



Reprinted
April 19, 2011

ENGROSSED
SENATE BILL No. 363

DIGEST OF SB 363 (Updated April 18, 2011 4:35 pm - DI 77)

Citations Affected: IC 10-13; IC 20-28; IC 25-1; IC 25-26;
IC 25-27.5; IC 35-38; IC 35-48.

Synopsis: Licensed professionals. Requires the state police department to permanently retain a health professional applicant's fingerprints and store the fingerprints separately from fingerprints collected for the state central repository for criminal data. Adds certain crimes for which the department of education must revoke the licence of a school employee. Requires applicants for certain licensed health professions to submit to a national criminal history background check. Requires the department to release the results of the national criminal history background check to the Indiana professional licensing agency (agency). Authorizes a licensing board to suspend, deny, or revoke a license if the applicant or
(Continued next page)

Effective: Upon passage; July 1, 2011.

Miller, Becker, Breaux, Randolph
(HOUSE SPONSORS — FRIZZELL, WELCH)

January 11, 2011, read first time and referred to Committee on Health and Provider Services.
January 27, 2011, amended; reassigned to Committee on Appropriations.
February 3, 2011, reported favorably — Do Pass.
February 8, 2011, read second time, amended, ordered engrossed.
February 9, 2011, engrossed.
February 14, 2011, read third time, passed. Yeas 48, nays 2.
HOUSE ACTION
March 28, 2011, read first time and referred to Committee on Public Health.
April 12, 2011, amended, reported — Do Pass.
April 18, 2011, read second time, amended, ordered engrossed.

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license holder has been convicted of specified offenses. Requires the department and the agency to enter into a memorandum of understanding to provide data exchange and data matching regarding licensees who are charged with or convicted of an offense. Requires the personal information data exchanged to be kept confidential. Allows the board of a regulated occupation to designate a person to act on behalf of the board to perform certain duties when seeking a cease and desist order. Allows a pharmacist to administer an immunization for shingles (herpes zoster) to a group of individuals under a drug order, under a prescription, or according to a protocol approved by a physician if certain requirements are met. Removes geographical locations that a supervising physician must be located within. Allows the medical licensing board to deny supervisory agreements. (Current law requires the board to approve supervisory agreements.) Removes certain limitations on physician assistants (PA) prescribing and dispensing certain drugs and controlled substances. Requires that the supervising physician or physician designee review specified percentages of PA patient encounters within 72 hours based on the PAs years of practice. Allows for electronic prescriptions from a practitioner for certain drugs.

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First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 363

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:

- 1 SECTION 1. IC 10-13-3-37, AS AMENDED BY P.L.200-2007,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2011]: Sec. 37. (a) Under Public Law 92-544 (86 Stat. 1115),
4 a local law enforcement agency may use fingerprints submitted for the
5 purpose of identification in a request related to the following:
6 (1) A taxicab driver's license application.
7 (2) Reinstatement or renewal of a taxicab driver's license.
8 (b) An applicant shall submit the fingerprints on forms provided for
9 the license application.
10 (c) The local law enforcement agency shall charge each applicant
11 the fees set by the department and federal authorities to defray the costs
12 associated with a search for and classification of the applicant's
13 fingerprints.
14 (d) The local law enforcement agency may:
15 (1) forward for processing to the Federal Bureau of Investigation
16 or any other agency fingerprints submitted by a license applicant;
17 and

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1 (2) receive the results of all fingerprint investigations.
 2 **(e) The department:**
 3 **(1) may permanently retain an applicant's fingerprints**
 4 **submitted under this section; and**
 5 **(2) shall retain the applicant's fingerprints separately from**
 6 **fingerprints collected under section 24 of this chapter.**
 7 SECTION 2. IC 10-13-3-38.5, AS AMENDED BY P.L.113-2010,
 8 SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2011]: Sec. 38.5. (a) Under federal P.L.92-544 (86 Stat.
 10 1115), the department may use an individual's fingerprints submitted
 11 by the individual for the following purposes:
 12 (1) Determining the individual's suitability for employment with
 13 the state, or as an employee of a contractor of the state, in a
 14 position:
 15 (A) that has a job description that includes contact with, care
 16 of, or supervision over a person less than eighteen (18) years
 17 of age;
 18 (B) that has a job description that includes contact with, care
 19 of, or supervision over an endangered adult (as defined in
 20 IC 12-10-3-2), except the individual is not required to meet the
 21 standard for harmed or threatened with harm set forth in
 22 IC 12-10-3-2(a)(3);
 23 (C) at a state institution managed by the office of the secretary
 24 of family and social services or state department of health;
 25 (D) at the Indiana School for the Deaf established by
 26 IC 20-22-2-1;
 27 (E) at the Indiana School for the Blind and Visually Impaired
 28 established by IC 20-21-2-1;
 29 (F) at a juvenile detention facility;
 30 (G) with the Indiana gaming commission under IC 4-33-3-16;
 31 (H) with the department of financial institutions under
 32 IC 28-11-2-3; or
 33 (I) that has a job description that includes access to or
 34 supervision over state financial or personnel data, including
 35 state warrants, banking codes, or payroll information
 36 pertaining to state employees.
 37 (2) Identification in a request related to an application for a
 38 teacher's license submitted to the department of education
 39 established by IC 20-19-3-1.
 40 (3) Use by the gaming commission established under IC 4-33-3-1
 41 for licensure of a promoter (as defined in IC 4-33-22-6) under
 42 IC 4-33-22.

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- 1 (4) Use by the Indiana board of pharmacy in determining the
- 2 individual's suitability for a position or employment with a
- 3 wholesale drug distributor, as specified in IC 25-26-14-16(b),
- 4 IC 25-26-14-16.5(b), IC 25-26-14-17.8(c), and IC 25-26-14-20.
- 5 **(5) Identification in a request related to an individual**
- 6 **applying for or renewing a license or certificate described in**
- 7 **IC 25-1-1.1-4 and a conviction described in IC 25-1-1.1-2 or**
- 8 **IC 25-1-1.1-3.**

9 An applicant shall submit the fingerprints in an appropriate format or
 10 on forms provided for the employment, ~~or~~ license, **or certificate**
 11 application. The department shall charge each applicant the fee
 12 established under section 28 of this chapter and by federal authorities
 13 to defray the costs associated with a search for and classification of the
 14 applicant's fingerprints. The department may forward fingerprints
 15 submitted by an applicant to the Federal Bureau of Investigation or any
 16 other agency for processing. The state personnel department, **the**
 17 **Indiana professional licensing agency**, or the agency to which the
 18 applicant is applying for employment or a license may receive the
 19 results of all fingerprint investigations.

20 (b) An applicant who is an employee of the state may not be charged
 21 under subsection (a).

22 (c) Subsection (a)(1) does not apply to an employee of a contractor
 23 of the state if the contract involves the construction or repair of a
 24 capital project or other public works project of the state.

- 25 **(d) The department:**
- 26 **(1) may permanently retain an applicant's fingerprints**
- 27 **submitted under this section; and**
- 28 **(2) shall retain the applicant's fingerprints separately from**
- 29 **fingerprints collected under section 24 of this chapter.**

30 SECTION 3. IC 10-13-3-39, AS AMENDED BY P.L.3-2008,
 31 SECTION 85, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2011]: Sec. 39. (a) The department is designated as the
 33 authorized agency to receive requests for, process, and disseminate the
 34 results of national criminal history background checks that comply with
 35 this section and 42 U.S.C. 5119a.

36 (b) A qualified entity may contact the department to request a
 37 national criminal history background check on any of the following
 38 persons:

- 39 (1) A person who seeks to be or is employed with the qualified
- 40 entity. A request under this subdivision must be made not later
- 41 than three (3) months after the person is initially employed by the
- 42 qualified entity.

