

Second Regular Session 113th General Assembly (2004)

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 2003 Regular Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1265

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AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 4-15-1.8-7, AS AMENDED BY P.L.224-2003, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) The department shall do the following:

- (1) Develop personnel policies, methods, procedures, and standards for all state agencies.
- (2) Formulate, establish, and administer position classification plans and salary and wage schedules, all subject to final approval by the governor.
- (3) Allocate positions in the state agencies to their proper classifications.
- (4) Approve employees for transfer, demotion, promotion, suspension, layoff, and dismissal.
- (5) Rate employees' service.
- (6) Arrange with state agency heads for employee training.
- (7) Investigate the need for positions in the state agencies.
- (8) Promulgate and enforce personnel rules.
- (9) Make and administer examinations for employment and for promotions.
- (10) Maintain personnel records and a roster of the personnel of all state agencies.
- (11) Render personnel services to the political subdivisions of ~~Indiana~~ **the state**.

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(12) Investigate the operation of personnel policies in all state agencies.

(13) Assist state agencies in the improvement of their personnel procedures.

(14) Conduct a vigorous program of recruitment of qualified and able persons for the state agencies.

(15) Advise the governor and the general assembly of legislation needed to improve the personnel system of this state.

(16) Furnish any information and counsel requested by the governor or the general assembly.

(17) Establish and administer an employee training and career advancement program.

(18) Administer the state personnel law, IC 4-15-2.

(19) Institute an employee awards system designed to encourage all state employees to submit suggestions that will reduce the costs or improve the quality of state agencies.

(20) Survey the administrative organization and procedures, including personnel procedures, of all state agencies, and submit to the governor measures to secure greater efficiency and economy, to minimize the duplication of activities, and to effect better organization and procedures among state agencies.

**(21) Establish, implement, and maintain the state aggregate prescription drug purchasing program established under IC 16-47-1, as approved by the budget agency.**

(b) Salary and wage schedules established by the department under subsection (a) must provide for the establishment of overtime policies, which must include the following:

(1) Definition of overtime.

(2) Determination of employees or classes eligible for overtime pay.

(3) Procedures for authorization.

(4) Methods of computation.

(5) Procedures for payment.

(6) A provision that there shall be no mandatory adjustments to an employee's established work schedule in order to avoid the payment of overtime.

(c) The state personnel advisory board shall advise the director and cooperate in the improvement of all the personnel policies of the state.

(d) ~~By January 1, 1984,~~ The department shall establish programs of temporary appointment for employees of state agencies. A program established under this subsection must contain at least the following provisions:

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- (1) A temporary appointment may not exceed one hundred eighty (180) working days in any twelve (12) month period.
- (2) The department may allow exceptions to the prohibition in subdivision (1) with the approval of the state budget agency.
- (3) A temporary appointment in an agency covered by IC 4-15-2 is governed by the procedures of that chapter.
- (4) A temporary appointment does not constitute creditable service for purposes of the public employees' retirement program under IC 5-10.2 and IC 5-10.3. However, an employee who served in an intermittent form of temporary employment after June 30, 1986, and before July 1, 2003, shall receive creditable service for the period of temporary employment.

SECTION 2. IC 16-18-2-92.6 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 92.6. "Department", for purposes of IC 16-47-1, has the meaning set forth in IC 16-47-1-1.**

SECTION 3. IC 16-18-2-159.1 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 159.1. "Health benefit plan", for purposes of IC 16-47-1, has the meaning set forth in IC 16-47-1-2.**

SECTION 4. IC 16-18-2-294.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 294.5. "Program", for purposes of IC 16-47-1, has the meaning set forth in IC 16-47-1-3.**

SECTION 5. IC 16-47 IS ADDED TO THE INDIANA CODE AS A **NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:**

**ARTICLE 47. AGGREGATE PURCHASING OF PRESCRIPTION DRUGS**

**Chapter 1. State Aggregate Prescription Drug Purchasing Program**

**Sec. 1. As used in this chapter, "department" refers to the state personnel department.**

**Sec. 2. As used in this chapter, "health benefit plan" refers to the following:**

- (1) An accident and sickness insurance policy purchased or maintained under IC 5-10-8-7(a)(3).
- (2) A self-insurance program established under IC 5-10-8-7(b) to provide group health coverage.
- (3) A contract with a prepaid health care delivery plan that is entered into or renewed under IC 5-10-8-7(c).
- (4) A plan through which a state educational institution (as

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defined in IC 20-12-0.5-1) arranges for coverage of the cost of health care services (as defined in IC 27-13-1-18) provided to employees of the state educational institution.

