

Adopted	Rejected
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COMMITTEE REPORT

YES:	13
NO:	0

MR. SPEAKER:

*Your Committee on Public Health, to which was referred House Bill 1017, 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:*

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 11-10-3-4 IS AMENDED TO READ AS
- 4 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) The department
- 5 shall establish directives governing:
- 6 (1) medical care to be provided to committed individuals,
- 7 including treatment for mental retardation, alcoholism, and drug
- 8 addiction;
- 9 (2) administration of medical facilities and health centers
- 10 operated by the department;
- 11 (3) medical equipment, supplies, and devices to be available for
- 12 medical care;
- 13 (4) provision of special diets to committed individuals;
- 14 (5) acquisition, storage, handling, distribution, and dispensing of

- 1 all medication and drugs;
- 2 **(6) the return of unused medications that meet the**
- 3 **requirements of IC 25-26-13-25(j)(1) through**
- 4 **IC 25-26-13-25(j)(6) to the pharmacy that dispensed the**
- 5 **medication;**
- 6 ~~(6)~~ **(7) training programs and first aid emergency care for**
- 7 **committed individuals and department personnel;**
- 8 ~~(7)~~ **(8) medical records of committed individuals; and**
- 9 ~~(8)~~ **(9) professional staffing requirements for medical care.**

10 (b) The state department of health shall make an annual inspection

11 of every health facility, health center, or hospital operated by the

12 department and report to the commissioner whether that facility, center,

13 or hospital meets the requirements established by the state department

14 of health. Any noncompliance with those requirements must be stated

15 in writing to the commissioner, with a copy to the governor.

16 (c) For purposes of IC 4-22-2, the term "directive" as used in this

17 section relates solely to internal policy and procedure not having the

18 force of law.

19 **(d) For purposes of subsection (a)(6), the department:**

20 **(1) shall return medication that belonged to a Medicaid**

21 **recipient; and**

22 **(2) may return other unused medication;**

23 **to the pharmacy that dispensed the medication if the unused**

24 **medication meets the requirements of IC 25-26-13-25(j)(1) through**

25 **IC 25-26-13-25(j)(6).**

26 SECTION 2. IC 11-12-5-8 IS ADDED TO THE INDIANA CODE

27 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

28 1, 2011]: **Sec. 8. (a) This section applies to the return of unused**

29 **medications that meet the requirements of IC 25-26-13-25(j)(1)**

30 **through IC 25-26-13-25(j)(6).**

31 **(b) The county sheriff:**

32 **(1) shall return medication that belonged to a Medicaid**

33 **recipient; and**

34 **(2) may return other unused medication;**

35 **to the pharmacy that dispensed the medication if the unused**

36 **medication meets the requirements of IC 25-26-13-25(j)(1) through**

37 **IC 25-26-13-25(j)(6)."**

38 Page 1, line 3, delete "jail," and insert "jail under IC 11-12-5-8,".

1 Page 1, line 4, after "facility" insert "**under IC 11-10-3-4**".

2 Page 1, after line 9, begin a new paragraph and insert:

3 "SECTION 4. IC 25-26-13-25, AS AMENDED BY P.L.204-2005,
4 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2011]: Sec. 25. (a) All original prescriptions, whether in
6 written or electronic format, shall be numbered and maintained in
7 numerical and chronological order, or in a manner approved by the
8 board and accessible for at least two (2) years in the pharmacy. A
9 prescription transmitted from a practitioner by means of
10 communication other than writing must immediately be reduced to
11 writing or recorded in an electronic format by the pharmacist. The files
12 shall be open for inspection to any member of the board or its duly
13 authorized agent or representative.

14 (b) A prescription may be electronically transmitted from the
15 practitioner by computer or another electronic device to a pharmacy
16 that is licensed under this article or any other state or territory. An
17 electronic data intermediary that is approved by the board:

18 (1) may transmit the prescription information between the
19 prescribing practitioner and the pharmacy;

20 (2) may archive copies of the electronic information related to the
21 transmissions as necessary for auditing and security purposes; and

22 (3) must maintain patient privacy and confidentiality of all
23 archived information as required by applicable state and federal
24 laws.

25 (c) Except as provided in subsection (d), a prescription for any drug,
26 the label of which bears either the legend, "Caution: Federal law
27 prohibits dispensing without prescription" or "Rx Only", may not be
28 refilled without written, electronically transmitted, or oral authorization
29 of a licensed practitioner.

30 (d) A prescription for any drug, the label of which bears either the
31 legend, "Caution: Federal law prohibits dispensing without
32 prescription" or "Rx Only", may be refilled by a pharmacist one (1)
33 time without the written, electronically transmitted, or oral
34 authorization of a licensed practitioner if all of the following conditions
35 are met:

36 (1) The pharmacist has made every reasonable effort to contact
37 the original prescribing practitioner or the practitioner's designee
38 for consultation and authorization of the prescription refill.