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- 1 (2) A person who seeks to volunteer or is a volunteer with the
- 2 qualified entity. A request under this subdivision must be made
- 3 not later than three (3) months after the person initially volunteers
- 4 with the qualified entity.
- 5 (3) A person for whom a national criminal history background
- 6 check is required under any law relating to the licensing of a
- 7 home, center, or other facility for purposes of day care or
- 8 residential care of children.
- 9 (4) A person for whom a national criminal history background
- 10 check is required for purposes of placement of a child in a foster
- 11 family home, a prospective adoptive home, or the home of a
- 12 relative or other caretaker, or for purposes of a report concerning
- 13 an adoption as required by IC 31-19-8.
- 14 (c) A qualified entity must submit a request under subsection (b) in
- 15 the form required by the department and provide a set of the person's
- 16 fingerprints and any required fees with the request.
- 17 (d) If a qualified entity makes a request in conformity with
- 18 subsection (b), the department shall submit the set of fingerprints
- 19 provided with the request to the Federal Bureau of Investigation for a
- 20 national criminal history background check. The department shall
- 21 respond to the request in conformity with:
- 22 (1) the requirements of 42 U.S.C. 5119a; and
- 23 (2) the regulations prescribed by the Attorney General of the
- 24 United States under 42 U.S.C. 5119a.
- 25 (e) Subsection (f):
- 26 (1) applies to a qualified entity that:
- 27 (A) is not a school corporation or a special education
- 28 cooperative; or
- 29 (B) is a school corporation or a special education cooperative
- 30 and seeks a national criminal history background check for a
- 31 volunteer; and
- 32 (2) does not apply to a qualified entity that is a:
- 33 (A) home health agency licensed under IC 16-27-1; or
- 34 (B) personal services agency licensed under IC 16-27-4.
- 35 (f) After receiving the results of a national criminal history
- 36 background check from the Federal Bureau of Investigation, the
- 37 department shall make a determination whether the person who is the
- 38 subject of a request has been convicted of:
- 39 (1) an offense described in IC 20-26-5-11;
- 40 (2) in the case of a foster family home, an offense described in
- 41 IC 31-27-4-13(a);
- 42 (3) in the case of a prospective adoptive home, an offense

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1 described in IC 31-19-11-1(c);
 2 (4) any other felony; or
 3 (5) any misdemeanor;
 4 and convey the determination to the requesting qualified entity.
 5 (g) This subsection applies to a qualified entity that:
 6 (1) is a school corporation or a special education cooperative; and
 7 (2) seeks a national criminal history background check to
 8 determine whether to employ or continue the employment of a
 9 certificated employee or a noncertificated employee of a school
 10 corporation or an equivalent position with a special education
 11 cooperative.

12 After receiving the results of a national criminal history background
 13 check from the Federal Bureau of Investigation, the department may
 14 exchange identification records concerning convictions for offenses
 15 described in IC 20-26-5-11 with the school corporation or special
 16 education cooperative solely for purposes of making an employment
 17 determination. The exchange may be made only for the official use of
 18 the officials with authority to make the employment determination. The
 19 exchange is subject to the restrictions on dissemination imposed under
 20 P.L.92-544, (86 Stat. 1115) (1972).

21 (h) This subsection applies to a qualified entity (as defined in
 22 IC 10-13-3-16) that is a public agency under IC 5-14-1.5-2(a)(1). After
 23 receiving the results of a national criminal history background check
 24 from the Federal Bureau of Investigation, the department shall provide
 25 a copy to the public agency. Except as permitted by federal law, the
 26 public agency may not share the information contained in the national
 27 criminal history background check with a private agency.

28 (i) This subsection applies to a qualified entity that is a:
 29 (1) home health agency licensed under IC 16-27-1; or
 30 (2) personal services agency licensed under IC 16-27-4.

31 After receiving the results of a national criminal history background
 32 check from the Federal Bureau of Investigation, the department shall
 33 make a determination whether the applicant has been convicted of an
 34 offense described in IC 16-27-2-5(a) and convey the determination to
 35 the requesting qualified entity.

36 **(j) The department:**
 37 **(1) may permanently retain an applicant's fingerprints**
 38 **submitted under this section; and**
 39 **(2) shall retain the applicant's fingerprints separately from**
 40 **fingerprints collected under section 24 of this chapter.**

41 SECTION 4. IC 20-28-5-8, AS AMENDED BY P.L.121-2009,
 42 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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1 JULY 1, 2011]: Sec. 8. (a) This section applies when a prosecuting
2 attorney knows that a licensed employee of a public school or a
3 nonpublic school has been convicted of an offense listed in subsection
4 (c). The prosecuting attorney shall immediately give written notice of
5 the conviction to the following:

- 6 (1) The state superintendent.
- 7 (2) Except as provided in subdivision (3), the superintendent of
8 the school corporation that employs the licensed employee or the
9 equivalent authority if a nonpublic school employs the licensed
10 employee.
- 11 (3) The presiding officer of the governing body of the school
12 corporation that employs the licensed employee, if the convicted
13 licensed employee is the superintendent of the school corporation.

14 (b) The superintendent of a school corporation, presiding officer of
15 the governing body, or equivalent authority for a nonpublic school shall
16 immediately notify the state superintendent when the individual knows
17 that a current or former licensed employee of the public school or
18 nonpublic school has been convicted of an offense listed in subsection
19 (c), or when the governing body or equivalent authority for a nonpublic
20 school takes any final action in relation to an employee who engaged
21 in any offense listed in subsection (c).

22 (c) The department, after holding a hearing on the matter, shall
23 permanently revoke the license of a person who is known by the
24 department to have been convicted of any of the following felonies:

- 25 (1) Kidnapping (IC 35-42-3-2). ~~if the victim is less than eighteen~~
26 ~~(18) years of age.~~
- 27 (2) Criminal confinement (IC 35-42-3-3). ~~if the victim is less than~~
28 ~~eighteen (18) years of age.~~
- 29 (3) Rape (IC 35-42-4-1). ~~if the victim is less than eighteen (18)~~
30 ~~years of age.~~
- 31 (4) Criminal deviate conduct (IC 35-42-4-2). ~~if the victim is less~~
32 ~~than eighteen (18) years of age.~~
- 33 (5) Child molesting (IC 35-42-4-3).
- 34 (6) Child exploitation (IC 35-42-4-4(b)).
- 35 (7) Vicarious sexual gratification (IC 35-42-4-5).
- 36 (8) Child solicitation (IC 35-42-4-6).
- 37 (9) Child seduction (IC 35-42-4-7).
- 38 (10) Sexual misconduct with a minor (IC 35-42-4-9).
- 39 (11) Incest (IC 35-46-1-3). ~~if the victim is less than eighteen (18)~~
40 ~~years of age.~~
- 41 (12) Dealing in or manufacturing cocaine or a narcotic drug
42 (IC 35-48-4-1).

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- 1 (13) Dealing in methamphetamine (IC 35-48-4-1.1).
 2 (14) Dealing in a schedule I, II, or III controlled substance
 3 (IC 35-48-4-2).
 4 (15) Dealing in a schedule IV controlled substance
 5 (IC 35-48-4-3).
 6 (16) Dealing in a schedule V controlled substance (IC 35-48-4-4).
 7 (17) Dealing in a counterfeit substance (IC 35-48-4-5).
 8 (18) Dealing in marijuana, hash oil, or hashish
 9 (IC 35-48-4-10(b)).
 10 (19) Possession of child pornography (IC 35-42-4-4(c)).
 11 **(20) Homicide (IC 35-42-1).**
 12 **(21) Voluntary manslaughter (IC 35-42-1-3).**
 13 **(22) Reckless homicide (IC 35-42-1-5).**
 14 **(23) Battery as any of the following:**
 15 (A) A Class A felony (IC 35-42-2-1(a)(5)).
 16 (B) A Class B felony (IC 35-42-2-1(a)(4)).
 17 (C) A Class C felony (IC 35-42-2-1(a)(3)).
 18 **(24) Aggravated battery (IC 35-42-2-1.5).**
 19 **(25) Robbery (IC 35-42-5-1).**
 20 **(26) Carjacking (IC 35-42-5-2).**
 21 **(27) Arson as a Class A felony or a Class B felony**
 22 **(IC 35-43-1-1(a)).**
 23 **(28) Burglary as a Class A felony or a Class B felony**
 24 **(IC 35-43-2-1).**
 25 **(29) Attempt under IC 35-41-5-1 to commit an offense listed**
 26 **in subdivisions (1) through (28).**
 27 **(30) Conspiracy under IC 35-41-5-2 to commit an offense**
 28 **listed in subdivisions (1) through (28).**
 29 **(d) The department, after holding a hearing on the matter, shall**
 30 **permanently revoke the license of a person who is known by the**
 31 **department to have been convicted of a federal offense or an**
 32 **offense in another state that is comparable to a felony listed in**
 33 **subsection (c).**
 34 ~~(e)~~ **(e)** A license may be suspended by the state superintendent as
 35 specified in IC 20-28-7-7.
 36 ~~(f)~~ **(f)** The department shall develop a data base of information on
 37 school corporation employees who have been reported to the
 38 department under this section.
 39 SECTION 5. IC 25-1-1.1-1 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. Except as provided
 41 under sections 2 through ~~3~~ **5** of this chapter, a license or certificate of
 42 registration that an individual is required by law to hold to engage in

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1 a business, profession, or occupation may not be denied, revoked, or
2 suspended because the applicant or holder has been convicted of an
3 offense. The acts from which the applicant's or holder's conviction
4 resulted may, however, be considered as to whether the applicant or
5 holder should be entrusted to serve the public in a specific capacity.

