

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 2000 General Assembly.

## SENATE ENROLLED ACT No. 471

AN ACT to amend the Indiana Code concerning health, professions and occupations.

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

SECTION 1. IC 12-15-26-3 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) A recipient under the Medicaid program may not be denied access to or restricted in the use of a prescription drug for the treatment of a mental illness.**

**(b) This section expires December 31, 2002.**

SECTION 2. IC 12-15-26-4 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The office and any entity that provides prescription drugs to a Medicaid recipient shall make available to Medicaid recipients prescription drugs that are used for the treatment of a mental illness without any restrictions or limitations, including prior authorization, when the prescription drug is used for the treatment of mental illness.**

**(b) This section expires December 31, 2002.**

SECTION 3. IC 35-48-2-1, AS AMENDED BY P.L.14-2000, SECTION 77, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The board shall administer this article and may recommend to the general assembly the addition, deletion, or rescheduling of all substances listed in the schedules in sections 4, 6, 8, 10, and 12 of this chapter by submitting a report of such recommendations to the legislative council. In making a determination



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regarding a substance, the board shall consider the following:

- (1) The actual or relative potential for abuse.
- (2) The scientific evidence of its pharmacological effect, if known.
- (3) The state of current scientific knowledge regarding the substance.
- (4) The history and current pattern of abuse.
- (5) The scope, duration, and significance of abuse.
- (6) The risk to public health.
- (7) The potential of the substance to produce psychic or physiological dependence liability.
- (8) Whether the substance is an immediate precursor of a substance already controlled under this article.

(b) After considering the factors enumerated in subsection (a), the board shall make findings and recommendations concerning the control of the substance if it finds the substance has a potential for abuse.

(c) If the board finds that a substance is an immediate precursor, substances which are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.

(d) If any substance is designated or rescheduled to a more restrictive schedule as a controlled substance under federal law and notice is given to the board, the board shall recommend similar control of the substance under this article in the board's report to the general assembly, unless the board objects to inclusion or rescheduling. In that case, the board shall publish the reasons for objection and afford all interested parties an opportunity to be heard. At the conclusion of the hearing, the board shall publish its findings.

(e) If a substance is rescheduled to a less restrictive schedule or deleted as a controlled substance under federal law, the substance is rescheduled or deleted under this article. If the board objects to inclusion, rescheduling, or deletion of the substance, the board shall notify the chairman of the legislative council not more than thirty (30) days after the federal law is changed and the substance may not be rescheduled or deleted until the conclusion of the next complete session of the general assembly. The notice from the board to the chairman of the legislative council must be published.

(f) There is established a ~~fifteen (15)~~ **sixteen (16)** member controlled substances advisory committee to serve as a consultative and advising body to the board in all matters relating to the classification, reclassification, addition to, or deletion from of all substances classified as controlled substances in schedules I to IV or substances



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not controlled or yet to come into being. In addition, the advisory committee shall conduct hearings and make recommendations to the board regarding revocations, suspensions, and restrictions of registrations as provided in IC 35-48-3-4. All hearings shall be conducted in accordance with IC 4-21.5-3. The advisory committee shall be made up of:

- (1) two (2) physicians licensed under IC 25-22.5, one (1) to be elected by the medical licensing board of Indiana from among its members and one (1) to be appointed by the governor;
- (2) two (2) pharmacists, one (1) to be elected by the state board of pharmacy from among its members and one (1) to be appointed by the governor;
- (3) two (2) dentists, one (1) to be elected by the state board of dentistry from among its members and one (1) to be appointed by the governor;
- (4) the state toxicologist or the designee of the state toxicologist;
- (5) two (2) veterinarians, one (1) to be elected by the state board of veterinary medical examiners from among its members and one (1) to be appointed by the governor;
- (6) one (1) podiatrist to be elected by the board of podiatric medicine from among its members;
- (7) one (1) advanced practice nurse with authority to prescribe legend drugs as provided by IC 25-23-1-19.5 who is:
  - (A) elected by the state board of nursing from among the board's members; or
  - (B) if a board member does not meet the requirements under IC 25-23-1-19.5 at the time of the vacancy on the advisory committee, appointed by the governor;
- (8) the superintendent of the state police department or the superintendent's designee; ~~and~~
- (9) three (3) members appointed by the governor who have demonstrated expertise concerning controlled substances; **and**
- (10) one (1) member appointed by the governor who is a psychiatrist with expertise in adolescent psychiatry.**

