

Adopted	Rejected
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COMMITTEE REPORT

YES:	11
NO:	0

MR. SPEAKER:

*Your Committee on Courts and Criminal Code, to which was referred House Bill 1196, 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 Replace the effective dates in SECTIONS 1 through 2 with
- 2 "[EFFECTIVE UPON PASSAGE]".
- 3 Page 1, between the enacting clause and line 1, begin a new
- 4 paragraph and insert:
- 5 "SECTION 1. IC 16-31-3-14, AS AMENDED BY P.L.182-2011,
- 6 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 7 UPON PASSAGE]: Sec. 14. (a) A person holding a certificate issued
- 8 under this article must comply with the applicable standards and rules
- 9 established under this article. A certificate holder is subject to
- 10 disciplinary sanctions under subsection (b) if the department of
- 11 homeland security determines that the certificate holder:
- 12 (1) engaged in or knowingly cooperated in fraud or material
- 13 deception in order to obtain a certificate, including cheating on a
- 14 certification examination;
- 15 (2) engaged in fraud or material deception in the course of
- 16 professional services or activities;

- 1 (3) advertised services or goods in a false or misleading manner;
2 (4) falsified or knowingly allowed another person to falsify
3 attendance records or certificates of completion of continuing
4 education courses required under this article or rules adopted
5 under this article;
6 (5) is convicted of a crime, if the act that resulted in the
7 conviction has a direct bearing on determining if the certificate
8 holder should be entrusted to provide emergency medical
9 services;
10 (6) is convicted of violating IC 9-19-14.5;
11 (7) fails to comply and maintain compliance with or violates any
12 applicable provision, standard, or other requirement of this article
13 or rules adopted under this article;
14 (8) continues to practice if the certificate holder becomes unfit to
15 practice due to:
16 (A) professional incompetence that includes the undertaking
17 of professional activities that the certificate holder is not
18 qualified by training or experience to undertake;
19 (B) failure to keep abreast of current professional theory or
20 practice;
21 (C) physical or mental disability; or
22 (D) addiction to, abuse of, or dependency on alcohol or other
23 drugs that endanger the public by impairing the certificate
24 holder's ability to practice safely;
25 (9) engages in a course of lewd or immoral conduct in connection
26 with the delivery of services to the public;
27 (10) allows the certificate holder's name or a certificate issued
28 under this article to be used in connection with a person who
29 renders services beyond the scope of that person's training,
30 experience, or competence;
31 (11) is subjected to disciplinary action in another state or
32 jurisdiction on grounds similar to those contained in this chapter.
33 For purposes of this subdivision, a certified copy of a record of
34 disciplinary action constitutes prima facie evidence of a
35 disciplinary action in another jurisdiction;
36 (12) assists another person in committing an act that would
37 constitute a ground for disciplinary sanction under this chapter;
38 or

- 1 (13) allows a certificate issued by the commission to be:
- 2 (A) used by another person; or
- 3 (B) displayed to the public when the certificate is expired,
- 4 inactive, invalid, revoked, or suspended.
- 5 (b) The department of homeland security may issue an order under
- 6 IC 4-21.5-3-6 to impose one (1) or more of the following sanctions if
- 7 the department of homeland security determines that a certificate
- 8 holder is subject to disciplinary sanctions under subsection (a):
- 9 (1) Revocation of a certificate holder's certificate for a period not
- 10 to exceed seven (7) years.
- 11 (2) Suspension of a certificate holder's certificate for a period not
- 12 to exceed seven (7) years.
- 13 (3) Censure of a certificate holder.
- 14 (4) Issuance of a letter of reprimand.
- 15 (5) Assessment of a civil penalty against the certificate holder in
- 16 accordance with the following:
- 17 (A) The civil penalty may not exceed five hundred dollars
- 18 (\$500) per day per violation.
- 19 (B) If the certificate holder fails to pay the civil penalty within
- 20 the time specified by the department of homeland security, the
- 21 department of homeland security may suspend the certificate
- 22 holder's certificate without additional proceedings.
- 23 (6) Placement of a certificate holder on probation status and
- 24 requirement of the certificate holder to:
- 25 (A) report regularly to the department of homeland security
- 26 upon the matters that are the basis of probation;
- 27 (B) limit practice to those areas prescribed by the department
- 28 of homeland security;
- 29 (C) continue or renew professional education approved by the
- 30 department of homeland security until a satisfactory degree of
- 31 skill has been attained in those areas that are the basis of the
- 32 probation; or
- 33 (D) perform or refrain from performing any acts, including
- 34 community restitution or service without compensation, that
- 35 the department of homeland security considers appropriate to
- 36 the public interest or to the rehabilitation or treatment of the
- 37 certificate holder.
- 38 The department of homeland security may withdraw or modify

1 this probation if the department of homeland security finds after
2 a hearing that the deficiency that required disciplinary action is
3 remedied or that changed circumstances warrant a modification
4 of the order.

5 (c) If an applicant or a certificate holder has engaged in or
6 knowingly cooperated in fraud or material deception to obtain a
7 certificate, including cheating on the certification examination, the
8 department of homeland security may rescind the certificate if it has
9 been granted, void the examination or other fraudulent or deceptive
10 material, and prohibit the applicant from reapplying for the certificate
11 for a length of time established by the department of homeland
12 security.