6 SECTION 6. IC 25-1-1.1-2, AS AMENDED BY P.L.151-2006,
7 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2011]: Sec. 2. **Notwithstanding IC 25-1-7**, a board, a
9 commission, or a committee may suspend, **deny**, or revoke a license or
10 certificate issued under this title by the board, the commission, or the
11 committee **without an investigation by the office of the attorney**
12 **general** if the individual who holds the license or certificate is
13 convicted of any of the following **and the board, commission, or**
14 **committee determines, after the individual has appeared in person,**
15 **that the offense affects the individual's ability to perform the duties**
16 **of the profession:**

- 17 (1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.
- 18 (2) Possession of methamphetamine under IC 35-48-4-6.1.
- 19 (3) Possession of a controlled substance under IC 35-48-4-7(a).
- 20 (4) Fraudulently obtaining a controlled substance under
- 21 IC 35-48-4-7(b).
- 22 (5) Manufacture of paraphernalia as a Class D felony under
- 23 IC 35-48-4-8.1(b).
- 24 (6) Dealing in paraphernalia as a Class D felony under
- 25 IC 35-48-4-8.5(b).
- 26 (7) Possession of paraphernalia as a Class D felony under
- 27 IC 35-48-4-8.3(b).
- 28 (8) Possession of marijuana, hash oil, or hashish as a Class D
- 29 felony under IC 35-48-4-11.
- 30 (9) Maintaining a common nuisance under IC 35-48-4-13.
- 31 (10) An offense relating to registration, labeling, and prescription
- 32 forms under IC 35-48-4-14.
- 33 (11) Conspiracy under IC 35-41-5-2 to commit an offense listed
- 34 in subdivisions (1) through (10).
- 35 (12) Attempt under IC 35-41-5-1 to commit an offense listed in
- 36 subdivisions (1) through (10).
- 37 (13) An offense in any other jurisdiction in which the elements of
- 38 the offense for which the conviction was entered are substantially
- 39 similar to the elements of an offense described under subdivisions
- 40 (1) through (12).
- 41 **(14) A sex crime under IC 35-42-4.**
- 42 **(15) A felony that reflects adversely on the individual's fitness**

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**to hold a professional license.
(16) An offense in any other jurisdiction in which the elements
of the offense for which the conviction was entered are
substantially similar to the elements of an offense described in
this section.**

**SECTION 7. IC 25-1-1.1-4 IS ADDED TO THE INDIANA CODE
AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
1, 2011]: Sec. 4. (a) This section applies to an individual who is
applying for, or will be applying for, an initial license or an initial
certificate under one (1) of the following:**

- (1) IC 25-2.5 (acupuncturists).**
- (2) IC 25-10 (chiropractors).**
- (3) IC 25-13 (dental hygienists).**
- (4) IC 25-14 (dentists).**
- (5) IC 25-14.5 (dietitians).**
- (6) IC 25-17.3 (genetic counselors).**
- (7) IC 25-19 (health facility and residential care facility
administrators).**
- (8) IC 25-21.8 (massage therapists).**
- (9) IC 25-22.5 (physicians).**
- (10) IC 25-23 (nurses).**
- (11) IC 25-23.5 (occupational therapists).**
- (12) IC 25-24 (optometrists).**
- (13) IC 25-26 (pharmacists).**
- (14) IC 25-27 (physical therapists).**
- (15) IC 25-27.5 (physician assistants).**
- (16) IC 25-29 (podiatrists).**
- (17) IC 25-33 (psychologists).**
- (18) IC 25-34.5 (respiratory care practitioners).**
- (19) IC 25-35.6 (speech pathologists and audiologists).**
- (20) IC 25-38.1 (veterinarians).**

**(b) As used in this chapter, "national criminal history
background check" means the criminal history record system
maintained by the Federal Bureau of Investigation based on
fingerprint identification or any other method of positive
identification.**

**(c) An individual applying for an initial license or initial
certificate specified in subsection (a) shall submit to a national
criminal history background check at the cost of the individual.**

**(d) The state police department shall release the results of a
national criminal history background check conducted under this
section to the Indiana professional licensing agency.**

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1 (e) A board, a commission, or a committee may conduct a
2 random audit and require an individual seeking a renewal of a
3 license or a certificate specified in subsection (a) to submit to a
4 national criminal history background check at the cost of the
5 individual.

6 SECTION 8. IC 25-1-1.1-5 IS ADDED TO THE INDIANA CODE
7 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
8 1, 2011]: Sec. 5. (a) As used in this section, "licensee" refers to an
9 individual who is licensed or certified in a profession set forth in
10 section 4 of this chapter.

11 (b) As used in this section, "personal information" means
12 information that identifies an individual, including the following:

- 13 (1) Photograph.
- 14 (2) Social Security number.
- 15 (3) Driver's license number or identification card number.
- 16 (4) Name.
- 17 (5) Address.
- 18 (6) Telephone number.
- 19 (7) Fingerprints.

20 (c) The state police department and the Indiana professional
21 licensing agency shall enter into a memorandum of understanding
22 to provide data exchange and data matching regarding licensees
23 who are charged with or convicted of an offense.

24 (d) Personal information data exchanged under subsection (c)
25 shall be kept confidential and may be used only for the purposes of
26 a government agency, including the following:

- 27 (1) A prosecuting attorney.
- 28 (2) The Indiana professional licensing agency or a board,
29 committee, or commission administered by the Indiana
30 professional licensing agency.
- 31 (3) A court.
- 32 (4) A law enforcement agency.
- 33 (5) The office of the attorney general.

34 SECTION 9. IC 25-1-7-14, AS ADDED BY P.L.84-2010,
35 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
36 UPON PASSAGE]: Sec. 14. (a) Notwithstanding any other law, if the
37 board of a regulated occupation believes that a person who is not
38 licensed, certified, or registered under this title is engaged in or is
39 believed to be engaged in activities for which a license, certification,
40 or registration is required under this title, the board may do the
41 following:

- 42 (1) File a complaint with the attorney general, who shall

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1 investigate and may file:
 2 (A) with notice; or
 3 (B) without notice, if the attorney general determines that
 4 person is engaged in activities that may affect an individual's
 5 health or safety;
 6 a motion for a cease and desist order with the appropriate board.
 7 **For purposes of this subdivision, the board may designate a**
 8 **board member or an employee of the Indiana professional**
 9 **licencing agency to act on behalf or in the name of the board.**
 10 (2) Upon review of the attorney general's motion for a cease and
 11 desist order, the board may issue an order requiring the affected
 12 person to show cause why the person should not be ordered to
 13 cease and desist from such activities. The show cause order must
 14 set forth a time and place for a hearing at which the affected
 15 person may appear and show cause as to why the person should
 16 not be subject to licensing, certification, or registration under this
 17 title. **For purposes of this subdivision, the board may**
 18 **designate a board member to act on behalf or in the name of**
 19 **the board.**
 20 (b) If the board, after a hearing, determines that the activities in
 21 which the person is engaged are subject to licensing, certification, or
 22 registration under this title, the board may issue a cease and desist
 23 order that must describe the person and activities that are the subject
 24 of the order.
 25 (c) A hearing conducted under this section must comply with the
 26 requirements under IC 4-21.5.
 27 (d) A cease and desist order issued under this section is enforceable
 28 in the circuit or superior courts. A person who is enjoined under a
 29 cease and desist order and who violates the order shall be punished for
 30 contempt of court.
 31 (e) A cease and desist order issued under this section does not
 32 relieve any person from ~~criminal~~ prosecution **under any other law.**
 33 SECTION 10. IC 25-26-13-31.2, AS ADDED BY P.L.94-2007,
 34 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2011]: Sec. 31.2. (a) A pharmacist may administer an
 36 immunization to an individual under a drug order or prescription.
 37 (b) A pharmacist may administer an immunization for influenza **or**
 38 **shingles (herpes zoster)** to a group of individuals under a drug order,
 39 under a prescription, or according to a protocol approved by a
 40 physician if the following requirements are met:
 41 (1) The physician specifies in the drug order, prescription, or
 42 protocol the group of individuals to whom the immunization may

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be administered.

