CONFERENCE COMMITTEE REPORT
DIGEST FOR ESB 407

Citations Affected: IC 11-10-3-4; IC 11-12-5-8; IC 16-28-11-4; IC 25-26.

Synopsis: Pharmacy matters. Conference committee report for ESB 407. Allows a hospital holding a Type II pharmacy permit to offer drugs and devices to certain individuals who work or volunteer at the hospital and their dependents. Allows a pharmacist to supervise not more than six licensed pharmacy technicians or pharmacy technicians in training at any time. (Currently, a pharmacist may supervise not more than four licensed pharmacy technicians or pharmacy technicians in training.) Prohibits the Indiana board of pharmacy from issuing a pharmacy technician certificate to an individual who has been convicted of a felony involving controlled substances. Allows a pharmacist, upon request of the patient, to dispense a 90 day supply of a prescription under specified circumstances. Requires the pharmacist to inform the customer concerning whether the additional drug supply of the prescription is covered under the patient's insurance. Specifies pharmacy audit requirements, including notice procedures and limitations on an initial audit and onsite audits. Requires a period of at least 30 days during which a pharmacy may appeal preliminary audit report findings. Provides for the correction of clerical errors. Requires the health finance commission to study during the 2012 legislative interim: (1) the issue of certain pharmacies and whether any limitation should be placed on the dispensing of a prescription drug by the pharmacies; and (2) specified health insurance plans and the number of covered people with copayments, coinsurance amounts, and out-of-pocket costs incurred for prescription drugs that exceed specified amounts for the coverage. **(This conference committee report: (1) adds SB 334 concerning the dispensing of a 90 day supply of a prescription in certain circumstances, adding language that requires the pharmacist to notify the prescriber of the change in the quantity filled; (2) removes language concerning the posting of information in a pharmacy for the blind or visually impaired; (3) changes language concerning providing a pharmacy audit report to a pharmacy in a means that allows for an electronic signature to only upon the pharmacy's request; and (4) changes the study by the health finance commission to include retail and community pharmacies in the study of dispensing limitations for pharmacies.)**

Effective: July 1, 2012.

Adopted	Rejected

CONFERENCE COMMITTEE REPORT

MR. SPEAKER:

Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill No. 407 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 11-10-3-4, AS AMENDED BY P.L.156-2011, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. (a) The department shall establish directives governing:

(1) medical care to be provided to committed individuals, including treatment for mental retardation, alcoholism, and drug addiction;

(2) administration of medical facilities and health centers operated by the department;

(3) medical equipment, supplies, and devices to be available for medical care;

(4) provision of special diets to committed individuals;

(5) acquisition, storage, handling, distribution, and dispensing of all medication and drugs;

(6) the return of unused medications that meet the requirements of ~~IC 25-26-13-25(j)(1)~~ **IC 25-26-13-25(k)(1)** through ~~IC 25-26-13-25(j)(6)~~ **IC 25-26-13-25(k)(6)** to the pharmacy that dispensed the medication;

(7) training programs and first aid emergency care for committed individuals and department personnel;

(8) medical records of committed individuals; and

(9) professional staffing requirements for medical care.

(b) The state department of health shall make an annual inspection of every health facility, health center, or hospital:

(1) operated by the department; and

(2) not accredited by a nationally recognized accrediting organization;

and report to the commissioner whether that facility, center, or hospital meets the requirements established by the state department of health. Any noncompliance with those requirements must be stated in writing to the commissioner, with a copy to the governor.

(c) For purposes of IC 4-22-2, the term "directive" as used in this section relates solely to internal policy and procedure not having the force of law.

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

(1) shall return medication that belonged to a Medicaid recipient; and

(2) may return other unused medication;

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

(e) The department may establish directives concerning the return of unused medical devices or medical supplies that are used for prescription drug therapy and that meet the requirements of ~~IC 25-26-13-25(k).~~ **IC 25-26-13-25(l).**

(f) A pharmacist or pharmacy that enters into an agreement with the department to accept the return of:

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

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

may negotiate with the department a fee for processing the returns.

SECTION 2. IC 11-12-5-8, AS ADDED BY P.L.174-2011, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 8. (a) This section applies to the return of:

(1) unused medications that meet the requirements of ~~IC 25-26-13-25(j)(1)~~ **IC 25-26-13-25(k)(1)** through ~~IC 25-26-13-25(j)(6);~~ **IC 25-26-13-25(k)(6);** and

(2) unused medical devices or medical supplies that are used for prescription drug therapy and that meet the requirements of ~~IC 25-26-13-25(k).~~ **IC 25-26-13-25(l).**

(b) The county sheriff:

(1) shall return medication that belonged to a Medicaid recipient; and

(2) may return other unused medication;

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

(c) The county sheriff may return unused medical devices or

medical supplies that are used for prescription drug therapy and that meet the requirements of ~~IC 25-26-13-25(k)~~ **IC 25-26-13-25(l)** to a pharmacy or pharmacist.