13 (d) The department of homeland security may deny certification to
14 an applicant who would be subject to disciplinary sanctions under
15 subsection (b) if that person were a certificate holder, has had
16 disciplinary action taken against the applicant or the applicant's
17 certificate to practice in another state or jurisdiction, or has practiced
18 without a certificate in violation of the law. A certified copy of the
19 record of disciplinary action is conclusive evidence of the other
20 jurisdiction's disciplinary action.

21 (e) The department of homeland security may order a certificate
22 holder to submit to a reasonable physical or mental examination if the
23 certificate holder's physical or mental capacity to practice safely and
24 competently is at issue in a disciplinary proceeding. Failure to comply
25 with a department of homeland security order to submit to a physical
26 or mental examination makes a certificate holder liable to temporary
27 suspension under subsection (i).

28 (f) Except as provided under subsection (a), subsection (g), and
29 section 14.5 of this chapter, a certificate may not be denied, revoked,
30 or suspended because the applicant or certificate holder has been
31 convicted of an offense. The acts from which the applicant's or
32 certificate holder's conviction resulted may be considered as to whether
33 the applicant or certificate holder should be entrusted to serve the
34 public in a specific capacity.

35 (g) The department of homeland security may deny, suspend, or
36 revoke a certificate issued under this article if the individual who holds
37 or is applying for the certificate is convicted of any of the following:

38 (1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.

- 1 (2) Possession of methamphetamine under IC 35-48-4-6.1.
- 2 (3) Possession of a controlled substance under IC 35-48-4-7(a).
- 3 (4) Fraudulently obtaining a controlled substance under
- 4 IC 35-48-4-7(b).
- 5 (5) Manufacture of paraphernalia as a Class D felony under
- 6 IC 35-48-4-8.1(b).
- 7 (6) Dealing in paraphernalia as a Class D felony under
- 8 IC 35-48-4-8.5(b).
- 9 (7) Possession of paraphernalia as a Class D felony under
- 10 IC 35-48-4-8.3(b).
- 11 (8) Possession of marijuana, hash oil, hashish, salvia, or a
- 12 synthetic ~~cannabinoid~~ **drug** as a Class D felony under
- 13 IC 35-48-4-11.
- 14 (9) Maintaining a common nuisance under IC 35-48-4-13.
- 15 (10) An offense relating to registration, labeling, and prescription
- 16 forms under IC 35-48-4-14.
- 17 (11) Conspiracy under IC 35-41-5-2 to commit an offense listed
- 18 in subdivisions (1) through (10).
- 19 (12) Attempt under IC 35-41-5-1 to commit an offense listed in
- 20 subdivisions (1) through (10).
- 21 (13) An offense in any other jurisdiction in which the elements of
- 22 the offense for which the conviction was entered are substantially
- 23 similar to the elements of an offense described by subdivisions (1)
- 24 through (12).
- 25 (h) A decision of the department of homeland security under
- 26 subsections (b) through (g) may be appealed to the commission under
- 27 IC 4-21.5-3-7.
- 28 (i) The department of homeland security may temporarily suspend
- 29 a certificate holder's certificate under IC 4-21.5-4 before a final
- 30 adjudication or during the appeals process if the department of
- 31 homeland security finds that a certificate holder would represent a clear
- 32 and immediate danger to the public's health, safety, or property if the
- 33 certificate holder were allowed to continue to practice.
- 34 (j) On receipt of a complaint or information alleging that a person
- 35 certified under this chapter or IC 16-31-3.5 has engaged in or is
- 36 engaging in a practice that is subject to disciplinary sanctions under
- 37 this chapter, the department of homeland security must initiate an
- 38 investigation against the person.

1 (k) The department of homeland security shall conduct a factfinding
 2 investigation as the department of homeland security considers proper
 3 in relation to the complaint.

4 (l) The department of homeland security may reinstate a certificate
 5 that has been suspended under this section if the department of
 6 homeland security is satisfied that the applicant is able to practice with
 7 reasonable skill, competency, and safety to the public. As a condition
 8 of reinstatement, the department of homeland security may impose
 9 disciplinary or corrective measures authorized under this chapter.

10 (m) The department of homeland security may not reinstate a
 11 certificate that has been revoked under this chapter.

12 (n) The department of homeland security must be consistent in the
 13 application of sanctions authorized in this chapter. Significant
 14 departures from prior decisions involving similar conduct must be
 15 explained in the department of homeland security's findings or orders.

16 (o) A certificate holder may not surrender the certificate holder's
 17 certificate without the written approval of the department of homeland
 18 security, and the department of homeland security may impose any
 19 conditions appropriate to the surrender or reinstatement of a
 20 surrendered certificate.

21 (p) For purposes of this section, "certificate holder" means a person
 22 who holds:

- 23 (1) an unlimited certificate;
- 24 (2) a limited or probationary certificate; or
- 25 (3) an inactive certificate.

