

Adopted	Rejected
---------	----------

## COMMITTEE REPORT

YES:	9
NO:	0

### MR. SPEAKER:

*Your Committee on Public Health, to which was referred Senate Bill 246, 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, delete lines 1 through 17, begin a new paragraph and insert:
- 2 "SECTION 1. IC 12-15-35-51, AS ADDED BY P.L.36-2009,
- 3 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 UPON PASSAGE]: Sec. 51. (a) As used in this section, "advisory
- 5 committee" refers to the mental health Medicaid quality advisory
- 6 committee established by subsection (b).
- 7 (b) The mental health Medicaid quality advisory committee is
- 8 established. The advisory committee consists of the following
- 9 members:
- 10 (1) The director of the office or the director's designee, who shall
- 11 serve as chairperson of the advisory committee.
- 12 (2) The director of the division of mental health and addiction or
- 13 the director's designee.
- 14 (3) A representative of a statewide mental health advocacy
- 15 organization.
- 16 (4) A representative of a statewide mental health provider

- 1 organization.
- 2 (5) A representative from a managed care organization that  
3 participates in the state's Medicaid program.
- 4 (6) A member with expertise in psychiatric research representing  
5 an academic institution.
- 6 (7) A pharmacist licensed under IC 25-26.
- 7 (8) The commissioner of the department of correction or the  
8 commissioner's designee.
- 9 The governor shall make the appointments for a term of four (4) years  
10 under subdivisions (3) through (7) and fill any vacancy on the advisory  
11 committee.
- 12 (c) The office shall staff the advisory committee. The expenses of  
13 the advisory committee shall be paid by the office.
- 14 (d) Each member of the advisory committee who is not a state  
15 employee is entitled to the minimum salary per diem provided by  
16 IC 4-10-11-2.1(b). The member is also entitled to reimbursement for  
17 traveling expenses as provided under IC 4-13-1-4 and other expenses  
18 actually incurred in connection with the member's duties as provided  
19 in the state policies and procedures established by the Indiana  
20 department of administration and approved by the budget agency.
- 21 (e) Each member of the advisory committee who is a state employee  
22 is entitled to reimbursement for traveling expenses as provided under  
23 IC 4-13-1-4 and other expenses actually incurred in connection with  
24 the member's duties as provided in the state policies and procedures  
25 established by the Indiana department of administration and approved  
26 by the budget agency.
- 27 (f) The affirmative votes of a majority of the voting members  
28 appointed to the advisory committee are required by the advisory  
29 committee to take action on any measure.
- 30 (g) The advisory committee shall advise the office and make  
31 recommendations concerning the **clinical use of mental health and**  
32 **addiction medications, including the** implementation of  
33 IC 12-15-35.5-7(c), and consider the following:
- 34 (1) Peer reviewed medical literature.
- 35 (2) Observational studies.
- 36 (3) Health economic studies.
- 37 (4) Input from physicians and patients.
- 38 (5) Any other information determined by the advisory committee

1 to be appropriate.

2 (h) The office shall report recommendations made by the advisory  
3 committee to the drug utilization review board established by section  
4 19 of this chapter.

5 (i) The office shall report the following information to the select  
6 joint commission on Medicaid oversight established by IC 2-5-26-3:

7 (1) The advisory committee's advice and recommendations made  
8 under this section.

9 (2) The number of restrictions implemented under  
10 IC 12-15-35.5-7(c) and the outcome of each restriction.

11 (3) The transition of individuals who are aged, blind, or disabled  
12 to the risk based managed care program. This information shall  
13 also be reported to the health finance commission established by  
14 IC 2-5-23-3.

15 (4) Any decision by the office to change the health care delivery  
16 system in which Medicaid is provided to recipients.

17 (j) Notwithstanding subsection (b), the initial members appointed  
18 to the advisory committee under this section are appointed for the  
19 following terms:

20 (1) Individuals appointed under subsection (b)(3) and (b)(4) are  
21 appointed for a term of four (4) years.

22 (2) An individual appointed under subsection (b)(5) is appointed  
23 for a term of three (3) years.