(2) The physician who writes the drug order, prescription, or protocol is licensed in Indiana and not employed by a pharmacy.

(3) The pharmacist who administers the immunization is responsible for notifying, not later than fourteen (14) days after the pharmacist administers the immunization, the physician who authorized the immunization and the individual's primary care physician that the individual received the immunization.

(4) If the physician uses a protocol, the protocol may apply only to an individual or group of individuals who are at least:

(A) fourteen (14) years of age but less than eighteen (18) years of age, if the pharmacist receives the consent of a parent or legal guardian, and the parent or legal guardian is present at the time of immunization; or

(B) eighteen (18) years of age.

(c) If the state department of health or the department of homeland security determines that an emergency exists, a pharmacist may administer any immunization in accordance with:

(1) the requirements of subsection (b)(1) through (b)(3); and

(2) any instructions in the emergency determination.

SECTION 11. IC 25-27.5-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 13. "Supervising physician" means a physician ~~registered with~~ **licensed by** the board who supervises and is responsible for a physician assistant.

SECTION 12. IC 25-27.5-2-14, AS AMENDED BY P.L.3-2008, SECTION 190, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 14. (a) "Supervision" means **overseeing the activities of, and accepting responsibility for, the medical services rendered by a physician assistant and** that the conditions set forth in subdivision (1) or (2) are met at all times that services are rendered or tasks are performed by the physician assistant:

(1) The supervising physician or the physician designee is physically present at the location at which services are rendered or tasks are performed by the physician assistant.

(2) Both of the following apply:

(A) The supervising physician or the physician designee is immediately available:

(i) through the use of telecommunications or other electronic means; and

(ii) for consultation, including being able to see the patient in person within twenty-four (24) hours if requested by the patient or the physician assistant.

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(B) Either:
(i) the supervising physician or the physician designee is in the county of, or a contiguous county to, the onsite location in which services are rendered or tasks are performed by the physician assistant; or
(ii) the physician or physician assistant is practicing at a hospital or health facility; or traveling to or from the hospital or health facility.

(B) The supervising physician or the physician designee is in:

- (i) the county of the physician assistant's practice; or**
- (ii) a contiguous county, including a county of a neighboring state, of the county containing the onsite location in which services are rendered or tasks are performed by the physician assistant.**

The medical licensing board may permit an exception to the requirements of this clause after receiving an exceptional circumstance waiver request with the filed supervising agreement for each individual physician assistant and practice location. An exception must be approved by the board before the commencement of the physician assistant's practice in the county that requires the exceptional circumstance waiver request.

(b) The term includes the use of protocols, guidelines, and standing orders developed or approved by the supervising physician.

SECTION 13. IC 25-27.5-3-5, AS AMENDED BY P.L.177-2009, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. (a) The committee shall have regular meetings, called upon the request of the president or by a majority of the members appointed to the committee, and upon the advice and consent of the executive director of the Indiana professional licensing agency, for the transaction of business that comes before the committee under this article. At the first committee meeting of each calendar year, the committee shall elect a president and any other officer considered necessary by the committee by an affirmative vote of a majority of the members appointed to the committee.

(b) Three (3) members of the committee constitute a quorum. An affirmative vote of a majority of the members appointed to the committee is required for the committee to take action on any business.

(c) The committee shall do the following:

- (1) Consider the qualifications of individuals who apply for an initial license under this article.

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- 1 (2) Approve or reject license applications.
- 2 (3) Approve or reject renewal applications.
- 3 ~~(4) Approve or reject applications for a change or addition of a~~
- 4 ~~supervising physician.~~
- 5 ~~(5) (4) Propose rules to the board concerning the competent~~
- 6 ~~practice of physician assistants and the administration of this~~
- 7 ~~article.~~
- 8 ~~(6) (5) Recommend to the board the amounts of fees required~~
- 9 ~~under this article.~~

10 SECTION 14. IC 25-27.5-5-2, AS AMENDED BY P.L.177-2009,
 11 SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2011]: Sec. 2. (a) A physician assistant must engage in a
 13 dependent practice with physician supervision. A physician assistant
 14 may perform, under the supervision of the supervising physician, the
 15 duties and responsibilities that are delegated by the supervising
 16 physician and that are within the supervising physician's scope of
 17 practice, including prescribing and dispensing drugs and medical
 18 devices. A patient may elect to be seen, examined, and treated by the
 19 supervising physician.

20 (b) If a physician assistant determines that a patient needs to be
 21 examined by a physician, the physician assistant shall immediately
 22 notify the supervising physician or physician designee.

23 (c) If a physician assistant notifies the supervising physician that the
 24 physician should examine a patient, the supervising physician shall:

- 25 (1) schedule an examination of the patient in a timely manner
- 26 unless the patient declines; or
- 27 (2) arrange for another physician to examine the patient.

28 (d) If a patient is subsequently examined by the supervising
 29 physician or another physician because of circumstances described in
 30 subsection (b) or (c), the visit must be considered as part of the same
 31 encounter except for in the instance of a medically appropriate referral.

32 (e) A supervising physician or physician assistant who does not
 33 comply with subsections (b) through (d) is subject to discipline under
 34 IC 25-1-9.

35 (f) A physician assistant's supervisory agreement with a supervising
 36 physician must:

- 37 (1) be in writing;
- 38 (2) include all the tasks delegated to the physician assistant by the
- 39 supervising physician;
- 40 (3) set forth the supervisory plans for the physician assistant,
- 41 including the emergency procedures that the physician assistant
- 42 must follow; and

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1 (4) specify the name of the drug or drug classification being
 2 delegated to the physician assistant and the protocol the physician
 3 assistant shall follow in prescribing a drug.

4 (g) The physician shall submit the supervisory agreement to the
 5 board. ~~for approval.~~ The physician assistant may ~~not~~ prescribe a drug
 6 under the supervisory agreement ~~until unless~~ the board ~~approves~~
 7 **denies** the supervisory agreement. Any amendment to the supervisory
 8 agreement must be resubmitted to the board, ~~for approval;~~ and the
 9 physician assistant may ~~not~~ operate under any new prescriptive
 10 authority under the amended supervisory agreement ~~until unless~~ the
 11 agreement has been ~~approved denied~~ by the board.

12 (h) A physician or a physician assistant who violates the supervisory
 13 agreement described in this section may be disciplined under
 14 IC 25-1-9.

15 SECTION 15. IC 25-27.5-5-4, AS AMENDED BY P.L.90-2007,
 16 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2011]: Sec. 4. (a) Except as provided in this section, a
 18 physician assistant may prescribe, dispense, and administer drugs and
 19 medical devices or services to the extent delegated by the supervising
 20 physician.

21 (b) A physician assistant may not prescribe, dispense, or administer
 22 ophthalmic devices, including glasses, contact lenses, and low vision
 23 devices.

24 (c) ~~As permitted by the board;~~ A physician assistant may use or
 25 dispense only drugs prescribed or approved by the supervising
 26 physician. A physician assistant may not prescribe or dispense ~~the~~
 27 ~~following drugs:~~

28 (1) a schedule I substance listed in IC 35-48-2-4.
 29 (2) ~~A~~ schedule H substance listed in ~~IC~~ 35-48-2-6.
 30 (3) ~~A~~ schedule III, schedule IV, or schedule V drug if the drug
 31 contains oxycodone.

32 ~~However,~~ a physician assistant may prescribe one (1) dose of a drug
 33 listed in subdivision (2) or (3) for immediate administration if the
 34 patient is in an inpatient hospital post-operative setting and the
 35 physician is unavailable to make the prescription.

36 (d) A physician assistant may request, receive, and sign for
 37 professional samples and may distribute professional samples to
 38 patients if the samples are within the scope of the physician assistant's
 39 prescribing privileges delegated by the supervising physician.

40 (e) A physician assistant may not prescribe drugs unless the
 41 physician assistant has successfully completed at least thirty (30)
 42 contact hours in pharmacology from an educational program that is

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approved by the committee.