(g) All members of the advisory committee elected by a board shall serve a term of one (1) year and all members of the advisory committee appointed by the governor shall serve a term of four (4) years. Any elected or appointed member of the advisory committee, may be removed for cause by the authority electing or appointing the member. If a vacancy occurs on the advisory committee, the authority electing or appointing the vacating member shall elect or appoint a successor to serve the unexpired term of the vacating member. The board shall



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acquire the recommendations of the advisory committee pursuant to administration over the controlled substances to be or not to be included in schedules I to V, especially in the implementation of scheduled substances changes as provided in subsection (d).

(h) Authority to control under this section does not extend to distilled spirits, wine, or malt beverages, as those terms are defined or used in IC 7.1, or to tobacco.

(i) The board shall exclude any nonnarcotic substance from a schedule if that substance may, under the Federal Food, Drug, and Cosmetic Act or state law, be sold over the counter without a prescription.

**SECTION 4. [EFFECTIVE JULY 1, 2001] (a) As used in this SECTION, "advisory committee" refers to the controlled substances advisory committee established by IC 35-48-2-1(f).**

**(b) The advisory committee shall review the records maintained by the central repository for controlled substances designated by the state police department under IC 35-48-7-10 regarding the prescribing of stimulant medications to children.**

**(c) Not later than December 1, 2001, the advisory committee shall submit a report to the legislative council, the governor, and the medical licensing board established under IC 25-22.5-2-1 regarding the review required under this SECTION.**

**(d) The report required under subsection (c) must include the following:**

**(1) A comparison of the percentage of children receiving prescriptions for stimulant medications:**

**(A) participating in Medicaid (IC 12-15) or the children's health insurance program (IC 12-17.6); and**

**(B) not participating in a program described in clause (A).**

**(2) Scientifically determined estimates of the prevalence of major disorders in children who are treated with stimulant medications.**

**(3) A statement by the advisory committee regarding whether the information provided under subdivisions (1) and (2) indicates that stimulant medications are being disproportionately prescribed for children described in subdivision (1)(A).**

**(4) Identification of any pattern of prescribing of stimulant medications for children contrary to the most recent guidelines adopted by the American Academy of Pediatrics and the American Academy of Child and Adolescent Psychiatry.**

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(e) The report required under subsection (c) may not contain any information that:

- (1) may be used to identify a child for whom a stimulant medication was prescribed; or
- (2) indicates that a particular physician's prescribing of stimulant medications to a child was inappropriate.

(f) Any meeting held by the advisory committee to comply with this SECTION is not open to the public.

(g) Unless otherwise provided by law, records reviewed by the advisory committee to comply with this SECTION are not public records.

(h) This SECTION expires December 31, 2001.

SECTION 5. [EFFECTIVE UPON PASSAGE] (a) The governor shall appoint a psychiatrist with expertise in adolescent psychiatry as an additional member of the controlled substances advisory committee under IC 35-48-2-1, as amended by this act, before July 1, 2001.

(b) This SECTION expires July 1, 2001.

SECTION 6. [EFFECTIVE JULY 1, 2001] (a) Not later than March 1, 2003, the office of Medicaid policy and planning established by IC 12-8-6-1 shall report to the Indiana commission on mental health, or another committee that is:

- (1) studying issues related to mental health; and
- (2) designated by the legislative council;

regarding the cost effectiveness of IC 12-15-26-3 and IC 12-15-26-4, both as added by this act.

(b) This SECTION expires June 30, 2003.

SECTION 7. An emergency is declared for this act.

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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

Approved: \_\_\_\_\_

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Governor of the State of Indiana

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