24 (3) An individual appointed under subsection (b)(6) is appointed  
25 for a term of two (2) years.

26 (4) An individual appointed under subsection (b)(7) is appointed  
27 for a term of one (1) year.

28 This subsection expires December 31, 2013.

29 SECTION 2. IC 25-22.5-2-7, AS AMENDED BY P.L.225-2007,  
30 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
31 JULY 1, 2013]: Sec. 7. (a) The board shall do the following:

32 (1) Adopt rules and forms necessary to implement this article that  
33 concern, but are not limited to, the following areas:

34 (A) Qualification by education, residence, citizenship,  
35 training, and character for admission to an examination for  
36 licensure or by endorsement for licensure.

37 (B) The examination for licensure.

38 (C) The license or permit.

- 1 (D) Fees for examination, permit, licensure, and registration.
- 2 (E) Reinstatement of licenses and permits.
- 3 (F) Payment of costs in disciplinary proceedings conducted by
- 4 the board.
- 5 (2) Administer oaths in matters relating to the discharge of **its the**
- 6 **board's** official duties.
- 7 (3) Enforce this article and assign to the personnel of the agency
- 8 duties as may be necessary in the discharge of the board's duty.
- 9 (4) Maintain, through the agency, full and complete records of all
- 10 applicants for licensure or permit and of all licenses and permits
- 11 issued.
- 12 (5) Make available, upon request, the complete schedule of
- 13 minimum requirements for licensure or permit.
- 14 (6) Issue, at the board's discretion, a temporary permit to an
- 15 applicant for the interim from the date of application until the
- 16 next regular meeting of the board.
- 17 (7) Issue an unlimited license, a limited license, or a temporary
- 18 medical permit, depending upon the qualifications of the
- 19 applicant, to any applicant who successfully fulfills all of the
- 20 requirements of this article.
- 21 (8) Adopt rules establishing standards for the competent practice
- 22 of medicine, osteopathic medicine, or any other form of practice
- 23 regulated by a limited license or permit issued under this article.
- 24 (9) Adopt rules regarding the appropriate prescribing of Schedule
- 25 III or Schedule IV controlled substances for the purpose of weight
- 26 reduction or to control obesity.
- 27 (10) Adopt rules establishing standards for office based
- 28 procedures that require moderate sedation, deep sedation, or
- 29 general anesthesia.
- 30 **(11) Adopt rules establishing standards and protocols for the**
- 31 **prescribing of controlled substances.**
- 32 (b) The board may adopt rules that establish:
- 33 (1) certification requirements for child death pathologists;
- 34 (2) an annual training program for child death pathologists under
- 35 IC 16-35-7-3(b)(2); and
- 36 (3) a process to certify a qualified child death pathologist."
- 37 Page 2, delete lines 1 through 19.
- 38 Page 2, line 22, delete "JULY 1, 2013:" and insert "UPON

1 PASSAGE]:".

2 Page 2, line 24, delete "October 31, 2013," and insert "**November**  
3 **1, 2013,**".

4 Page 2, line 25, after "IC 4-22-2-37.1" insert "**to establish**  
5 **standards and procedures to do the following:**

6 (1) **Receive and review petitions from the attorney general**  
7 **seeking board authorization to examine a physician's records**  
8 **and controlled substances inventory and materials to**  
9 **investigate the physician's controlled substances prescribing**  
10 **practices.**

11 (2) **Authorize, where appropriate, the attorney general to**  
12 **examine records, materials, and inventory relating to the**  
13 **physician's controlled substance prescribing practices.**

14 (3) **Provide safeguards and protections for physicians against**  
15 **unreasonable and oppressive examination authorizations and**  
16 **actions taken to carry out the authorizations, including**  
17 **limitations on interference with regular practice operations**  
18 **and other appropriate due process provisions.**

19 (b) **Before November 1, 2014, the board shall adopt permanent**  
20 **rules under IC 4-22-2 to establish permanent rules for the**  
21 **standards and procedures described in subsection (a).**

22 (c) **An emergency rule adopted under subsection (a) remains in**  
23 **effect until the effective date of the permanent rules adopted under**  
24 **subsection (b).**