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

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

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

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

SECTION 3. IC 16-28-11-4, AS AMENDED BY P.L.174-2011, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. (a) A health facility, county jail under IC 11-12-5-8, or department of correction facility under IC 11-10-3-4 that possesses unused medication that meets the requirements of ~~IC 25-26-13-25(j)(1)~~ **IC 25-26-13-25(k)(1)** through ~~IC 25-26-13-25(j)(6).~~ **IC 25-26-13-25(k)(6):**

(1) shall return medication that belonged to a Medicaid recipient; and

(2) may return other unused medication;

to the pharmacy that dispensed the medication.

(b) An entity participating in a program under IC 25-26-23 may return unused medication to the pharmacy that dispensed the medication if the board of pharmacy adopts a rule allowing this procedure under IC 25-26-23-2.

SECTION 4. IC 25-26-13-17, AS AMENDED BY P.L.98-2006, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 17. (a) The board shall establish classes of pharmacy permits as follows:

Type I. A retail permit for a pharmacy that provides pharmaceutical care to the general public by the dispensing of a drug or device.

Type II. An institutional permit for hospitals, clinics, health care facilities, sanitariums, nursing homes, or dispensaries that offer pharmaceutical care by dispensing a drug product to an inpatient under a drug order or to an outpatient of the institution under a prescription.

Type III. A permit for a pharmacy that is not:

(A) open to the general public; or

(B) located in an institution listed under a Type II permit;

and provides pharmaceutical care to a patient who is located in an institution or in the patient's home.

Type IV. A permit for a pharmacy not open to the general public that provides pharmaceutical care by dispensing drugs and devices to patients exclusively through the United States Postal Services or other parcel delivery service.

Type V. A permit for a pharmacy that engages exclusively in the preparation and dispensing of diagnostic or therapeutic

radioactive drugs.

Type VI. A permit for a pharmacy open to the general public that provides pharmaceutical care by engaging in an activity under a Type I or Type III permit. A pharmacy that obtains a Type VI permit may provide services to:

(A) a home health care patient;

(B) a long term care facility; or

(C) a member of the general public.

(b) ~~Hospitals~~ **A hospital** holding a Type II permit may offer drugs or devices:

(1) to:

(A) an employee, student, **or volunteer of the hospital;**

(B) a retiree who is participating in a retirement, pension, or benefit program administered by the hospital;

(C) an independent contractor who has an exclusive relationship with the hospital;

(D) a member of the hospital's governing board; or

(E) a member of the hospital's medical staff; ~~member or their~~ **and**

(2) to dependents **of the individuals listed in subdivision (1);** for their own use.

(c) Nothing in this section prohibits a pharmacy holding a permit other than a Type IV permit from delivering drugs or devices through mail, parcel delivery, or hand delivery.

(d) Hospitals holding a Type II permit may operate remote locations within a reasonable distance of the licensed area, as determined by the board, after:

(1) filing an application on a form prepared by the board;

(2) having each location inspected by the board; and

(3) obtaining approval from the board.

(e) Any applicable rule governing the practice of pharmacy in Indiana shall apply to all permits under this section.

SECTION 5. IC 25-26-13-18, AS AMENDED BY P.L.1-2009, SECTION 142, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 18. (a) To be eligible for issuance of a pharmacy permit, an applicant must show to the satisfaction of the board that:

(1) Persons at the location will engage in the bona fide practice of pharmacy. The application must show the number of hours each week, if any, that the pharmacy will be open to the general public.

(2) The pharmacy will maintain a sufficient stock of emergency and frequently prescribed drugs and devices as to adequately serve and protect the public health.

(3) Except as provided in section 19 of this chapter, a registered pharmacist will be in personal attendance and on duty in the licensed premises at all times when the practice of pharmacy is being conducted and that the pharmacist will be responsible for the lawful conduct of the pharmacy.

(4) ~~One (1) pharmacist will have not more than four (4)~~ Certified pharmacy technicians or pharmacy technicians in training

certified under IC 25-26-19 **must practice** under ~~the~~ **a licensed** pharmacist's immediate and personal supervision at ~~any time.~~ **all times. A pharmacist may not supervise more than six (6) pharmacy technicians or pharmacy technicians in training at any time.** As used in this ~~clause,~~ **subdivision,** "immediate and personal supervision" means within reasonable visual and vocal distance of the pharmacist.