26 SECTION 2. IC 16-31-3-14.5, AS AMENDED BY P.L.182-2011,
 27 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 UPON PASSAGE]: Sec. 14.5. The department of homeland security
 29 may issue an order under IC 4-21.5-3-6 to deny an applicant's request
 30 for certification or permanently revoke a certificate under procedures
 31 provided by section 14 of this chapter if the individual who holds the
 32 certificate issued under this title is convicted of any of the following:

- 33 (1) Dealing in or manufacturing cocaine or a narcotic drug under
 34 IC 35-48-4-1.
- 35 (2) Dealing in methamphetamine under IC 35-48-4-1.1.
- 36 (3) Dealing in a schedule I, II, or III controlled substance under
 37 IC 35-48-4-2.
- 38 (4) Dealing in a schedule IV controlled substance under

- 1 IC 35-48-4-3.
 2 (5) Dealing in a schedule V controlled substance under
 3 IC 35-48-4-4.
 4 (6) Dealing in a substance represented to be a controlled
 5 substance under IC 35-48-4-4.5.
 6 (7) Knowingly or intentionally manufacturing, advertising,
 7 distributing, or possessing with intent to manufacture, advertise,
 8 or distribute a substance represented to be a controlled substance
 9 under IC 35-48-4-4.6.
 10 (8) Dealing in a counterfeit substance under IC 35-48-4-5.
 11 (9) Dealing in marijuana, hash oil, hashish, salvia, or a synthetic
 12 **cannabinoid drug** under IC 35-48-4-10(b).
 13 (10) Conspiracy under IC 35-41-5-2 to commit an offense listed
 14 in subdivisions (1) through (9).
 15 (11) Attempt under IC 35-41-5-1 to commit an offense listed in
 16 subdivisions (1) through (9).
 17 (12) A crime of violence (as defined in IC 35-50-1-2(a)).
 18 (13) An offense in any other jurisdiction in which the elements of
 19 the offense for which the conviction was entered are substantially
 20 similar to the elements of an offense described under subdivisions
 21 (1) through (12).
 22 SECTION 3. IC 20-28-5-8, AS AMENDED BY P.L.155-2011,
 23 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 UPON PASSAGE]: Sec. 8. (a) This section applies when a prosecuting
 25 attorney knows that a licensed employee of a public school or a
 26 nonpublic school has been convicted of an offense listed in subsection
 27 (c). The prosecuting attorney shall immediately give written notice of
 28 the conviction to the following:
 29 (1) The state superintendent.
 30 (2) Except as provided in subdivision (3), the superintendent of
 31 the school corporation that employs the licensed employee or the
 32 equivalent authority if a nonpublic school employs the licensed
 33 employee.
 34 (3) The presiding officer of the governing body of the school
 35 corporation that employs the licensed employee, if the convicted
 36 licensed employee is the superintendent of the school corporation.
 37 (b) The superintendent of a school corporation, presiding officer of
 38 the governing body, or equivalent authority for a nonpublic school shall

1 immediately notify the state superintendent when the individual knows
 2 that a current or former licensed employee of the public school or
 3 nonpublic school has been convicted of an offense listed in subsection
 4 (c), or when the governing body or equivalent authority for a nonpublic
 5 school takes any final action in relation to an employee who engaged
 6 in any offense listed in subsection (c).

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

- 10 (1) Kidnapping (IC 35-42-3-2).
- 11 (2) Criminal confinement (IC 35-42-3-3).
- 12 (3) Rape (IC 35-42-4-1).
- 13 (4) Criminal deviate conduct (IC 35-42-4-2).
- 14 (5) Child molesting (IC 35-42-4-3).
- 15 (6) Child exploitation (IC 35-42-4-4(b)).
- 16 (7) Vicarious sexual gratification (IC 35-42-4-5).
- 17 (8) Child solicitation (IC 35-42-4-6).
- 18 (9) Child seduction (IC 35-42-4-7).
- 19 (10) Sexual misconduct with a minor (IC 35-42-4-9).
- 20 (11) Incest (IC 35-46-1-3).
- 21 (12) Dealing in or manufacturing cocaine or a narcotic drug
 22 (IC 35-48-4-1).
- 23 (13) Dealing in methamphetamine (IC 35-48-4-1.1).
- 24 (14) Dealing in a schedule I, II, or III controlled substance
 25 (IC 35-48-4-2).
- 26 (15) Dealing in a schedule IV controlled substance
 27 (IC 35-48-4-3).
- 28 (16) Dealing in a schedule V controlled substance (IC 35-48-4-4).
- 29 (17) Dealing in a counterfeit substance (IC 35-48-4-5).
- 30 (18) Dealing in marijuana, hash oil, hashish, salvia, or a synthetic
 31 **cannabinoid drug** (IC 35-48-4-10(b)).
- 32 (19) Possession of child pornography (IC 35-42-4-4(c)).
- 33 (20) Homicide (IC 35-42-1).
- 34 (21) Voluntary manslaughter (IC 35-42-1-3).
- 35 (22) Reckless homicide (IC 35-42-1-5).
- 36 (23) Battery as any of the following:
 37 (A) A Class A felony (IC 35-42-2-1(a)(5)).
 38 (B) A Class B felony (IC 35-42-2-1(a)(4)).

