
42 an investigation against the person.



1 (k) The department of homeland security shall conduct a factfinding  
 2 investigation as the department of homeland security considers proper  
 3 in relation to the complaint.

4 (l) The department of homeland security may reinstate a certificate  
 5 or license that has been suspended under this section if the department  
 6 of homeland security is satisfied that the applicant is able to practice  
 7 with reasonable skill, competency, and safety to the public. As a  
 8 condition of reinstatement, the department of homeland security may  
 9 impose disciplinary or corrective measures authorized under this  
 10 chapter.

11 (m) The department of homeland security may not reinstate a  
 12 certificate or license that has been revoked under this chapter.

13 (n) The department of homeland security must be consistent in the  
 14 application of sanctions authorized in this chapter. Significant  
 15 departures from prior decisions involving similar conduct must be  
 16 explained in the department of homeland security's findings or orders.

17 (o) A certificate holder may not surrender the certificate holder's  
 18 certificate, and a license holder may not surrender the license holder's  
 19 license, without the written approval of the department of homeland  
 20 security, and the department of homeland security may impose any  
 21 conditions appropriate to the surrender or reinstatement of a  
 22 surrendered certificate or license.

23 (p) For purposes of this section, "certificate holder" means a person  
 24 who holds:

- 25 (1) an unlimited certificate;
- 26 (2) a limited or probationary certificate; or
- 27 (3) an inactive certificate.

28 (q) For purposes of this section, "license holder" means a person  
 29 who holds:

- 30 (1) an unlimited license;
- 31 (2) a limited or probationary license; or
- 32 (3) an inactive license.

33 SECTION 2. IC 22-15-5-16, AS AMENDED BY P.L.198-2018,  
 34 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 35 JULY 1, 2019]: Sec. 16. (a) A practitioner shall comply with the  
 36 standards established under this licensing program. A practitioner is  
 37 subject to the exercise of the disciplinary sanctions under subsection  
 38 (b) if the department finds that a practitioner has:

- 39 (1) engaged in or knowingly cooperated in fraud or material  
 40 deception in order to obtain a license to practice, including  
 41 cheating on a licensing examination;
- 42 (2) engaged in fraud or material deception in the course of



- 1 professional services or activities;  
 2 (3) advertised services or goods in a false or misleading manner;  
 3 (4) falsified or knowingly allowed another person to falsify  
 4 attendance records or certificates of completion of continuing  
 5 education courses provided under this chapter;  
 6 (5) been convicted of a crime that has a direct bearing on the  
 7 practitioner's ability to continue to practice competently;  
 8 (6) knowingly violated a state statute or rule or federal statute or  
 9 regulation regulating the profession for which the practitioner is  
 10 licensed;  
 11 (7) continued to practice although the practitioner has become  
 12 unfit to practice due to:  
 13 (A) professional incompetence;  
 14 (B) failure to keep abreast of current professional theory or  
 15 practice;  
 16 (C) physical or mental disability; or  
 17 (D) addiction to, abuse of, or severe dependency on alcohol or  
 18 other drugs that endanger the public by impairing a  
 19 practitioner's ability to practice safely;  
 20 (8) engaged in a course of lewd or immoral conduct in connection  
 21 with the delivery of services to the public;  
 22 (9) allowed the practitioner's name or a license issued under this  
 23 chapter to be used in connection with an individual or business  
 24 who renders services beyond the scope of that individual's or  
 25 business's training, experience, or competence;  
 26 (10) had disciplinary action taken against the practitioner or the  
 27 practitioner's license to practice in another state or jurisdiction on  
 28 grounds similar to those under this chapter;  
 29 (11) assisted another person in committing an act that would  
 30 constitute a ground for disciplinary sanction under this chapter;  
 31 or  
 32 (12) allowed a license issued by the department to be:  
 33 (A) used by another person; or  
 34 (B) displayed to the public when the license has expired, is  
 35 inactive, is invalid, or has been revoked or suspended.
- 36 For purposes of subdivision (10), a certified copy of a record of  
 37 disciplinary action constitutes prima facie evidence of a disciplinary  
 38 action in another jurisdiction.
- 39 (b) The department may impose one (1) or more of the following  
 40 sanctions if the department finds that a practitioner is subject to  
 41 disciplinary sanctions under subsection (a):  
 42 (1) Permanent revocation of a practitioner's license.