(5) The pharmacy will be located separate and apart from any area containing merchandise not offered for sale under the pharmacy permit. The pharmacy will:

(A) be stationary;

(B) be sufficiently secure, either through electronic or physical means, or a combination of both, to protect the products contained in the pharmacy and to detect and deter entry during those times when the pharmacy is closed;

(C) be well lighted and ventilated with clean and sanitary surroundings;

(D) be equipped with a sink with hot and cold running water or some means for heating water, a proper sewage outlet, and refrigeration;

(E) have a prescription filling area of sufficient size to permit the practice of pharmacy as practiced at that particular pharmacy; and

(F) have such additional fixtures, facilities, and equipment as the board requires to enable it to operate properly as a pharmacy in compliance with federal and state laws and regulations governing pharmacies.

(b) Prior to opening a pharmacy after receipt of a pharmacy permit, the permit holder shall submit the premises to a qualifying inspection by a representative of the board and shall present a physical inventory of the drug and all other items in the inventory on the premises.

(c) At all times, the wholesale value of the drug inventory on the licensed items must be at least ten percent (10%) of the wholesale value of the items in the licensed area.

SECTION 6. IC 25-26-13-25, AS AMENDED BY P.L.174-2011, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 25. (a) All original prescriptions, whether in written or electronic format, shall be numbered and maintained in numerical and chronological order, or in a manner approved by the board and accessible for at least two (2) years in the pharmacy. A prescription transmitted from a practitioner by means of communication other than writing must immediately be reduced to writing or recorded in an electronic format by the pharmacist. The files shall be open for inspection to any member of the board or its duly authorized agent or representative.

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

(1) may transmit the prescription information between the

prescribing practitioner and the pharmacy;

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

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

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

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

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

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

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

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

(B) The prescription has expired under subsection ~~(g).~~ **(h).**

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

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

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

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

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

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

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

(C) The fact that the pharmacist dispensed the refill without the authorization of a licensed practitioner.

(7) The pharmacist notifies the original prescribing practitioner of the refill and the reason for the refill by the practitioner's next business day after the refill has been made by the pharmacist.

(8) Any pharmacist initiated refill under this subsection may not be for more than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day. However, a pharmacist may dispense a drug in an amount greater than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day if:

(A) the drug is packaged in a form that requires the pharmacist to dispense the drug in a quantity greater than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day; or

(B) the pharmacist documents in the patient's record the amount of the drug dispensed and a compelling reason for dispensing the drug in a quantity greater than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day.

(9) Not more than one (1) pharmacist initiated refill is dispensed under this subsection for a single prescription.

(10) The drug prescribed is not a controlled substance.

A pharmacist may not refill a prescription under this subsection if the practitioner has designated on the prescription form the words "No Emergency Refill".

(e) When refilling a prescription, the refill record shall include:

(1) the date of the refill;

(2) the quantity dispensed if other than the original quantity; and

(3) the dispenser's identity on:

(A) the original prescription form; or

(B) another board approved, uniformly maintained, readily retrievable record.

(f) The original prescription form or the other board approved record described in subsection (e) must indicate by the number of the original prescription the following information:

(1) The name and dosage form of the drug.

(2) The date of each refill.

(3) The quantity dispensed.

(4) The identity of the pharmacist who dispensed the refill.

(5) The total number of refills for that prescription.

(g) This subsection does not apply:

(1) unless a patient requests a prescription drug supply of more than thirty (30) days;

(2) to the dispensing of a controlled substance (as defined in IC 35-48-1-9); or

(3) if a prescriber indicates on the prescription that the quantity of the prescription may not be changed.

A pharmacist may dispense, upon request of the patient, personal or legal representative of the patient, or guardian of the patient, not more than a ninety (90) day supply of medication if the patient has completed an initial thirty (30) day supply of the drug therapy and the prescription, including any refills, allows a pharmacist to

dispense at least a ninety (90) day supply of the medication. However, a pharmacist shall notify the prescriber of the change in the quantity filled and must comply with state and federal laws and regulations concerning the dispensing limitations concerning a prescription drug. The pharmacist shall inform the customer concerning whether the additional supply of the prescription will be covered under the patient's insurance, if applicable.

~~(g)~~ **(h)** A prescription is valid for not more than one (1) year after the original date of issue.