- 1 (2) The pharmacist believes that, under the circumstances, failure
2 to provide a refill would be seriously detrimental to the patient's
3 health.
- 4 (3) The original prescription authorized a refill but a refill would
5 otherwise be invalid for either of the following reasons:
6 (A) All of the authorized refills have been dispensed.
7 (B) The prescription has expired under subsection (g).
- 8 (4) The prescription for which the patient requests the refill was:
9 (A) originally filled at the pharmacy where the request for a
10 refill is received and the prescription has not been transferred
11 for refills to another pharmacy at any time; or
12 (B) filled at or transferred to another location of the same
13 pharmacy or its affiliate owned by the same parent corporation
14 if the pharmacy filling the prescription has full access to
15 prescription and patient profile information that is
16 simultaneously and continuously updated on the parent
17 corporation's information system.
- 18 (5) The drug is prescribed for continuous and uninterrupted use
19 and the pharmacist determines that the drug is being taken
20 properly in accordance with IC 25-26-16.
- 21 (6) The pharmacist shall document the following information
22 regarding the refill:
23 (A) The information required for any refill dispensed under
24 subsection (e).
25 (B) The dates and times that the pharmacist attempted to
26 contact the prescribing practitioner or the practitioner's
27 designee for consultation and authorization of the prescription
28 refill.
29 (C) The fact that the pharmacist dispensed the refill without
30 the authorization of a licensed practitioner.
- 31 (7) The pharmacist notifies the original prescribing practitioner
32 of the refill and the reason for the refill by the practitioner's next
33 business day after the refill has been made by the pharmacist.
- 34 (8) Any pharmacist initiated refill under this subsection may not
35 be for more than the minimum amount necessary to supply the
36 patient through the prescribing practitioner's next business day.
37 However, a pharmacist may dispense a drug in an amount greater
38 than the minimum amount necessary to supply the patient through

- 1 the prescribing practitioner's next business day if:
- 2 (A) the drug is packaged in a form that requires the pharmacist
- 3 to dispense the drug in a quantity greater than the minimum
- 4 amount necessary to supply the patient through the prescribing
- 5 practitioner's next business day; or
- 6 (B) the pharmacist documents in the patient's record the
- 7 amount of the drug dispensed and a compelling reason for
- 8 dispensing the drug in a quantity greater than the minimum
- 9 amount necessary to supply the patient through the prescribing
- 10 practitioner's next business day.
- 11 (9) Not more than one (1) pharmacist initiated refill is dispensed
- 12 under this subsection for a single prescription.
- 13 (10) The drug prescribed is not a controlled substance.
- 14 A pharmacist may not refill a prescription under this subsection if the
- 15 practitioner has designated on the prescription form the words "No
- 16 Emergency Refill".
- 17 (e) When refilling a prescription, the refill record shall include:
- 18 (1) the date of the refill;
- 19 (2) the quantity dispensed if other than the original quantity; and
- 20 (3) the dispenser's identity on:
- 21 (A) the original prescription form; or
- 22 (B) another board approved, uniformly maintained, readily
- 23 retrievable record.
- 24 (f) The original prescription form or the other board approved
- 25 record described in subsection (e) must indicate by the number of the
- 26 original prescription the following information:
- 27 (1) The name and dosage form of the drug.
- 28 (2) The date of each refill.
- 29 (3) The quantity dispensed.
- 30 (4) The identity of the pharmacist who dispensed the refill.
- 31 (5) The total number of refills for that prescription.
- 32 (g) A prescription is valid for not more than one (1) year after the
- 33 original date of issue.
- 34 (h) A pharmacist may not knowingly dispense a prescription after
- 35 the demise of the practitioner, unless in the pharmacist's professional
- 36 judgment it is in the best interest of the patient's health.
- 37 (i) A pharmacist may not knowingly dispense a prescription after
- 38 the demise of the patient.

1 (j) A pharmacist or a pharmacy shall not resell, reuse, or redistribute
 2 a medication that is returned to the pharmacy after being dispensed
 3 unless the medication:

4 (1) was dispensed to ~~a patient~~ **an individual**:

5 (A) residing in an institutional facility (as defined in 856
 6 IAC 1-28.1-1(6)); ~~or~~

7 (B) in a hospice program under IC 16-25; ~~or~~

8 **(C) in a county jail or department of correction facility;**

9 (2) was properly stored and securely maintained according to
 10 sound pharmacy practices;

11 (3) is returned unopened and:

12 (A) was dispensed in the manufacturer's original:

13 (i) bulk, multiple dose container with an unbroken tamper
 14 resistant seal; or

15 (ii) unit dose package; or

16 (B) was packaged by the dispensing pharmacy in a:

17 (i) multiple dose blister container; or

18 (ii) unit dose package;

19 (4) was dispensed by the same pharmacy as the pharmacy
 20 accepting the return;

21 (5) is not expired; and

22 (6) is not a controlled substance (as defined in IC 35-48-1-9),
 23 unless the pharmacy holds a Type II permit (as described in
 24 section 17 of this chapter).

25 (k) A pharmacist may use the pharmacist's professional judgment as
 26 to whether to accept medication for return under this section.

27 (l) A pharmacist who violates subsection (d) commits a Class A
 28 infraction."

29 Renumber all SECTIONS consecutively.

(Reference is to HB 1017 as introduced.)

and when so amended that said bill do pass.

Representative Brown T