

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 177, 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:

- 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
15 all medication and drugs;
16 **(6) the return of unused medications that meet the**
17 **requirements of IC 25-26-13-25(j)(1) through**
18 **IC 25-26-13-25(j)(6) to the pharmacy that dispensed the**
19 **medication;**
20 ~~(6)~~ (7) training programs and first aid emergency care for
21 committed individuals and department personnel;

- 1 ~~(7)~~ **(8)** medical records of committed individuals; and
- 2 ~~(8)~~ **(9)** professional staffing requirements for medical care.
- 3 (b) The state department of health shall make an annual inspection
- 4 of every health facility, health center, or hospital operated by the
- 5 department and report to the commissioner whether that facility, center,
- 6 or hospital meets the requirements established by the state department
- 7 of health. Any noncompliance with those requirements must be stated
- 8 in writing to the commissioner, with a copy to the governor.
- 9 (c) For purposes of IC 4-22-2, the term "directive" as used in this
- 10 section relates solely to internal policy and procedure not having the
- 11 force of law.
- 12 **(d) For purposes of subsection (a)(6), the department:**
- 13 **(1) shall return medication that belonged to a Medicaid**
- 14 **recipient; and**
- 15 **(2) may return other unused medication;**
- 16 **to the pharmacy that dispensed the medication if the unused**
- 17 **medication meets the requirements of IC 25-26-13-25(j)(1) through**
- 18 **IC 25-26-13-25(j)(6).**
- 19 (e) The department may establish directives concerning the
- 20 return of unused medical devices or medical supplies that are used
- 21 for prescription drug therapy and that meet the requirements of
- 22 IC 25-26-13-25(k).
- 23 (f) A pharmacist or pharmacy that enters into an agreement
- 24 with the department to accept the return of:
- 25 **(1) unused medications that meet the requirements of**
- 26 **IC 25-26-13-25(j)(1) through IC 25-26-13-25(j)(6); or**
- 27 **(2) unused medical devices or medical supplies that are used**
- 28 **for prescription drug therapy and that meet the requirements**
- 29 **of IC 25-26-13-25(k);**
- 30 **may negotiate with the department a fee for processing the returns.**
- 31 SECTION 2. IC 11-12-5-8 IS ADDED TO THE INDIANA CODE
- 32 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 33 1, 2011]: **Sec. 8. (a) This section applies to the return of:**
- 34 **(1) unused medications that meet the requirements of**
- 35 **IC 25-26-13-25(j)(1) through IC 25-26-13-25(j)(6); and**
- 36 **(2) unused medical devices or medical supplies that are used**
- 37 **for prescription drug therapy and that meet the requirements**
- 38 **of IC 25-26-13-25(k).**
- 39 **(b) The county sheriff:**
- 40 **(1) shall return medication that belonged to a Medicaid**
- 41 **recipient; and**
- 42 **(2) may return other unused medication;**

1 to the pharmacy that dispensed the medication if the unused
 2 medication meets the requirements of IC 25-26-13-25(j)(1) through
 3 IC 25-26-13-25(j)(6).

4 (c) The county sheriff may return unused medical devices or
 5 medical supplies that are used for prescription drug therapy and
 6 that meet the requirements of IC 25-26-13-25(k) to a pharmacy or
 7 pharmacist.

8 (d) A pharmacist or pharmacy that enters into an agreement
 9 with the county sheriff to accept the return of:

10 (1) unused medications that meet the requirements of
 11 IC 25-26-13-25(j)(1) through IC 25-26-13-25(j)(6); or

12 (2) unused medical devices or medical supplies that are used
 13 for prescription drug therapy and that meet the requirements
 14 of IC 25-26-13-25(k);

15 may negotiate with the county sheriff a fee for processing the
 16 returns.".

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

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

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

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

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

35 (1) may transmit the prescription information between the
 36 prescribing practitioner and the pharmacy;

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

39 (3) must maintain patient privacy and confidentiality of all
 40 archived information as required by applicable state and federal
 41 laws.

42 (c) Except as provided in subsection (d), a prescription for any drug,

1 the label of which bears either the legend, "Caution: Federal law
2 prohibits dispensing without prescription" or "Rx Only", may not be
3 refilled without written, electronically transmitted, or oral authorization
4 of a licensed practitioner.

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

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

14 (2) The pharmacist believes that, under the circumstances, failure
15 to provide a refill would be seriously detrimental to the patient's
16 health.

17 (3) The original prescription authorized a refill but a refill would
18 otherwise be invalid for either of the following reasons:

19 (A) All of the authorized refills have been dispensed.

20 (B) The prescription has expired under subsection (g).

21 (4) The prescription for which the patient requests the refill was:

22 (A) originally filled at the pharmacy where the request for a
23 refill is received and the prescription has not been transferred
24 for refills to another pharmacy at any time; or

25 (B) filled at or transferred to another location of the same
26 pharmacy or its affiliate owned by the same parent corporation
27 if the pharmacy filling the prescription has full access to
28 prescription and patient profile information that is
29 simultaneously and continuously updated on the parent
30 corporation's information system.

31 (5) The drug is prescribed for continuous and uninterrupted use
32 and the pharmacist determines that the drug is being taken
33 properly in accordance with IC 25-26-16.

34 (6) The pharmacist shall document the following information
35 regarding the refill:

36 (A) The information required for any refill dispensed under
37 subsection (e).

38 (B) The dates and times that the pharmacist attempted to
39 contact the prescribing practitioner or the practitioner's
40 designee for consultation and authorization of the prescription
41 refill.

42 (C) The fact that the pharmacist dispensed the refill without

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

1 (h) A pharmacist may not knowingly dispense a prescription after
 2 the demise of the practitioner, unless in the pharmacist's professional
 3 judgment it is in the best interest of the patient's health.

4 (i) A pharmacist may not knowingly dispense a prescription after
 5 the demise of the patient.

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

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

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

12 (B) in a hospice program under IC 16-25; **or**

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

14 (2) was properly stored and securely maintained according to
 15 sound pharmacy practices;

16 (3) is returned unopened and:

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

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

20 (ii) unit dose package; or

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

22 (i) multiple dose blister container; or

23 (ii) unit dose package;

24 (4) was dispensed by the same pharmacy as the pharmacy
 25 accepting the return;

26 (5) is not expired; and

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

30 **(k) A pharmacist or a pharmacy shall not resell, reuse, or**
 31 **redistribute medical devices or medical supplies used for**
 32 **prescription drug therapy that have been returned to the**
 33 **pharmacy after being dispensed unless the medical devices or**
 34 **medical supplies:**

35 **(1) were dispensed to an individual in a county jail or**
 36 **department of correction facility;**

37 **(2) are not expired; and**

38 **(3) are returned unopened and in the original sealed**
 39 **packaging.**

40 ~~(l)~~ **(l)** A pharmacist may use the pharmacist's professional judgment
 41 as to whether to accept medication for return under this section.

42 ~~(m)~~ **(m)** A pharmacist who violates subsection (d) commits a Class

- 1 A infraction."
- 2 Renumber all SECTIONS consecutively.
(Reference is to SB 177 as introduced.)

and when so amended that said bill do pass .

Committee Vote: Yeas 9, Nays 0.

Senator Miller, Chairperson