- 1 (2) Suspension of a practitioner's license.  
 2 (3) Censure of a practitioner.  
 3 (4) Issuance of a letter of reprimand.  
 4 (5) Assessment of a civil penalty against the practitioner in  
 5 accordance with the following:  
 6 (A) The civil penalty may not be more than one thousand  
 7 dollars (\$1,000) for each violation listed in subsection (a),  
 8 except for a finding of incompetency due to a physical or  
 9 mental disability.  
 10 (B) When imposing a civil penalty, the department shall  
 11 consider a practitioner's ability to pay the amount assessed. If  
 12 the practitioner fails to pay the civil penalty within the time  
 13 specified by the department, the department may suspend the  
 14 practitioner's license without additional proceedings. However,  
 15 a suspension may not be imposed if the sole basis for the  
 16 suspension is the practitioner's inability to pay a civil penalty.  
 17 (6) Placement of a practitioner on probation status and  
 18 requirement of the practitioner to:  
 19 (A) report regularly to the department upon the matters that  
 20 are the basis of probation;  
 21 (B) limit practice to those areas prescribed by the department;  
 22 (C) continue or renew professional education approved by the  
 23 department until a satisfactory degree of skill has been attained  
 24 in those areas that are the basis of the probation; or  
 25 (D) perform or refrain from performing any acts, including  
 26 community restitution or service without compensation, that  
 27 the department considers appropriate to the public interest or  
 28 to the rehabilitation or treatment of the practitioner.  
 29 The department may withdraw or modify this probation if the  
 30 department finds after a hearing that the deficiency that required  
 31 disciplinary action has been remedied or that changed  
 32 circumstances warrant a modification of the order.  
 33 (c) If an applicant or a practitioner has engaged in or knowingly  
 34 cooperated in fraud or material deception to obtain a license to  
 35 practice, including cheating on the licensing examination, the  
 36 department may rescind the license if it has been granted, void the  
 37 examination or other fraudulent or deceptive material, and prohibit the  
 38 applicant from reapplying for the license for a length of time  
 39 established by the department.  
 40 (d) The department may deny licensure to an applicant who has had  
 41 disciplinary action taken against the applicant or the applicant's license  
 42 to practice in another state or jurisdiction or who has practiced without



1 a license in violation of the law. A certified copy of the record of  
 2 disciplinary action is conclusive evidence of the other jurisdiction's  
 3 disciplinary action.

4 (e) The department may order a practitioner to submit to a  
 5 reasonable physical or mental examination if the practitioner's physical  
 6 or mental capacity to practice safely and competently is at issue in a  
 7 disciplinary proceeding. Failure to comply with a department order to  
 8 submit to a physical or mental examination makes a practitioner liable  
 9 to temporary suspension under subsection (j).

10 (f) Except as provided under subsection (g) or (h), a license may not  
 11 be denied, revoked, or suspended because the applicant or holder has  
 12 been convicted of an offense. The acts from which the applicant's or  
 13 holder's conviction resulted may, however, be considered as to whether  
 14 the applicant or holder should be entrusted to serve the public in a  
 15 specific capacity.

16 (g) The department may deny, suspend, or revoke a license issued  
 17 under this chapter if the individual who holds the license is convicted  
 18 of any of the following:

19 (1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.

20 (2) Possession of methamphetamine under IC 35-48-4-6.1.

21 (3) Possession of a controlled substance under IC 35-48-4-7(a).

22 (4) Fraudulently obtaining a controlled substance under  
 23 IC 35-48-4-7(b) (for a crime committed before July 1, 2014) or  
 24 IC 35-48-4-7(c) (for a crime committed after June 30, 2014).

25 (5) Manufacture of paraphernalia as a Class D felony (for a crime  
 26 committed before July 1, 2014) or a Level 6 felony (for a crime  
 27 committed after June 30, 2014) under IC 35-48-4-8.1(b).