- 1 (C) A Class C felony (IC 35-42-2-1(a)(3)).
 2 (24) Aggravated battery (IC 35-42-2-1.5).
 3 (25) Robbery (IC 35-42-5-1).
 4 (26) Carjacking (IC 35-42-5-2).
 5 (27) Arson as a Class A felony or a Class B felony
 6 (IC 35-43-1-1(a)).
 7 (28) Burglary as a Class A felony or a Class B felony
 8 (IC 35-43-2-1).
 9 (29) Attempt under IC 35-41-5-1 to commit an offense listed in
 10 subdivisions (1) through (28).
 11 (30) Conspiracy under IC 35-41-5-2 to commit an offense listed
 12 in subdivisions (1) through (28).
- 13 (d) The department, after holding a hearing on the matter, shall
 14 permanently revoke the license of a person who is known by the
 15 department to have been convicted of a federal offense or an offense in
 16 another state that is comparable to a felony listed in subsection (c).
- 17 (e) A license may be suspended by the state superintendent as
 18 specified in IC 20-28-7.5.
- 19 (f) The department shall develop a data base of information on
 20 school corporation employees who have been reported to the
 21 department under this section.
- 22 SECTION 4. IC 22-15-5-16, AS AMENDED BY P.L.182-2011,
 23 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 UPON PASSAGE]: Sec. 16. (a) A practitioner shall comply with the
 25 standards established under this licensing program. A practitioner is
 26 subject to the exercise of the disciplinary sanctions under subsection
 27 (b) if the department finds that a practitioner has:
- 28 (1) engaged in or knowingly cooperated in fraud or material
 29 deception in order to obtain a license to practice, including
 30 cheating on a licensing examination;
 31 (2) engaged in fraud or material deception in the course of
 32 professional services or activities;
 33 (3) advertised services or goods in a false or misleading manner;
 34 (4) falsified or knowingly allowed another person to falsify
 35 attendance records or certificates of completion of continuing
 36 education courses provided under this chapter;
 37 (5) been convicted of a crime that has a direct bearing on the
 38 practitioner's ability to continue to practice competently;

- 1 (6) knowingly violated a state statute or rule or federal statute or
- 2 regulation regulating the profession for which the practitioner is
- 3 licensed;
- 4 (7) continued to practice although the practitioner has become
- 5 unfit to practice due to:
 - 6 (A) professional incompetence;
 - 7 (B) failure to keep abreast of current professional theory or
 - 8 practice;
 - 9 (C) physical or mental disability; or
 - 10 (D) addiction to, abuse of, or severe dependency on alcohol or
 - 11 other drugs that endanger the public by impairing a
 - 12 practitioner's ability to practice safely;
- 13 (8) engaged in a course of lewd or immoral conduct in connection
- 14 with the delivery of services to the public;
- 15 (9) allowed the practitioner's name or a license issued under this
- 16 chapter to be used in connection with an individual or business
- 17 who renders services beyond the scope of that individual's or
- 18 business's training, experience, or competence;
- 19 (10) had disciplinary action taken against the practitioner or the
- 20 practitioner's license to practice in another state or jurisdiction on
- 21 grounds similar to those under this chapter;
- 22 (11) assisted another person in committing an act that would
- 23 constitute a ground for disciplinary sanction under this chapter;
- 24 or
- 25 (12) allowed a license issued by the department to be:
 - 26 (A) used by another person; or
 - 27 (B) displayed to the public when the license has expired, is
 - 28 inactive, is invalid, or has been revoked or suspended.
- 29 For purposes of subdivision (10), a certified copy of a record of
- 30 disciplinary action constitutes prima facie evidence of a disciplinary
- 31 action in another jurisdiction.
- 32 (b) The department may impose one (1) or more of the following
- 33 sanctions if the department finds that a practitioner is subject to
- 34 disciplinary sanctions under subsection (a):
 - 35 (1) Permanent revocation of a practitioner's license.
 - 36 (2) Suspension of a practitioner's license.
 - 37 (3) Censure of a practitioner.
 - 38 (4) Issuance of a letter of reprimand.

1 (5) Assess a civil penalty against the practitioner in accordance
2 with the following:

3 (A) The civil penalty may not be more than one thousand
4 dollars (\$1,000) for each violation listed in subsection (a),
5 except for a finding of incompetency due to a physical or
6 mental disability.

7 (B) When imposing a civil penalty, the department shall
8 consider a practitioner's ability to pay the amount assessed. If
9 the practitioner fails to pay the civil penalty within the time
10 specified by the department, the department may suspend the
11 practitioner's license without additional proceedings. However,
12 a suspension may not be imposed if the sole basis for the
13 suspension is the practitioner's inability to pay a civil penalty.

14 (6) Place a practitioner on probation status and require the
15 practitioner to:

16 (A) report regularly to the department upon the matters that
17 are the basis of probation;

18 (B) limit practice to those areas prescribed by the department;

19 (C) continue or renew professional education approved by the
20 department until a satisfactory degree of skill has been attained
21 in those areas that are the basis of the probation; or

22 (D) perform or refrain from performing any acts, including
23 community restitution or service without compensation, that
24 the department considers appropriate to the public interest or
25 to the rehabilitation or treatment of the practitioner.

26 The department may withdraw or modify this probation if the
27 department finds after a hearing that the deficiency that required
28 disciplinary action has been remedied or that changed
29 circumstances warrant a modification of the order.

30 (c) If an applicant or a practitioner has engaged in or knowingly
31 cooperated in fraud or material deception to obtain a license to
32 practice, including cheating on the licensing examination, the
33 department may rescind the license if it has been granted, void the
34 examination or other fraudulent or deceptive material, and prohibit the
35 applicant from reapplying for the license for a length of time
36 established by the department.

37 (d) The department may deny licensure to an applicant who has had
38 disciplinary action taken against the applicant or the applicant's license

1 to practice in another state or jurisdiction or who has practiced without
2 a license in violation of the law. A certified copy of the record of
3 disciplinary action is conclusive evidence of the other jurisdiction's
4 disciplinary action.