Sec. 3. As used in this chapter, "program" refers to the aggregate prescription drug purchasing program established under this chapter.

Sec. 4. (a) The department, with the approval of the budget agency, shall establish, implement, and maintain an aggregate prescription drug purchasing program through which terms are negotiated related to the purchase of prescription drugs by:

(1) an entity described in section 5(a) or 5(b) of this chapter; or

(2) an individual who is covered under a health benefit plan that includes a prescription drug benefit.

(b) The budget agency may contract with a pharmacy benefit manager or other person to conduct the negotiations of the program established under subsection (a).

(c) The terms and conditions of the program are subject to the approval of the budget agency.

Sec. 5. (a) The following shall participate in the program:

(1) The department, for a health benefit plan:

(A) described in section 2(1), 2(2), or 2(3) of this chapter; and

(B) that provides coverage for prescription drugs.

(2) A state educational institution, for a health benefit plan:

(A) described in section 2(4) of this chapter; and

(B) that provides coverage for prescription drugs;

unless the budget agency determines that the state educational institution's participation in the program would not result in an overall financial benefit to the state educational institution.

(b) The following may participate in the program:

(1) A state agency other than the department that:

(A) purchases prescription drugs; or

(B) arranges for the payment of the cost of prescription drugs.

(2) A local unit (as defined in IC 5-10-8-1).

(3) The Indiana comprehensive health insurance association established under IC 27-8-10.

(c) The state Medicaid program may not participate in the program under this chapter.

Sec. 6. A request for proposal and the award of a contract under this chapter is subject to the approval of the budget agency.

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**Sec. 7. The program may not include the purchase of prescription drugs imported into the United States in violation of federal law.**

**Sec. 8. (a) Participation in the program by a pharmaceutical manufacturer is voluntary.**

**(b) The state may not:**

**(1) require prior authorization for a prescription drug in the state Medicaid program under IC 12-15; or**

**(2) otherwise penalize a pharmaceutical manufacturer;**

**because the pharmaceutical manufacturer is not participating in the program.**

**Sec. 9. Any information, including prescription drug prices and discounts, provided to the state or the state's contractor under this chapter is confidential and is exempt from disclosure under IC 5-14-3.**

**Sec. 10. A drug store may negotiate prescription drug prices and discounts with a pharmaceutical manufacturer to participate in the program.**

**Chapter 2. Multi-State Prescription Drug Aggregate Purchasing Program**

**Sec. 1. The state, with the approval of the governor, may enter into agreements with other states to jointly purchase prescription drugs in aggregate or provide for reimbursement of the cost of prescription drugs purchased in aggregate to reduce the prescription drug costs for the state and for Indiana residents covered under this chapter.**

**Sec. 2. The state Medicaid program may not participate in a program entered into under this chapter.**

**Sec. 3. The program described in this chapter may not include the purchase of prescription drugs imported into the United States in violation of federal law.**

**Sec. 4. (a) Participation in the program described in this chapter by a pharmaceutical manufacturer is voluntary.**

**(b) The state may not participate in a program described in this chapter that:**

**(1) requires prior authorization of a prescription drug in the state Medicaid program under IC 12-15; or**

**(2) otherwise penalizes a pharmaceutical manufacturer;**

**because a pharmaceutical manufacturer does not participate in the program.**

**Sec. 5. Any information, including prescription drug prices and discounts, provided to the state or to the state's contractor under**

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**this chapter is confidential and is exempt from disclosure under IC 5-14-3.**

**SECTION 6. [EFFECTIVE JULY 1, 2004] (a) IC 16-47-1-5(a)(1), as added by this act, applies to a health benefit plan described in IC 16-47-1-2(1), IC 16-47-1-2(2), and IC 16-47-1-2(3), all as added by this act, established, entered into, delivered, amended, or renewed after December 31, 2004.**

**(b) IC 16-47-1-5(a)(2), as added by this act, applies to a health benefit plan described in IC 16-47-1-2(4), as added by this act, on the date that the health benefit plan is established, entered into, delivered, amended, or renewed after December 31, 2004.**

**SECTION 7. [EFFECTIVE JULY 1, 2004] (a) Not later than November 1, 2004, the budget agency shall conduct a study and submit a written report to the budget committee that:**

- (1) sets forth the status of the participation of other midwestern states; and**
- (2) researches the feasibility, costs, and legal parameters of Indiana's participation;**

**in a regional or multi-state prescription drug aggregate purchasing program.**

**(b) This SECTION expires December 31, 2005.**

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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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

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Governor of the State of Indiana

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