28 (6) Dealing in paraphernalia as a Class D felony (for a crime  
 29 committed before July 1, 2014) or a Level 6 felony (for a crime  
 30 committed after June 30, 2014) under IC 35-48-4-8.5(b).

31 (7) Possession of paraphernalia as a Class D felony (for a crime  
 32 committed before July 1, 2014) or a Level 6 felony (for a crime  
 33 committed after June 30, 2014) under IC 35-48-4-8.3(b) (before  
 34 its amendment on July 1, 2015).

35 ~~(8) Possession of marijuana, hash oil, hashish, or salvia as a Class~~  
 36 ~~D felony (for a crime committed before July 1, 2014) or a Level~~  
 37 ~~6 felony (for a crime committed after June 30, 2014) under~~  
 38 ~~IC 35-48-4-11.~~

39 ~~(9)~~ **(8)** Possession of a synthetic drug or synthetic drug lookalike  
 40 substance as a:

41 (A) Class D felony for a crime committed before July 1, 2014,  
 42 under:



- 1 (i) IC 35-48-4-11, before its amendment in 2013; or  
 2 (ii) IC 35-48-4-11.5; or  
 3 (B) Level 6 felony for a crime committed after June 30, 2014,  
 4 under IC 35-48-4-11.5.
- 5 ~~(+0)~~ **(9)** Maintaining a common nuisance under IC 35-48-4-13  
 6 (repealed) or IC 35-45-1-5, if the common nuisance involves a  
 7 controlled substance.
- 8 ~~(+1)~~ **(10)** An offense relating to registration, labeling, and  
 9 prescription forms under IC 35-48-4-14.
- 10 ~~(+2)~~ **(11)** Conspiracy under IC 35-41-5-2 to commit an offense  
 11 listed in this subsection.
- 12 ~~(+3)~~ **(12)** Attempt under IC 35-41-5-1 to commit an offense listed  
 13 in this subsection.
- 14 ~~(+4)~~ **(13)** An offense in any other jurisdiction in which the  
 15 elements of the offense for which the conviction was entered are  
 16 substantially similar to the elements of an offense described in  
 17 this subsection.
- 18 (h) The department shall deny, revoke, or suspend a license issued  
 19 under this chapter if the individual who holds the license is convicted  
 20 of any of the following:
- 21 (1) Dealing in a controlled substance resulting in death under  
 22 IC 35-42-1-1.5.
- 23 (2) Dealing in cocaine or a narcotic drug under IC 35-48-4-1.
- 24 (3) Dealing in methamphetamine under IC 35-48-4-1.1.
- 25 (4) Manufacturing methamphetamine under IC 35-48-4-1.2.
- 26 (5) Dealing in a schedule I, II, or III controlled substance under  
 27 IC 35-48-4-2.
- 28 (6) Dealing in a schedule IV controlled substance under  
 29 IC 35-48-4-3.
- 30 (7) Dealing in a schedule V controlled substance under  
 31 IC 35-48-4-4.
- 32 (8) Dealing in a substance represented to be a controlled  
 33 substance under IC 35-48-4-4.5.
- 34 (9) Knowingly or intentionally manufacturing, advertising,  
 35 distributing, or possessing with intent to manufacture, advertise,  
 36 or distribute a substance represented to be a controlled substance  
 37 under IC 35-48-4-4.6.
- 38 (10) Dealing in a counterfeit substance under IC 35-48-4-5.
- 39 (11) Dealing in marijuana, hash oil, hashish, or salvia as a felony  
 40 under IC 35-48-4-10.
- 41 (12) Dealing in a synthetic drug or synthetic drug lookalike  
 42 substance under IC 35-48-4-10.5 (or under IC 35-48-4-10(b))