5 (e) The department may order a practitioner to submit to a
6 reasonable physical or mental examination if the practitioner's physical
7 or mental capacity to practice safely and competently is at issue in a
8 disciplinary proceeding. Failure to comply with a department order to
9 submit to a physical or mental examination makes a practitioner liable
10 to temporary suspension under subsection (j).

11 (f) Except as provided under subsection (g) or (h), a license may not
12 be denied, revoked, or suspended because the applicant or holder has
13 been convicted of an offense. The acts from which the applicant's or
14 holder's conviction resulted may, however, be considered as to whether
15 the applicant or holder should be entrusted to serve the public in a
16 specific capacity.

17 (g) The department may deny, suspend, or revoke a license issued
18 under this chapter if the individual who holds the license is convicted
19 of any of the following:

- 20 (1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.
- 21 (2) Possession of methamphetamine under IC 35-48-4-6.1.
- 22 (3) Possession of a controlled substance under IC 35-48-4-7(a).
- 23 (4) Fraudulently obtaining a controlled substance under
24 IC 35-48-4-7(b).
- 25 (5) Manufacture of paraphernalia as a Class D felony under
26 IC 35-48-4-8.1(b).
- 27 (6) Dealing in paraphernalia as a Class D felony under
28 IC 35-48-4-8.5(b).
- 29 (7) Possession of paraphernalia as a Class D felony under
30 IC 35-48-4-8.3(b).
- 31 (8) Possession of marijuana, hash oil, hashish, salvia, or a
32 synthetic ~~cannabinoid~~ **drug** as a Class D felony under
33 IC 35-48-4-11.
- 34 (9) Maintaining a common nuisance under IC 35-48-4-13.
- 35 (10) An offense relating to registration, labeling, and prescription
36 forms under IC 35-48-4-14.
- 37 (11) Conspiracy under IC 35-41-5-2 to commit an offense listed
38 in subdivisions (1) through (10).

- 1 (12) Attempt under IC 35-41-5-1 to commit an offense listed in
- 2 subdivisions (1) through (10).
- 3 (13) An offense in any other jurisdiction in which the elements of
- 4 the offense for which the conviction was entered are substantially
- 5 similar to the elements of an offense described in subdivisions (1)
- 6 through (12).
- 7 (h) The department shall deny, revoke, or suspend a license issued
- 8 under this chapter if the individual who holds the license is convicted
- 9 of any of the following:
 - 10 (1) Dealing in cocaine or a narcotic drug under IC 35-48-4-1.
 - 11 (2) Dealing in methamphetamine under IC 35-48-4-1.1.
 - 12 (3) Dealing in a schedule I, II, or III controlled substance under
 - 13 IC 35-48-4-2.
 - 14 (4) Dealing in a schedule IV controlled substance under
 - 15 IC 35-48-4-3.
 - 16 (5) Dealing in a schedule V controlled substance under
 - 17 IC 35-48-4-4.
 - 18 (6) Dealing in a substance represented to be a controlled
 - 19 substance under IC 35-48-4-4.5.
 - 20 (7) Knowingly or intentionally manufacturing, advertising,
 - 21 distributing, or possessing with intent to manufacture, advertise,
 - 22 or distribute a substance represented to be a controlled substance
 - 23 under IC 35-48-4-4.6.
 - 24 (8) Dealing in a counterfeit substance under IC 35-48-4-5.
 - 25 (9) Dealing in marijuana, hash oil, hashish, salvia, or a synthetic
 - 26 **cannabinoid drug** under IC 35-48-4-10(b).
 - 27 (10) Conspiracy under IC 35-41-5-2 to commit an offense listed
 - 28 in subdivisions (1) through (9).
 - 29 (11) Attempt under IC 35-41-5-1 to commit an offense listed in
 - 30 subdivisions (1) through (9).
 - 31 (12) An offense in any other jurisdiction in which the elements of
 - 32 the offense for which the conviction was entered are substantially
 - 33 similar to the elements of an offense described in subdivisions (1)
 - 34 through (11).
 - 35 (13) A violation of any federal or state drug law or rule related to
 - 36 wholesale legend drug distributors licensed under IC 25-26-14.
 - 37 (i) A decision of the department under subsections (b) through (h)
 - 38 may be appealed to the commission under IC 4-21.5-3-7.

1 (j) The department may temporarily suspend a practitioner's license
2 under IC 4-21.5-4 before a final adjudication or during the appeals
3 process if the department finds that a practitioner represents a clear and
4 immediate danger to the public's health, safety, or property if the
5 practitioner is allowed to continue to practice.

6 (k) On receipt of a complaint or an information alleging that a
7 person licensed under this chapter has engaged in or is engaging in a
8 practice that jeopardizes the public health, safety, or welfare, the
9 department shall initiate an investigation against the person.

10 (l) Any complaint filed with the office of the attorney general
11 alleging a violation of this licensing program shall be referred to the
12 department for summary review and for its general information and any
13 authorized action at the time of the filing.

14 (m) The department shall conduct a fact finding investigation as the
15 department considers proper in relation to the complaint.

16 (n) The department may reinstate a license that has been suspended
17 under this section if, after a hearing, the department is satisfied that the
18 applicant is able to practice with reasonable skill, safety, and
19 competency to the public. As a condition of reinstatement, the
20 department may impose disciplinary or corrective measures authorized
21 under this chapter.