(f) A physician assistant may not prescribe, administer, or monitor general anesthesia, regional anesthesia, or deep sedation as defined by the board. A physician assistant may not administer moderate sedation:

- (1) if the moderate sedation contains agents in which the manufacturer's general warning advises that the drug should be administered and monitored by an individual who is:
 - (A) experienced in the use of general anesthesia; and
 - (B) not involved in the conduct of the surgical or diagnostic procedure; and
- (2) during diagnostic tests, surgical procedures, or obstetric procedures unless the following conditions are met:
 - (A) A physician is physically present in the area, is immediately available to assist in the management of the patient, and is qualified to rescue patients from deep sedation.
 - (B) The physician assistant is qualified to rescue patients from deep sedation and is competent to manage a compromised airway and provide adequate oxygenation and ventilation by reason of meeting the following conditions:
 - (i) The physician assistant is certified in advanced cardiopulmonary life support.
 - (ii) The physician assistant has knowledge of and training in the medications used in moderate sedation, including recommended doses, contraindications, and adverse reactions.

(g) Before a physician assistant may prescribe drugs, the physician assistant must have ~~been continuously employed~~ **practiced** as a physician assistant:

- (1) ~~for not less than~~ **at least** one (1) year after graduating from a physician assistant program approved by the committee; ~~To be considered to have been continuously employed as a physician assistant for a year for purposes of this subsection, a person must have worked as a physician assistant more than~~ **and**
- (2) **at least** one thousand eight hundred (1,800) hours. ~~during the year.~~

SECTION 16. IC 25-27.5-5-6, AS ADDED BY P.L.90-2007, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. (a) Except as provided in section 4(d) of this chapter, a supervising physician may delegate authority to a physician assistant to prescribe:

- (1) legend drugs except as provided in section 4(c) of this chapter; and

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- 1 (2) medical devices (except ophthalmic devices, including
- 2 glasses, contact lenses, and low vision devices).
- 3 (b) Any prescribing authority delegated to a physician assistant must
- 4 be expressly delegated in writing by the physician assistant's
- 5 supervising physician, including:
- 6 (1) the name of the drug or drug classification being delegated by
- 7 the supervising physician; and
- 8 (2) the protocols the physician assistant shall use when
- 9 prescribing the drug.
- 10 (c) A physician assistant who is delegated the authority to prescribe
- 11 legend drugs or medical devices must do the following:
- 12 (1) Enter the following on each prescription form that the
- 13 physician assistant uses to prescribe a legend drug or medical
- 14 device:
- 15 (A) The signature of the physician assistant.
- 16 (B) The initials indicating the credentials awarded to the
- 17 physician assistant by the NCCPA.
- 18 (C) The physician assistant's state license number.
- 19 (2) Comply with all applicable state and federal laws concerning
- 20 prescriptions for legend drugs and medical devices.
- 21 (d) A supervising physician may delegate to a physician assistant
- 22 the authority to prescribe only legend drugs and medical devices that
- 23 are within the scope of practice of the licensed supervising physician
- 24 or the physician designee.
- 25 (e) A physician assistant who is delegated the authority to prescribe
- 26 controlled substances under subsection (a) ~~and in accordance with the~~
- 27 ~~limitations specified in section 4(c) of this chapter,~~ must do the
- 28 following:
- 29 (1) Obtain an Indiana controlled substance registration and a
- 30 federal Drug Enforcement Administration registration.
- 31 (2) Enter the following on each prescription form that the
- 32 physician assistant uses to prescribe a controlled substance:
- 33 (A) The signature of the physician assistant.
- 34 (B) The initials indicating the credentials awarded to the
- 35 physician assistant by the NCCPA.
- 36 (C) The physician assistant's state license number.
- 37 (D) The physician assistant's federal Drug Enforcement
- 38 Administration (DEA) number.
- 39 (3) Comply with all applicable state and federal laws concerning
- 40 prescriptions for controlled substances.
- 41 (f) A supervising physician may only delegate to a physician
- 42 assistant the authority to prescribe controlled substances:

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- 1 (1) that may be prescribed within the scope of practice of the
- 2 licensed supervising physician or the physician designee;
- 3 (2) in an amount that does not exceed
- 4 (A) a ~~seven (7)~~ **thirty (30)** day supply; for treatment of a
- 5 single acute episode of a condition or injury; or
- 6 (B) if a controlled substance cannot be dispensed in an amount
- 7 that is small enough to meet the requirement of clause (A); the
- 8 smallest dispensable amount; and
- 9 (3) in accordance with the limitations set forth in section 4(c) of
- 10 this chapter.

11 SECTION 17. IC 25-27.5-6-1 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) Supervision by
 13 the supervising physician or the physician designee must be continuous
 14 but does not require the physical presence of the supervising physician
 15 at the time and the place that the services are rendered.

16 (b) A supervising physician or physician designee shall review all
 17 patient encounters not later than ~~twenty-four (24)~~ **seventy-two (72)**
 18 hours after the physician assistant has seen the patient.

19 (c) **The supervising physician or physician designee shall review**
 20 **within seventy-two (72) hours after a patient encounter at least the**
 21 **following percentages of the patient charts:**

- 22 (1) **For the first year of employment of the physician assistant,**
 23 **one hundred percent (100%).**
- 24 (2) **For the second year of employment of the physician**
 25 **assistant, fifty percent (50%).**
- 26 (3) **For the third year of employment of the physician**
 27 **assistant, twenty-five percent (25%).**

28 **However, if the physician assistant has had less than one thousand**
 29 **eight hundred (1,800) hours of practice, the supervising physician**
 30 **or physician designee shall review one hundred percent (100%) of**
 31 **the charts within seventy-two (72) hours of the patient encounter.**

32 SECTION 18. IC 25-27.5-6-4, AS AMENDED BY P.L.177-2009,
 33 SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2011]: Sec. 4. (a) A physician supervising a physician
 35 assistant must do the following:

- 36 (1) Be licensed under IC 25-22.5.
- 37 (2) Register with the board the physician's intent to supervise a
 38 physician assistant.
- 39 (3) Submit a statement to the board that the physician will
 40 exercise supervision over the physician assistant in accordance
 41 with rules adopted by the board and retain professional and legal
 42 responsibility for the care rendered by the physician assistant.

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- 1 (4) Not have a disciplinary action restriction that limits the
- 2 physician's ability to supervise a physician assistant.
- 3 **(5) Maintain a written agreement with the physician assistant**
- 4 **that states the physician will:**
- 5 **(A) exercise supervision over the physician assistant in**
- 6 **accordance with any rules adopted by the board; and**
- 7 **(B) retain responsibility for the care rendered by the**
- 8 **physician assistant.**
- 9 **The agreement must be signed by the physician and physician**
- 10 **assistant, updated annually, and made available to the board**
- 11 **upon request.**
- 12 (b) Except as provided in this section, this chapter may not be
- 13 construed to limit the employment arrangement with a supervising
- 14 physician under this chapter.
- 15 SECTION 19. IC 35-38-1-9 IS AMENDED TO READ AS
- 16 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 9. (a) As used in this
- 17 chapter, "recommendation" and "victim" have the meanings set out in
- 18 IC 35-35-3-1.
- 19 (b) The presentence investigation consists of the gathering of
- 20 information with respect to:
- 21 (1) the circumstances attending the commission of the offense;
- 22 (2) the convicted person's history of delinquency or criminality,
- 23 social history, employment history, family situation, economic
- 24 status, education, and personal habits; ~~and~~
- 25 (3) the impact of the crime upon the victim; **and**
- 26 **(4) whether the convicted person is licensed or certified in a**
- 27 **profession regulated by IC 25.**
- 28 (c) The presentence investigation may include any matter that the
- 29 probation officer conducting the investigation believes is relevant to
- 30 the question of sentence, and must include:
- 31 (1) any matters the court directs to be included;
- 32 (2) any written statements submitted to the prosecuting attorney
- 33 by a victim under IC 35-35-3;
- 34 (3) any written statements submitted to the probation officer by a
- 35 victim; and
- 36 (4) preparation of the victim impact statement required under
- 37 section 8.5 of this chapter.
- 38 (d) If there are no written statements submitted to the probation
- 39 officer, ~~he~~ **the probation officer** shall certify to the court:
- 40 (1) that ~~he~~ **the probation officer** has attempted to contact the
- 41 victim; and
- 42 (2) that if ~~he~~ **the probation officer** has contacted the victim, ~~he~~

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1 **the probation officer** has offered to accept the written statements
2 of the victim or to reduce ~~his~~ **the victim's** oral statements to
3 writing, concerning the sentence, including the acceptance of any
4 recommendation.

5 (e) A presentence investigation report prepared by a probation
6 officer must include the information and comply with any other
7 requirements established in the rules adopted under IC 11-13-1-8.