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

~~(i)~~ **(j)** A pharmacist may not knowingly dispense a prescription after the demise of the patient.

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

(1) was dispensed to an individual:

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

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

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

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

(3) is returned unopened and:

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

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

(ii) unit dose package; or

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

(i) multiple dose blister container; or

(ii) unit dose package;

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

(5) is not expired; and

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

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

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

(2) are not expired; and

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

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

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

A infraction.

SECTION 7. IC 25-26-19-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. (a) The board shall issue a pharmacy technician certificate to an individual who:

(1) applies to the board in the form and manner prescribed by the board;

(2) is at least eighteen (18) years of age;

(3) has not been convicted of:

(A) a crime that has a direct bearing upon the individual's ability to practice competently; **or**

(B) a felony involving controlled substances;

(4) is not in violation of this chapter or rules adopted by the board under section 4 of this chapter;

(5) has paid the fee set by the board under section 4 of this chapter; and

(6) has completed a program of education and training approved by the board or has passed a certification examination offered by a nationally recognized certification body approved by the board.

(b) For good cause, the board may waive the age requirement under subsection (a)(2).

SECTION 8. IC 25-26-20-4, AS AMENDED BY P.L.204-2005, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. (a) Except as provided in subsections (b) and (c), unadulterated drugs that meet the requirements set forth in ~~IC 25-26-13-25(j)~~ **IC 25-26-13-25(k)** may be donated without a prescription or drug order to the regional drug repository program by the following:

(1) A pharmacist or pharmacy.

(2) A wholesale drug distributor.

(3) A hospital licensed under IC 16-21.

(4) A health care facility (as defined in IC 16-18-2-161).

(5) A hospice.

(6) A practitioner.

(b) An unadulterated drug that:

(1) was returned under IC 25-26-13-25; and

(2) was prescribed for a Medicaid recipient;

may not be donated under this section unless the Medicaid program has been credited for the product cost of the drug as provided in policies under the Medicaid program.

(c) A controlled drug may not be donated under this section.

SECTION 9. IC 25-26-22-4.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 4.2. (a) A third party payer may cause an onsite audit to occur at a particular pharmacy location not more than one (1) time per calendar year.**

(b) A company that conducts an audit for a third party payer may conduct an onsite audit at a particular pharmacy location not more than one (1) time per calendar year for each third party payer. However, if the audit results in a finding of a particular problem at the pharmacy, the auditor may return within the calendar year to determine ongoing compliance.

SECTION 10. IC 25-26-22-5, AS ADDED BY P.L.7-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. An auditor conducting an audit shall comply with all of the following:

(1) The contract under which the audit is performed must provide a description of audit procedures that will be followed.

(2) For an onsite audit conducted at a pharmacy's location, the auditor that conducts the audit shall provide written notice to the pharmacy at least two (2) weeks before the initial onsite audit is performed for each audit cycle.

(3) The auditor shall not interfere with the delivery of pharmacist services to a patient and shall use every effort to minimize inconvenience and disruption to pharmacy operations during the audit. This subdivision does not prohibit audits during normal business hours of the pharmacy.

(4) If the audit requires use of clinical or professional judgment, the audit must be conducted by or in consultation with a licensed pharmacist.

(5) The auditor shall allow the use of written or otherwise transmitted hospital, physician, or other health practitioner records to validate a pharmacy record with respect to a prescription for a legend drug.

(6) The auditor shall perform the audit according to the same standards and parameters that the auditor uses to audit all other similarly situated pharmacies on behalf of the third party payer.

(7) The period covered by the audit must not exceed twenty-four (24) months after the date on which the claim that is the subject of the audit was submitted to or adjudicated by the third party payer, and the pharmacy must be permitted to resubmit electronically any claims disputed by the audit. This subdivision does not limit the period for audits under the Medicaid program that are conducted due to a federal requirement.

(8) The audit must not be initiated or scheduled during the first ~~five (5)~~ **seven (7)** calendar days of any month without the voluntary consent of the pharmacy. The consent may not be mandated by a contract or any other means.

(9) Payment to the onsite auditor for conducting the audit must not be based on a percentage of any amount recovered as a result of the audit.

(10) Within twenty-four (24) hours of receiving the notice of an audit, a pharmacy may reschedule the audit to a date not more than fourteen (14) days after the date proposed by the auditor. However, if the auditor is unable to reschedule within the fourteen (14) day period, the auditor shall select and reschedule the audit for a date after the fourteen (14) day period.