22 (o) The department may not reinstate a license that has been
23 revoked under this chapter. An individual whose license has been
24 revoked under this chapter may not apply for a new license until seven
25 (7) years after the date of revocation.

26 (p) The department shall seek to achieve consistency in the
27 application of sanctions authorized in this chapter. Significant
28 departures from prior decisions involving similar conduct must be
29 explained in the department's findings or orders.

30 (q) A practitioner may petition the department to accept the
31 surrender of the practitioner's license instead of having a hearing before
32 the commission. The practitioner may not surrender the practitioner's
33 license without the written approval of the department, and the
34 department may impose any conditions appropriate to the surrender or
35 reinstatement of a surrendered license.

36 (r) A practitioner who has been subjected to disciplinary sanctions
37 may be required by the commission to pay the costs of the proceeding.
38 The practitioner's ability to pay shall be considered when costs are

1 assessed. If the practitioner fails to pay the costs, a suspension may not
 2 be imposed solely upon the practitioner's inability to pay the amount
 3 assessed. The costs are limited to costs for the following:

- 4 (1) Court reporters.
- 5 (2) Transcripts.
- 6 (3) Certification of documents.
- 7 (4) Photo duplication.
- 8 (5) Witness attendance and mileage fees.
- 9 (6) Postage.
- 10 (7) Expert witnesses.
- 11 (8) Depositions.
- 12 (9) Notarizations.

13 SECTION 5. IC 25-1-1.1-2, AS AMENDED BY P.L.138-2011,
 14 SECTION 6, AND P.L.182-2011, SECTION 6, AND AS AMENDED
 15 BY P.L.155-2011, SECTION 6, IS CORRECTED AND AMENDED
 16 TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.
 17 *Notwithstanding IC 25-1-7*, a board, a commission, or a committee may
 18 suspend, *deny*, or revoke a license or certificate issued under this title
 19 by the board, the commission, or the committee *without an*
 20 *investigation by the office of the attorney general* if the individual who
 21 holds the license or certificate is convicted of any of the following *and*
 22 *the board, commission, or committee determines, after the individual*
 23 *has appeared in person, that the offense affects the individual's ability*
 24 *to perform the duties of the profession:*

- 25 (1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.
- 26 (2) Possession of methamphetamine under IC 35-48-4-6.1.
- 27 (3) Possession of a controlled substance under IC 35-48-4-7(a).
- 28 (4) Fraudulently obtaining a controlled substance under
 29 IC 35-48-4-7(b).
- 30 (5) Manufacture of paraphernalia as a Class D felony under
 31 IC 35-48-4-8.1(b).
- 32 (6) Dealing in paraphernalia as a Class D felony under
 33 IC 35-48-4-8.5(b).
- 34 (7) Possession of paraphernalia as a Class D felony under
 35 IC 35-48-4-8.3(b).
- 36 (8) Possession of marijuana, hash oil, ~~or~~ hashish, *salvia*, or a
 37 *synthetic cannabinoid drug* as a Class D felony under
 38 IC 35-48-4-11.

- 1 (9) Maintaining a common nuisance under IC 35-48-4-13.
- 2 (10) An offense relating to registration, labeling, and prescription
- 3 forms under IC 35-48-4-14.
- 4 (11) Conspiracy under IC 35-41-5-2 to commit an offense listed
- 5 in subdivisions (1) through (10).
- 6 (12) Attempt under IC 35-41-5-1 to commit an offense listed in
- 7 subdivisions (1) through (10).
- 8 ~~(13) An offense in any other jurisdiction in which the elements of~~
- 9 ~~the offense for which the conviction was entered are substantially~~
- 10 ~~similar to the elements of an offense described under subdivisions~~
- 11 ~~(1) through (12).~~
- 12 *(13) A sex crime under IC 35-42-4.*
- 13 *(14) A felony that reflects adversely on the individual's fitness to*
- 14 *hold a professional license.*
- 15 *(15) An offense in any other jurisdiction in which the elements of*
- 16 *the offense for which the conviction was entered are substantially*
- 17 *similar to the elements of an offense described in this section.*
- 18 SECTION 6. IC 25-1-1.1-3, AS AMENDED BY P.L.182-2011,
- 19 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 20 UPON PASSAGE]: Sec. 3. A board, a commission, or a committee
- 21 shall revoke or suspend a license or certificate issued under this title by
- 22 the board, the commission, or the committee if the individual who
- 23 holds the license or certificate is convicted of any of the following:
- 24 (1) Dealing in or manufacturing cocaine or a narcotic drug under
- 25 IC 35-48-4-1.
- 26 (2) Dealing in methamphetamine under IC 35-48-4-1.1.
- 27 (3) Dealing in a schedule I, II, or III controlled substance under
- 28 IC 35-48-4-2.
- 29 (4) Dealing in a schedule IV controlled substance under
- 30 IC 35-48-4-3.
- 31 (5) Dealing in a schedule V controlled substance under
- 32 IC 35-48-4-4.
- 33 (6) Dealing in a substance represented to be a controlled
- 34 substance under IC 35-48-4-4.5.
- 35 (7) Knowingly or intentionally manufacturing, advertising,
- 36 distributing, or possessing with intent to manufacture, advertise,
- 37 or distribute a substance represented to be a controlled substance
- 38 under IC 35-48-4-4.6.