8 SECTION 20. IC 35-48-3-9, AS AMENDED BY P.L.204-2005,
9 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2011]: Sec. 9. (a) Except for dosages medically required for
11 a period of not more than forty-eight (48) hours that are dispensed by
12 or on the direction of a practitioner or medication dispensed directly by
13 a practitioner, other than a pharmacy, to an ultimate user, no controlled
14 substance in schedule II may be dispensed without the written **or**
15 **electronic** prescription of a practitioner.

16 (b) In emergency situations, as defined by rule of the board,
17 schedule II drugs may be dispensed upon oral prescription of a
18 practitioner, reduced promptly to writing and filed by the pharmacy.
19 Prescriptions shall be retained in conformity with the requirements of
20 section 7 of this chapter. No prescription for a schedule II substance
21 may be refilled.

22 (c) Except for dosages medically required for a period of not more
23 than forty-eight (48) hours that are dispensed by or on the direction of
24 a practitioner, or medication dispensed directly by a practitioner, other
25 than a pharmacy, to an ultimate user, a controlled substance included
26 in schedule III or IV, which is a prescription drug as determined under
27 IC 16-42-19, shall not be dispensed without a written, **electronic**, or
28 oral prescription of a practitioner. The prescription shall not be filled
29 or refilled more than six (6) months after the date thereof or be refilled
30 more than five (5) times, unless renewed by the practitioner.
31 Prescriptions for schedule III, IV, and V controlled substances may be
32 transmitted by facsimile from the practitioner or the agent of the
33 practitioner to a pharmacy. The facsimile prescription is equivalent to
34 an original prescription to the extent permitted under federal law.

35 (d) A controlled substance included in schedule V shall not be
36 distributed or dispensed other than for a medical purpose.

37 SECTION 21. **An emergency is declared for this act.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 363, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

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

Page 2, line 7, delete "Money in the fingerprint".

Page 2, delete line 8.

Page 6, line 35, delete "the Indiana".

Page 6, line 36, delete "professional licensing agency, or".

Page 6, line 41, delete ":" and insert "**and the board, commission, or committee determines that the offense affects the individual's ability to perform the duties of the profession:**".

Page 7, delete line 24.

Page 7, line 25, delete "(15)" and insert "(14)".

Page 7, line 26, delete "(16)" and insert "(15)".

Page 7, delete lines 28 through 29.

Page 7, line 30, delete "(18)" and insert "(16)".

and when so amended that said bill be reassigned to the Senate Committee on Appropriations.

(Reference is to SB 363 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 8, Nays 0.

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COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Senate Bill No. 363, 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 made to Senate Bill 363 as printed January 28, 2011.)

KENLEY, Chairperson

Committee Vote: Yeas 8, Nays 3.

ES 363—LS 7327/DI 104+



SENATE MOTION

Madam President: I move that Senate Bill 363 be amended to read as follows:

Page 7, line 34, delete "a license or a certificate" and insert "**an initial license or an initial certificate**".

Page 8, line 20, delete "a license or certificate" and insert "**an initial license or initial certificate**".

(Reference is to SB 363 as printed February 4, 2011.)

MILLER



SENATE MOTION

Madam President: I move that Senate Bill 363 be amended to read as follows:

Page 6, line 40, after "determines" insert "**, after the individual has appeared in person,**".

(Reference is to SB 363 as printed February 4, 2011.)

TALLIAN



COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Senate Bill 363, 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 9, between lines 17 and 18, begin a new paragraph and insert: "SECTION 9. IC 25-1-7-14, AS ADDED BY P.L.84-2010, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 14. (a) Notwithstanding any other law, if the board of a regulated occupation believes that a person who is not licensed, certified, or registered under this title is engaged in or is believed to be engaged in activities for which a license, certification, or registration is required under this title, the board may do the following:

- (1) File a complaint with the attorney general, who shall investigate and may file:
 - (A) with notice; or
 - (B) without notice, if the attorney general determines that

ES 363—LS 7327/DI 104+

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person is engaged in activities that may affect an individual's health or safety;

a motion for a cease and desist order with the appropriate board.

For purposes of this subdivision, the board may designate a board member or an employee of the Indiana professional licencing agency to act on behalf or in the name of the board.

(2) Upon review of the attorney general's motion for a cease and desist order, the board may issue an order requiring the affected person to show cause why the person should not be ordered to cease and desist from such activities. The show cause order must set forth a time and place for a hearing at which the affected person may appear and show cause as to why the person should not be subject to licensing, certification, or registration under this title. **For purposes of this subdivision, the board may designate a board member to act on behalf or in the name of the board.**

(b) If the board, after a hearing, determines that the activities in which the person is engaged are subject to licensing, certification, or registration under this title, the board may issue a cease and desist order that must describe the person and activities that are the subject of the order.

(c) A hearing conducted under this section must comply with the requirements under IC 4-21.5.

(d) A cease and desist order issued under this section is enforceable in the circuit or superior courts. A person who is enjoined under a cease and desist order and who violates the order shall be punished for contempt of court.

(e) A cease and desist order issued under this section does not relieve any person from ~~criminal~~ prosecution **under any other law.**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 363 as reprinted February 9, 2011.)

BROWN T, Chair

Committee Vote: yeas 7, nays 1.

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 363 be amended to read as follows:

Page 6, between lines 22 and 23, begin a new paragraph and insert:
 "SECTION 5. IC 20-28-5-8, AS AMENDED BY P.L.121-2009, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 8. (a) This section applies when a prosecuting attorney knows that a licensed employee of a public school or a nonpublic school has been convicted of an offense listed in subsection (c). The prosecuting attorney shall immediately give written notice of the conviction to the following:

- (1) The state superintendent.
- (2) Except as provided in subdivision (3), the superintendent of the school corporation that employs the licensed employee or the equivalent authority if a nonpublic school employs the licensed employee.
- (3) The presiding officer of the governing body of the school corporation that employs the licensed employee, if the convicted licensed employee is the superintendent of the school corporation.

(b) The superintendent of a school corporation, presiding officer of the governing body, or equivalent authority for a nonpublic school shall immediately notify the state superintendent when the individual knows that a current or former licensed employee of the public school or nonpublic school has been convicted of an offense listed in subsection (c), or when the governing body or equivalent authority for a nonpublic school takes any final action in relation to an employee who engaged in any offense listed in subsection (c).

(c) The department, after holding a hearing on the matter, shall permanently revoke the license of a person who is known by the department to have been convicted of any of the following felonies:

- (1) Kidnapping (IC 35-42-3-2). ~~if the victim is less than eighteen (18) years of age.~~
- (2) Criminal confinement (IC 35-42-3-3). ~~if the victim is less than eighteen (18) years of age.~~
- (3) Rape (IC 35-42-4-1). ~~if the victim is less than eighteen (18) years of age.~~
- (4) Criminal deviate conduct (IC 35-42-4-2). ~~if the victim is less than eighteen (18) years of age.~~
- (5) Child molesting (IC 35-42-4-3).
- (6) Child exploitation (IC 35-42-4-4(b)).
- (7) Vicarious sexual gratification (IC 35-42-4-5).
- (8) Child solicitation (IC 35-42-4-6).

ES 363—LS 7327/DI 104+



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- (9) Child seduction (IC 35-42-4-7).
- (10) Sexual misconduct with a minor (IC 35-42-4-9).
- (11) Incest (IC 35-46-1-3). ~~if the victim is less than eighteen (18) years of age.~~
- (12) Dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1).
- (13) Dealing in methamphetamine (IC 35-48-4-1.1).
- (14) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).
- (15) Dealing in a schedule IV controlled substance (IC 35-48-4-3).
- (16) Dealing in a schedule V controlled substance (IC 35-48-4-4).
- (17) Dealing in a counterfeit substance (IC 35-48-4-5).
- (18) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10(b)).
- (19) Possession of child pornography (IC 35-42-4-4(c)).
- (20) Homicide (IC 35-42-1).**
- (21) Voluntary manslaughter (IC 35-42-1-3).**
- (22) Reckless homicide (IC 35-42-1-5).**
- (23) Battery as any of the following:**
- (A) A Class A felony (IC 35-42-2-1(a)(5)).
- (B) A Class B felony (IC 35-42-2-1(a)(4)).
- (C) A Class C felony (IC 35-42-2-1(a)(3)).
- (24) Aggravated battery (IC 35-42-2-1.5).**
- (25) Robbery (IC 35-42-5-1).**
- (26) Carjacking (IC 35-42-5-2).**
- (27) Arson as a Class A felony or a Class B felony (IC 35-43-1-1(a)).**
- (28) Burglary as a Class A felony or a Class B felony (IC 35-43-2-1).**
- (29) Attempt under IC 35-41-5-1 to commit an offense listed in subdivisions (1) through (28).**
- (30) Conspiracy under IC 35-41-5-2 to commit an offense listed in subdivisions (1) through (28).**

(d) The department, after holding a hearing on the matter, shall permanently revoke the license of a person who is known by the department to have been convicted of a federal offense or an offense in another state that is comparable to a felony listed in subsection (c).