(11) This subdivision does not apply to an audit conducted by the Medicaid program. If a clerical error is identified by the auditor during the course of an audit, the auditor shall allow the pharmacy to obtain a prescription that corrects the clerical error from the prescribing physician. However, if the

clerical error results in an overpayment to the pharmacy, the overpayment may be recouped by the third party payer.

SECTION 11. IC 25-26-22-6, AS ADDED BY P.L.7-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. **(a) This section does not apply to an audit conducted by the Medicaid, Medicare, or any other federal program.**

(b) Following an audit, the auditor shall provide to the pharmacy written audit reports as follows:

(1) The auditor shall deliver a preliminary audit report to the pharmacy not later than ninety (90) days after the audit is concluded.

(2) The auditor shall provide with the preliminary audit report a written appeal procedure for the pharmacy to follow if the pharmacy desires to appeal a finding contained in the preliminary audit report. **The written appeal procedure must provide for a period of at least thirty (30) days after the pharmacy receives the preliminary audit report during which the pharmacy may file an appeal of findings contained in the preliminary audit report.**

(3) The auditor shall deliver a final audit report to the pharmacy not later than one hundred twenty (120) days after:

(A) the preliminary audit report is received by the pharmacy; or

(B) if an appeal is filed, a final appeal determination is made; whichever is later.

(4) Each audit report must be signed by the auditor and a pharmacist participating in the audit.

(5) The auditor shall provide a copy of the final audit report to the third party payer.

(c) If requested by the pharmacy, the auditor shall provide the audit report under this section to the pharmacy by a means that allows signature confirmation, including an electronic signature (as defined by IC 25-26-13-2). If the audit report is sent by electronic mail, any other verification system may be used, provided that the receipt is acknowledged by the pharmacy.

SECTION 12. IC 25-26-22-9, AS ADDED BY P.L.7-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 9. **(a) This section does not apply to an audit conducted by the Medicaid, Medicare, or any other federal program.**

~~(a) A final audit report must first be distributed~~ **(b)** Before recoupment of funds may be made based on an audit finding of overpayment or underpayment:

(1) a final audit report must be distributed; and

(2) except when an audit finds that fraud, willful misrepresentation, or alleged serious abuse has occurred, at least thirty (30) days must elapse after the date on which the final audit report is distributed before the recoupment of funds exceeding ten thousand dollars ($10,000).

~~(b) Except for audits conducted under the Medicaid program,~~ **(c)**

Interest on funds described in subsection ~~(a)~~ **(b)** does not accrue during the audit period.

SECTION 13. [EFFECTIVE JULY 1, 2012] **(a) As used in this SECTION, "commission" refers to the health finance commission established by IC 2-5-23-3.**

(b) During the 2012 legislative interim, the commission shall study:

(1) retail pharmacies;

(2) community pharmacies; and

(3) mail order or Internet based pharmacies (as defined in IC 25-26-18-1);

and any limitations that should be placed in statute concerning the amount of a prescription drug that may be dispensed by the pharmacies.

(c) The commission shall make findings and recommendations concerning the following:

(1) The number of individuals covered under a state employee health plan with a copayment, a coinsurance amount, or other out-of-pocket costs for prescription drugs that exceed:

(A) two hundred dollars ($200) for a one (1) month supply of a single prescription drug; or

(B) five hundred dollars ($500) for a one (1) month supply of more than one (1) prescription drug.

(2) The number of individuals covered under a policy of accident and sickness insurance with a copayment, a coinsurance amount, or other out-of-pocket costs for prescription drugs that exceed:

(A) two hundred dollars ($200) for a one (1) month supply of a single prescription drug; or

(B) five hundred dollars ($500) for a one (1) month supply of more than one (1) prescription drug.

(3) The number of individuals covered under a health maintenance organization contract with a copayment, a coinsurance amount, or other out-of-pocket costs for prescription drugs that exceed:

(A) two hundred dollars ($200) for a one (1) month supply of a single prescription drug; or

(B) five hundred dollars ($500) for a one (1) month supply of more than one (1) prescription drug.

(4) The number of individuals who may become eligible for Medicaid as a result of copayments, coinsurance amounts, or other out-of-pocket costs for prescription drugs as described in this SECTION.

(d) The state personnel department and the Indiana department of insurance shall assist the commission in obtaining the information necessary under subsection (c).

(e) This SECTION expires December 31, 2012.

(Reference is to ESB 407 as reprinted March 1, 2012.)

Conference Committee Report
on
Engrossed Senate Bill 407

Signed by:

Senator Grooms Chairperson	Representative Davisson
Senator Breaux	Representative Welch
Senate Conferees	**House Conferees**