- 1 (8) Dealing in a counterfeit substance under IC 35-48-4-5.
 2 (9) Dealing in marijuana, hash oil, hashish, salvia, or a synthetic
 3 **cannabinoid drug** under IC 35-48-4-10(b).
 4 (10) Conspiracy under IC 35-41-5-2 to commit an offense listed
 5 in subdivisions (1) through (9).
 6 (11) Attempt under IC 35-41-5-1 to commit an offense listed in
 7 subdivisions (1) through (9).
 8 (12) An offense in any other jurisdiction in which the elements of
 9 the offense for which the conviction was entered are substantially
 10 similar to the elements of an offense described under subdivisions
 11 (1) through (11).
 12 (13) A violation of any federal or state drug law or rule related to
 13 wholesale legend drug distributors licensed under IC 25-26-14.".
 14 Page 1, line 3, strike "cannabinoid" and insert "**drug**".
 15 Page 1, line 5, after "analogue" insert ", **congener, derivative,**
 16 **isomer, homologue, salt, salt of analogue, salt of congener, salt of**
 17 **derivative, salt of isomer, and salt of**".
 18 Page 3, between lines 26 and 27, begin a new line double block
 19 indented and insert the following:
 20 "**(JJ) 6-APB.**
 21 **(LL) 7-hydroxymitragynine.**
 22 **(MM) α -PPP.**
 23 **(NN) α -PVP (desmethylpyrovalerone).**
 24 **(OO) AM-251.**
 25 **(PP) AM-1241.**
 26 **(QQ) AM-2201.**
 27 **(RR) AM-2233.**
 28 **(SS) Buphedrone.**
 29 **(TT) Butylone.**
 30 **(UU) CP-47,497-C7.**
 31 **(VV) CP-47,497-C8.**
 32 **(WW) Desoxypipradol.**
 33 **(XX) Ethylone.**
 34 **(YY) Eutylone.**
 35 **(ZZ) Flephedrone.**
 36 **(AAA) JWH-011.**
 37 **(BBB) JWH-020.**
 38 **(CCC) JWH-022.**

- 1 **(DDD) JWH-030.**
- 2 **(EEE) JWH-182.**
- 3 **(FFF) JWH-302.**
- 4 **(GGG) MDAI.**
- 5 **(HHH) Mitragynine.**
- 6 **(III) Naphyrone.**
- 7 **(JJJ) Pentedrone.**
- 8 **(LLL) Pentylone.**
- 9 **(MMM) Pyrovalerone."**

10 Page 10, line 5, strike "cannabinoids" and insert "**drugs**".

11 Page 12, after line 10, begin a new paragraph and insert:

12 "SECTION 9. IC 35-48-4-8.5, AS AMENDED BY P.L.182-2011,
13 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 UPON PASSAGE]: Sec. 8.5. (a) A person who keeps for sale, offers
15 for sale, delivers, or finances the delivery of a raw material, an
16 instrument, a device, or other object that is intended to be or that is
17 designed or marketed to be used primarily for:

18 (1) ingesting, inhaling, or otherwise introducing into the human
19 body marijuana, hash oil, hashish, salvia, a synthetic ~~cannabinoid~~,
20 **drug**, or a controlled substance;

21 (2) testing the strength, effectiveness, or purity of marijuana, hash
22 oil, hashish, salvia, a synthetic ~~cannabinoid~~, **drug**, or a controlled
23 substance;

24 (3) enhancing the effect of a controlled substance;

25 (4) manufacturing, compounding, converting, producing,
26 processing, or preparing marijuana, hash oil, hashish, salvia, a
27 synthetic ~~cannabinoid~~, **drug**, or a controlled substance;

28 (5) diluting or adulterating marijuana, hash oil, hashish, salvia, a
29 synthetic ~~cannabinoid~~, **drug**, or a controlled substance by
30 individuals; or

31 (6) any purpose announced or described by the seller that is in
32 violation of this chapter;

33 commits a Class A infraction for dealing in paraphernalia.

34 (b) A person who knowingly or intentionally violates subsection (a)
35 commits a Class A misdemeanor. However, the offense is a Class D
36 felony if the person has a prior unrelated judgment or conviction under
37 this section.

38 (c) A person who recklessly keeps for sale, offers for sale, or

- 1 delivers an instrument, a device, or other object that is to be used
 2 primarily for:
- 3 (1) ingesting, inhaling, or otherwise introducing into the human
 4 body marijuana, hash oil, hashish, salvia, a synthetic ~~cannabinoid~~,
 5 **drug**, or a controlled substance;
 - 6 (2) testing the strength, effectiveness, or purity of marijuana, hash
 7 oil, hashish, salvia, a synthetic ~~cannabinoid~~, **drug**, or a controlled
 8 substance;
 - 9 (3) enhancing the effect of a controlled substance;
 - 10 (4) manufacturing, compounding, converting, producing,
 11 processing, or preparing marijuana, hash oil, hashish, salvia, a
 12 synthetic ~~cannabinoid~~, **drug**, or a controlled substance;
 - 13 (5) diluting or adulterating marijuana, hash oil, hashish, salvia, a
 14 synthetic ~~cannabinoid~~, **drug**, or a controlled substance by
 15 individuals; or
 - 16 (6) any purpose announced or described by the seller that is in
 17 violation of this chapter;
- 18 commits reckless dealing in paraphernalia, a Class B misdemeanor.
 19 However, the offense is a Class D felony if the person has a previous
 20 judgment or conviction under this section.
- 21 (d) This section does not apply to the following:
- 22 (1) Items marketed for use in the preparation, compounding,
 23 packaging, labeling, or other use of marijuana, hash oil, hashish,
 24 salvia, a synthetic ~~cannabinoid~~, **drug**, or a controlled substance as
 25 an incident to lawful research, teaching, or chemical analysis and
 26 not for sale.
 - 27 (2) Items marketed for or historically and customarily used in
 28 connection with the planting, propagating, cultivating, growing,
 29 harvesting, manufacturing, compounding, converting, producing,
 30 processing, preparing, testing, analyzing, packaging, repackaging,
 31 storing, containing, concealing, injecting, ingesting, or inhaling
 32 of tobacco or any other lawful substance.
- 33 SECTION 10. IC 35-48-4-10, AS AMENDED BY P.L.182-2011,
 34 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 UPON PASSAGE]: Sec. 10. (a) A person who:
- 36 (1) knowingly or intentionally:
 - 37 (A) manufactures;
 - 38 (B) finances the manufacture of;