~~(d)~~ **(e) A license may be suspended by the state superintendent as specified in IC 20-28-7-7.**

~~(e)~~ **(f) The department shall develop a data base of information on**

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school corporation employees who have been reported to the department under this section."

Renumber all SECTIONS consecutively.

(Reference is to ESB 363 as printed April 12, 2011.)

GOODIN

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 363 be amended to read as follows:

Page 9, line 20, delete "JULY 1, 2011]:" and insert "UPON PASSAGE]:".

Page 11, after line 8, begin a new paragraph and insert:
"SECTION 11. **An emergency is declared for this act.**"
Renumber all SECTIONS consecutively.

(Reference is to ESB 363 as printed April 12, 2011.)

FRIZZELL

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 363 be amended to read as follows:

Page 10, between lines 15 and 16, begin a new paragraph and insert:
"SECTION 10. IC 25-26-13-31.2, AS ADDED BY P.L.94-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 31.2. (a) A pharmacist may administer an immunization to an individual under a drug order or prescription.

(b) A pharmacist may administer an immunization for influenza or **shingles (herpes zoster)** to a group of individuals under a drug order, under a prescription, or according to a protocol approved by a physician if the following requirements are met:

- (1) The physician specifies in the drug order, prescription, or protocol the group of individuals to whom the immunization may be administered.
- (2) The physician who writes the drug order, prescription, or protocol is licensed in Indiana and not employed by a pharmacy.
- (3) The pharmacist who administers the immunization is

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responsible for notifying, not later than fourteen (14) days after the pharmacist administers the immunization, the physician who authorized the immunization and the individual's primary care physician that the individual received the immunization.

(4) If the physician uses a protocol, the protocol may apply only to an individual or group of individuals who are at least:

(A) fourteen (14) years of age but less than eighteen (18) years of age, if the pharmacist receives the consent of a parent or legal guardian, and the parent or legal guardian is present at the time of immunization; or

(B) eighteen (18) years of age.

(c) If the state department of health or the department of homeland security determines that an emergency exists, a pharmacist may administer any immunization in accordance with:

(1) the requirements of subsection (b)(1) through (b)(3); and

(2) any instructions in the emergency determination."

Renumber all SECTIONS consecutively.

(Reference is to ESB 363 as printed April 12, 2011.)

DAVISSON

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 363 be amended to read as follows:

Page 1, delete lines 1 through 17.

Page 2, delete lines 1 through 7.

Renumber all SECTIONS consecutively.

(Reference is to ESB 363 as printed April 12, 2011.)

ESPICH

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 363 be amended to read as follows:

Page 10, between lines 15 and 16, begin a new paragraph and insert:

"SECTION 10. IC 25-27.5-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 13. "Supervising

ES 363—LS 7327/DI 104+



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physician" means a physician ~~registered with~~ **licensed by** the board who supervises and is responsible for a physician assistant.

SECTION 1. IC 25-27.5-2-14, AS AMENDED BY P.L.3-2008, SECTION 190, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 14. (a) "Supervision" means **overseeing the activities of, and accepting responsibility for, the medical services rendered by a physician assistant** and that the conditions set forth in subdivision (1) or (2) are met at all times that services are rendered or tasks are performed by the physician assistant:

(1) The supervising physician or the physician designee is physically present at the location at which services are rendered or tasks are performed by the physician assistant.

(2) Both of the following apply:

(A) The supervising physician or the physician designee is immediately available:

(i) **through the use of telecommunications or other electronic means; and**

(ii) **for consultation, including being able to see the patient in person within twenty-four (24) hours if requested by the patient or the physician assistant.**

~~(B)~~ Either:

(i) the supervising physician or the physician designee is in the county of, or a contiguous county to, the onsite location in which services are rendered or tasks are performed by the physician assistant; or

(ii) the physician or physician assistant is practicing at a hospital or health facility, or traveling to or from the hospital or health facility.

(B) The supervising physician or the physician designee is in:

(i) **the county of the physician assistant's practice; or**

(ii) **a contiguous county, including a county of a neighboring state, of the county containing the onsite location in which services are rendered or tasks are performed by the physician assistant.**

The medical licensing board may permit an exception to the requirements of this clause after receiving an exceptional circumstance waiver request with the filed supervising agreement for each individual physician assistant and practice location. An exception must be approved by the board before the commencement of the physician assistant's practice in the county that requires the exceptional circumstance waiver

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request.

(b) The term includes the use of protocols, guidelines, and standing orders developed or approved by the supervising physician.

SECTION 11. IC 25-27.5-3-5, AS AMENDED BY P.L.177-2009, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. (a) The committee shall have regular meetings, called upon the request of the president or by a majority of the members appointed to the committee, and upon the advice and consent of the executive director of the Indiana professional licensing agency, for the transaction of business that comes before the committee under this article. At the first committee meeting of each calendar year, the committee shall elect a president and any other officer considered necessary by the committee by an affirmative vote of a majority of the members appointed to the committee.

(b) Three (3) members of the committee constitute a quorum. An affirmative vote of a majority of the members appointed to the committee is required for the committee to take action on any business.

(c) The committee shall do the following:

- (1) Consider the qualifications of individuals who apply for an initial license under this article.
- (2) Approve or reject license applications.
- (3) Approve or reject renewal applications.
- ~~(4) Approve or reject applications for a change or addition of a supervising physician.~~
- ~~(5) (4) Propose rules to the board concerning the competent practice of physician assistants and the administration of this article.~~
- ~~(6) (5) Recommend to the board the amounts of fees required under this article.~~

SECTION 12. IC 25-27.5-5-2, AS AMENDED BY P.L.177-2009, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) A physician assistant must engage in a dependent practice with physician supervision. A physician assistant may perform, under the supervision of the supervising physician, the duties and responsibilities that are delegated by the supervising physician and that are within the supervising physician's scope of practice, including prescribing and dispensing drugs and medical devices. A patient may elect to be seen, examined, and treated by the supervising physician.

(b) If a physician assistant determines that a patient needs to be examined by a physician, the physician assistant shall immediately notify the supervising physician or physician designee.

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(c) If a physician assistant notifies the supervising physician that the physician should examine a patient, the supervising physician shall:

- (1) schedule an examination of the patient in a timely manner unless the patient declines; or
- (2) arrange for another physician to examine the patient.

(d) If a patient is subsequently examined by the supervising physician or another physician because of circumstances described in subsection (b) or (c), the visit must be considered as part of the same encounter except for in the instance of a medically appropriate referral.

(e) A supervising physician or physician assistant who does not comply with subsections (b) through (d) is subject to discipline under IC 25-1-9.

(f) A physician assistant's supervisory agreement with a supervising physician must:

- (1) be in writing;
- (2) include all the tasks delegated to the physician assistant by the supervising physician;
- (3) set forth the supervisory plans for the physician assistant, including the emergency procedures that the physician assistant must follow; and
- (4) specify the name of the drug or drug classification being delegated to the physician assistant and the protocol the physician assistant shall follow in prescribing a drug.

(g) The physician shall submit the supervisory agreement to the board. ~~for approval.~~ The physician assistant may ~~not~~ prescribe a drug under the supervisory agreement ~~until unless~~ the board ~~approves~~ **denies** the supervisory agreement. Any amendment to the supervisory agreement must be resubmitted to the board, ~~for approval,~~ and the physician assistant may ~~not~~ operate under any new prescriptive authority under the amended supervisory agreement ~~until unless~~ the agreement has been ~~approved~~ **denied** by the board.

(h) A physician or a physician assistant who violates the supervisory agreement described in this section may be disciplined under IC 25-1-9.

SECTION 13. IC 25-27.5-5-4, AS AMENDED BY P.L.90-2007, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) Except as provided in this section, a physician assistant may prescribe, dispense, and administer drugs and medical devices or services to the extent delegated by the supervising physician.