- 1 before its amendment in 2013).
- 2 (13) Conspiracy under IC 35-41-5-2 to commit an offense listed  
3 in this subsection.
- 4 (14) Attempt under IC 35-41-5-1 to commit an offense listed in  
5 this subsection.
- 6 (15) An offense in any other jurisdiction in which the elements of  
7 the offense for which the conviction was entered are substantially  
8 similar to the elements of an offense described in this subsection.
- 9 (16) A violation of any federal or state drug law or rule related to  
10 wholesale legend drug distributors licensed under IC 25-26-14.
- 11 (i) A decision of the department under subsections (b) through (h)  
12 may be appealed to the commission under IC 4-21.5-3-7.
- 13 (j) The department may temporarily suspend a practitioner's license  
14 under IC 4-21.5-4 before a final adjudication or during the appeals  
15 process if the department finds that a practitioner represents a clear and  
16 immediate danger to the public's health, safety, or property if the  
17 practitioner is allowed to continue to practice.
- 18 (k) On receipt of a complaint or an information alleging that a  
19 person licensed under this chapter has engaged in or is engaging in a  
20 practice that jeopardizes the public health, safety, or welfare, the  
21 department shall initiate an investigation against the person.
- 22 (l) Any complaint filed with the office of the attorney general  
23 alleging a violation of this licensing program shall be referred to the  
24 department for summary review and for its general information and any  
25 authorized action at the time of the filing.
- 26 (m) The department shall conduct a fact finding investigation as the  
27 department considers proper in relation to the complaint.
- 28 (n) The department may reinstate a license that has been suspended  
29 under this section if, after a hearing, the department is satisfied that the  
30 applicant is able to practice with reasonable skill, safety, and  
31 competency to the public. As a condition of reinstatement, the  
32 department may impose disciplinary or corrective measures authorized  
33 under this chapter.
- 34 (o) The department may not reinstate a license that has been  
35 revoked under this chapter. An individual whose license has been  
36 revoked under this chapter may not apply for a new license until seven  
37 (7) years after the date of revocation.
- 38 (p) The department shall seek to achieve consistency in the  
39 application of sanctions authorized in this chapter. Significant  
40 departures from prior decisions involving similar conduct must be  
41 explained in the department's findings or orders.
- 42 (q) A practitioner may petition the department to accept the



1 surrender of the practitioner's license instead of having a hearing before  
 2 the commission. The practitioner may not surrender the practitioner's  
 3 license without the written approval of the department, and the  
 4 department may impose any conditions appropriate to the surrender or  
 5 reinstatement of a surrendered license.

6 (r) A practitioner who has been subjected to disciplinary sanctions  
 7 may be required by the commission to pay the costs of the proceeding.  
 8 The practitioner's ability to pay shall be considered when costs are  
 9 assessed. If the practitioner fails to pay the costs, a suspension may not  
 10 be imposed solely upon the practitioner's inability to pay the amount  
 11 assessed. The costs are limited to costs for the following:

- 12 (1) Court reporters.
- 13 (2) Transcripts.
- 14 (3) Certification of documents.
- 15 (4) Photo duplication.
- 16 (5) Witness attendance and mileage fees.
- 17 (6) Postage.
- 18 (7) Expert witnesses.
- 19 (8) Depositions.
- 20 (9) Notarizations.

21 SECTION 3. IC 25-1-1.1-2, AS AMENDED BY P.L.85-2017,  
 22 SECTION 98, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 23 JULY 1, 2019]: Sec. 2. Notwithstanding IC 25-1-7, a board, a  
 24 commission, or a committee may suspend, deny, or revoke a license or  
 25 certificate issued under this title by the board, the commission, or the  
 26 committee without an investigation by the office of the attorney general  
 27 if the individual who holds the license or certificate is convicted of any  
 28 of the following and the board, commission, or committee determines,  
 29 after the individual has appeared in person, that the offense affects the  
 30 individual's ability to perform the duties of the profession:

- 31 (1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.
- 32 (2) Possession of methamphetamine under IC 35-48-4-6.1.
- 33 (3) Possession of a controlled substance under IC 35-48-4-7(a).
- 34 (4) Fraudulently obtaining a controlled substance under  
 35 IC 35-48-4-7(c).
- 36 (5) Manufacture of paraphernalia as a Class D felony (for a crime  
 37 committed before July 1, 2014) or a Level 6 felony (for a crime  
 38 committed after June 30, 2014) under IC 35-48-4-8.1(b).
- 39 (6) Dealing in paraphernalia as a Class D felony (for a crime  
 40 committed before July 1, 2014) or a Level 6 felony (for a crime  
 41 committed after June 30, 2014) under IC 35-48-4-8.5(b).
- 42 (7) Possession of paraphernalia as a Class D felony (for a crime



1 committed before July 1, 2014) or a Level 6 felony (for a crime  
 2 committed after June 30, 2014) under IC 35-48-4-8.3(b) (before  
 3 its amendment on July 1, 2015).

4 ~~(8) Possession of marijuana, hash oil, hashish, or salvia as a Class~~  
 5 ~~D felony (for a crime committed before July 1, 2014) or a Level~~  
 6 ~~6 felony (for a crime committed after June 30, 2014) under~~  
 7 ~~IC 35-48-4-11.~~

8 ~~(9) (8) Possession of a synthetic drug or synthetic drug lookalike~~  
 9 ~~substance as a:~~

10 (A) Class D felony for a crime committed before July 1, 2014,  
 11 under:

12 (i) IC 35-48-4-11, before its amendment in 2013; or

13 (ii) IC 35-48-4-11.5; or

14 (B) Level 6 felony for a crime committed after June 30, 2014,  
 15 under IC 35-48-4-11.5.

16 ~~(10) (9) Maintaining a common nuisance under IC 35-48-4-13~~  
 17 ~~(repealed) or IC 35-45-1-5, if the common nuisance involves a~~  
 18 ~~controlled substance.~~

19 ~~(11) (10) An offense relating to registration, labeling, and~~  
 20 ~~prescription forms under IC 35-48-4-14.~~

21 ~~(12) (11) Conspiracy under IC 35-41-5-2 to commit an offense~~  
 22 ~~listed in this section.~~

23 ~~(13) (12) Attempt under IC 35-41-5-1 to commit an offense listed~~  
 24 ~~in this section.~~

25 ~~(14) (13) A sex crime under IC 35-42-4.~~

26 ~~(15) (14) A felony that reflects adversely on the individual's~~  
 27 ~~fitness to hold a professional license.~~

28 ~~(16) (15) An offense in any other jurisdiction in which the~~  
 29 ~~elements of the offense for which the conviction was entered are~~  
 30 ~~substantially similar to the elements of an offense described in~~  
 31 ~~this section.~~

32 SECTION 4. IC 35-48-4-11, AS AMENDED BY P.L.153-2018,  
 33 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 34 JULY 1, 2019]: Sec. 11. (a) A person who:

35 (1) knowingly or intentionally possesses (pure or adulterated):

36 (A) **more than two (2) ounces of** marijuana;

37 (B) hash oil;

38 (C) hashish; or

39 (D) salvia;

40 (2) knowingly or intentionally grows or cultivates marijuana; or

41 (3) knowing that marijuana is growing on the person's premises,  
 42 fails to destroy the marijuana plants;



- 1 commits possession of marijuana, hash oil, hashish, or salvia, a Class  
2 B misdemeanor, except as provided in ~~subsections~~ **subsection (b)**.  
3 ~~through (c)~~.
- 4 (b) The offense described in subsection (a) is a Class A  
5 misdemeanor if:
- 6 (1) the person has a prior conviction for a drug offense; or  
7 (2) the:
- 8 (A) marijuana, hash oil, hashish, or salvia is packaged in a  
9 manner that appears to be low THC hemp extract; and  
10 (B) person knew or reasonably should have known that the  
11 product was marijuana, hash oil, hashish, or salvia.
- 12 ~~(c) The offense described in subsection (a) is a Level 6 felony if:~~
- 13 ~~(1) the person has a prior conviction for a drug offense; and~~  
14 ~~(2) the person possesses:~~
- 15 ~~(A) at least thirty (30) grams of marijuana; or~~  
16 ~~(B) at least five (5) grams of hash oil, hashish, or salvia.~~