1 (C) delivers; or
2 (D) finances the delivery of;
3 marijuana, hash oil, hashish, salvia, or a synthetic ~~cannabinoid~~;
4 **drug**, pure or adulterated; or
5 (2) possesses, with intent to:
6 (A) manufacture;
7 (B) finance the manufacture of;
8 (C) deliver; or
9 (D) finance the delivery of;
10 marijuana, hash oil, hashish, salvia, or a synthetic ~~cannabinoid~~;
11 **drug**, pure or adulterated;
12 commits dealing in marijuana, hash oil, hashish, salvia, or a synthetic
13 ~~cannabinoid~~ **drug**, a Class A misdemeanor, except as provided in
14 subsection (b).
15 (b) The offense is:
16 (1) a Class D felony if:
17 (A) the recipient or intended recipient is under eighteen (18)
18 years of age;
19 (B) the amount involved is more than thirty (30) grams but
20 less than ten (10) pounds of marijuana or more than two (2)
21 grams but less than three hundred (300) grams of hash oil,
22 hashish, salvia, or a synthetic ~~cannabinoid~~ **drug**; or
23 (C) the person has a prior conviction of an offense involving
24 marijuana, hash oil, hashish, salvia, or a synthetic ~~cannabinoid~~;
25 **drug**; and
26 (2) a Class C felony if the amount involved is ten (10) pounds or
27 more of marijuana or three hundred (300) or more grams of hash
28 oil, hashish, salvia, or a synthetic ~~cannabinoid~~ **drug**, or the
29 person delivered or financed the delivery of marijuana, hash oil,
30 hashish, salvia, or a synthetic ~~cannabinoid~~ **drug**:
31 (A) on a school bus; or
32 (B) in, on, or within one thousand (1,000) feet of:
33 (i) school property;
34 (ii) a public park;
35 (iii) a family housing complex; or
36 (iv) a youth program center.
37 SECTION 11. IC 35-48-4-11, AS AMENDED BY P.L.138-2011,
38 SECTION 17, AND AS AMENDED BY P.L.182-2011, SECTION 17,

1 IS CORRECTED AND AMENDED TO READ AS FOLLOWS
 2 [EFFECTIVE UPON PASSAGE]: Sec. 11. A person who:
 3 (1) knowingly or intentionally possesses (pure or adulterated)
 4 marijuana, hash oil, hashish, salvia, or a synthetic ~~cannabinoid;~~
 5 **drug;**
 6 (2) knowingly or intentionally grows or cultivates marijuana; or
 7 (3) knowing that marijuana is growing on the person's premises,
 8 fails to destroy the marijuana plants;
 9 commits possession of marijuana, hash oil, hashish, salvia, or a
 10 synthetic ~~cannabinoid;~~ **drug**, a Class A misdemeanor. However, the
 11 offense is a Class D felony ~~(#)~~ if the amount involved is more than
 12 thirty (30) grams of marijuana or two (2) grams of hash oil, hashish,
 13 salvia, or a synthetic ~~cannabinoid;~~ **drug**, or ~~(#)~~ if the person has a prior
 14 conviction of an offense involving marijuana, hash oil, or hashish,
 15 salvia, or a synthetic ~~cannabinoid;~~ **drug**.

16 SECTION 12. IC 35-48-4-12, AS AMENDED BY P.L.182-2011,
 17 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 UPON PASSAGE]: Sec. 12. If a person who has no prior conviction of
 19 an offense under this article or under a law of another jurisdiction
 20 relating to controlled substances pleads guilty to possession of
 21 marijuana, hashish, salvia, or a synthetic ~~cannabinoid~~ **drug** as a Class
 22 A misdemeanor, the court, without entering a judgment of conviction
 23 and with the consent of the person, may defer further proceedings and
 24 place the person in the custody of the court under such conditions as
 25 the court determines. Upon violation of a condition of the custody, the
 26 court may enter a judgment of conviction. However, if the person
 27 fulfills the conditions of the custody, the court shall dismiss the charges
 28 against the person. There may be only one (1) dismissal under this

- 1 section with respect to a person.
- 2 SECTION 13. **An emergency is declared for this act.**"
- 3 Renumber all SECTIONS consecutively.
(Reference is to HB 1196 as introduced.)

and when so amended that said bill do pass.

Representative Steuerwald