(b) A physician assistant may not prescribe, dispense, or administer ophthalmic devices, including glasses, contact lenses, and low vision

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devices.

(c) ~~As permitted by the board,~~ A physician assistant may use or dispense only drugs prescribed or approved by the supervising physician. A physician assistant may not prescribe or dispense ~~the following drugs:~~

~~(1) a schedule I substance listed in IC 35-48-2-4.~~

~~(2) A schedule H substance listed in IC 35-48-2-6.~~

~~(3) A schedule III, schedule IV, or schedule V drug if the drug contains oxycodone.~~

~~However, a physician assistant may prescribe one (1) dose of a drug listed in subdivision (2) or (3) for immediate administration if the patient is in an inpatient hospital post-operative setting and the physician is unavailable to make the prescription.~~

(d) A physician assistant may request, receive, and sign for professional samples and may distribute professional samples to patients if the samples are within the scope of the physician assistant's prescribing privileges delegated by the supervising physician.

(e) A physician assistant may not prescribe drugs unless the physician assistant has successfully completed at least thirty (30) contact hours in pharmacology from an educational program that is approved by the committee.

(f) A physician assistant may not prescribe, administer, or monitor general anesthesia, regional anesthesia, or deep sedation as defined by the board. A physician assistant may not administer moderate sedation:

(1) if the moderate sedation contains agents in which the manufacturer's general warning advises that the drug should be administered and monitored by an individual who is:

(A) experienced in the use of general anesthesia; and

(B) not involved in the conduct of the surgical or diagnostic procedure; and

(2) during diagnostic tests, surgical procedures, or obstetric procedures unless the following conditions are met:

(A) A physician is physically present in the area, is immediately available to assist in the management of the patient, and is qualified to rescue patients from deep sedation.

(B) The physician assistant is qualified to rescue patients from deep sedation and is competent to manage a compromised airway and provide adequate oxygenation and ventilation by reason of meeting the following conditions:

(i) The physician assistant is certified in advanced cardiopulmonary life support.

(ii) The physician assistant has knowledge of and training in

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the medications used in moderate sedation, including recommended doses, contraindications, and adverse reactions.

(g) Before a physician assistant may prescribe drugs, the physician assistant must have ~~been continuously employed~~ **practiced** as a physician assistant:

- (1) for ~~not less than~~ **at least** one (1) year after graduating from a physician assistant program approved by the committee; ~~To be considered to have been continuously employed as a physician assistant for a year for purposes of this subsection, a person must have worked as a physician assistant more than~~ **and**
- (2) **at least** one thousand eight hundred (1,800) hours. ~~during the year.~~

SECTION 14. IC 25-27.5-5-6, AS ADDED BY P.L.90-2007, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. (a) Except as provided in section 4(d) of this chapter, a supervising physician may delegate authority to a physician assistant to prescribe:

- (1) legend drugs except as provided in section 4(c) of this chapter; and
- (2) medical devices (except ophthalmic devices, including glasses, contact lenses, and low vision devices).

(b) Any prescribing authority delegated to a physician assistant must be expressly delegated in writing by the physician assistant's supervising physician, including:

- (1) the name of the drug or drug classification being delegated by the supervising physician; and
- (2) the protocols the physician assistant shall use when prescribing the drug.

(c) A physician assistant who is delegated the authority to prescribe legend drugs or medical devices must do the following:

- (1) Enter the following on each prescription form that the physician assistant uses to prescribe a legend drug or medical device:
 - (A) The signature of the physician assistant.
 - (B) The initials indicating the credentials awarded to the physician assistant by the NCCPA.
 - (C) The physician assistant's state license number.

(2) Comply with all applicable state and federal laws concerning prescriptions for legend drugs and medical devices.

(d) A supervising physician may delegate to a physician assistant the authority to prescribe only legend drugs and medical devices that

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are within the scope of practice of the licensed supervising physician or the physician designee.

(e) A physician assistant who is delegated the authority to prescribe controlled substances under subsection (a) ~~and in accordance with the limitations specified in section 4(c) of this chapter~~, must do the following:

- (1) Obtain an Indiana controlled substance registration and a federal Drug Enforcement Administration registration.
- (2) Enter the following on each prescription form that the physician assistant uses to prescribe a controlled substance:
 - (A) The signature of the physician assistant.
 - (B) The initials indicating the credentials awarded to the physician assistant by the NCCPA.
 - (C) The physician assistant's state license number.
 - (D) The physician assistant's federal Drug Enforcement Administration (DEA) number.
- (3) Comply with all applicable state and federal laws concerning prescriptions for controlled substances.

(f) A supervising physician may only delegate to a physician assistant the authority to prescribe controlled substances:

- (1) that may be prescribed within the scope of practice of the licensed supervising physician or the physician designee;
- (2) in an amount that does not exceed
 - (A) a ~~seven (7)~~ **thirty (30)** day supply; for treatment of a single acute episode of a condition or injury; or
 - (B) if a controlled substance cannot be dispensed in an amount that is small enough to meet the requirement of clause (A); the smallest dispensable amount; and
- (3) in accordance with the limitations set forth in section 4(c) of this chapter.

SECTION 15. IC 25-27.5-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) Supervision by the supervising physician or the physician designee must be continuous but does not require the physical presence of the supervising physician at the time and the place that the services are rendered.

(b) A supervising physician or physician designee shall review all patient encounters not later than ~~twenty-four (24)~~ **seventy-two (72)** hours after the physician assistant has seen the patient.

(c) The supervising physician or physician designee shall review within seventy-two (72) hours after a patient encounter at least the following percentages of the patient charts:

- (1) For the first year of employment of the physician assistant,**

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one hundred percent (100%).

(2) For the second year of employment of the physician assistant, fifty percent (50%).

(3) For the third year of employment of the physician assistant, twenty-five percent (25%).

However, if the physician assistant has had less than one thousand eight hundred (1,800) hours of practice, the supervising physician or physician designee shall review one hundred percent (100%) of the charts within seventy-two (72) hours of the patient encounter.

SECTION 16. IC 25-27.5-6-4, AS AMENDED BY P.L.177-2009, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) A physician supervising a physician assistant must do the following:

(1) Be licensed under IC 25-22.5.

(2) Register with the board the physician's intent to supervise a physician assistant.

(3) Submit a statement to the board that the physician will exercise supervision over the physician assistant in accordance with rules adopted by the board and retain professional and legal responsibility for the care rendered by the physician assistant.

(4) Not have a disciplinary action restriction that limits the physician's ability to supervise a physician assistant.

(5) Maintain a written agreement with the physician assistant that states the physician will:

(A) exercise supervision over the physician assistant in accordance with any rules adopted by the board; and

(B) retain responsibility for the care rendered by the physician assistant.

The agreement must be signed by the physician and physician assistant, updated annually, and made available to the board upon request.

(b) Except as provided in this section, this chapter may not be construed to limit the employment arrangement with a supervising physician under this chapter."

Page 11, after line 8, begin a new paragraph and insert:

"SECTION 18. IC 35-48-3-9, AS AMENDED BY P.L.204-2005, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 9. (a) Except for dosages medically required for a period of not more than forty-eight (48) hours that are dispensed by or on the direction of a practitioner or medication dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, no controlled substance in schedule II may be dispensed without the written or

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electronic prescription of a practitioner.

(b) In emergency situations, as defined by rule of the board, schedule II drugs may be dispensed upon oral prescription of a practitioner, reduced promptly to writing and filed by the pharmacy. Prescriptions shall be retained in conformity with the requirements of section 7 of this chapter. No prescription for a schedule II substance may be refilled.

(c) Except for dosages medically required for a period of not more than forty-eight (48) hours that are dispensed by or on the direction of a practitioner, or medication dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a controlled substance included in schedule III or IV, which is a prescription drug as determined under IC 16-42-19, shall not be dispensed without a written, **electronic**, or oral prescription of a practitioner. The prescription shall not be filled or refilled more than six (6) months after the date thereof or be refilled more than five (5) times, unless renewed by the practitioner. Prescriptions for schedule III, IV, and V controlled substances may be transmitted by facsimile from the practitioner or the agent of the practitioner to a pharmacy. The facsimile prescription is equivalent to an original prescription to the extent permitted under federal law.

(d) A controlled substance included in schedule V shall not be distributed or dispensed other than for a medical purpose."

Renumber all SECTIONS consecutively.

(Reference is to ESB 363 printed April 12, 2011.)

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