25 (d) **The rules adopted under this section do not abrogate or**  
26 **eliminate the attorney general's investigative authority under**  
27 **IC 4-6-3-3, IC 4-6-10-3, IC 25-1-7-4, or any other applicable statute**  
28 **or rule."**

29 Page 2, delete lines 26 through 31.

30 Page 2, line 33, delete "shall, before" and insert "**shall:**

31 (1) **before November 1, 2013, adopt emergency rules in the**  
32 **manner provided in IC 4-22-2-37.1; and**

33 (2) **before November 1, 2014, adopt rules under IC 4-22-2;**  
34 **to establish standards and protocols for the prescribing of**  
35 **controlled substances.**

36 (b) **An emergency rule adopted under subsection (a)(1) remains**  
37 **in effect until the effective date of the permanent rule adopted**  
38 **under subsection (a)(2)."**

1 Page 2, delete lines 34 through 35.

2 Page 3, between lines 4 and 5, begin a new paragraph and insert:

3 "SECTION 4. IC 35-31.5-2-224, AS ADDED BY P.L.114-2012,  
4 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
5 JULY 1, 2013]: Sec. 224. (a) "Owner", for purposes of IC 35-43-1-3,  
6 has the meaning set forth in IC 35-43-1-3(a).

7 **(b) "Owner", for purposes of IC 35-48-3, has the meaning set  
8 forth in IC 35-48-3-1.5.**

9 ~~(b)~~ (c) "Owner", for purposes of IC 35-49, has the meaning set forth  
10 in IC 35-49-1-6.

11 SECTION 5. IC 35-48-3-1.5 IS ADDED TO THE INDIANA CODE  
12 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
13 1, 2013]: **Sec. 1.5. (a) This section is effective beginning January 1,  
14 2014.**

15 **(b) As used in this chapter, "owner" means a person that  
16 employs or contracts with at least one (1) individual to dispense a  
17 controlled substance in an office, facility, clinic, or location owned  
18 or controlled by the person. The term does not include the  
19 following:**

- 20 **(1) A person licensed by a board listed in IC 25-1-9.**  
21 **(2) A dentist licensed under IC 25-14.**  
22 **(3) A physician licensed under IC 25-22.5.**  
23 **(4) An optometrist licensed under IC 25-24.**  
24 **(5) A podiatrist licensed under IC 25-29.**  
25 **(6) A community mental health center certified under  
26 IC 12-21-2-3(5)(C).**  
27 **(7) A private mental health institution or private psychiatric  
28 hospital licensed under IC 12-25.**  
29 **(8) A hospital or ambulatory outpatient surgical center  
30 licensed under IC 16-21.**  
31 **(9) A hospice licensed under IC 16-25.**  
32 **(10) A home health agency licensed under IC 16-27-1.**  
33 **(11) A health facility licensed under IC 16-28.**  
34 **(12) A rural health clinic (as defined in 42 U.S.C. 1396d(l)(1)).**  
35 **(13) A federally qualified health center (as defined in 42  
36 U.S.C. 1396d(l)(2)(B)).**  
37 **(14) A pharmacist or pharmacy licensed under IC 25-26.**  
38 **(15) A community health center (as defined in IC 34-18-2-9).**

1           **(16) An affiliate, member, partner, or subsidiary of any**  
 2           **person described in subdivisions (6) through (15).**

3           **(17) A:**

4                 **(A) corporation;**

5                 **(B) partnership;**

6                 **(C) joint venture;**

7                 **(D) limited liability company; or**

8                 **(E) professional corporation;**

9           **or any other entity in which more than fifty percent (50%) of**  
 10           **the owners, shareholders, partners, or members are persons**  
 11           **listed in subdivisions (1) through (16).**

12           SECTION 6. IC 35-48-3-3 IS AMENDED TO READ AS  
 13           FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3. (a) Every person who  
 14           manufactures or distributes any controlled substance within this state  
 15           or who proposes to engage in the manufacture or distribution of any  
 16           controlled substance within this state, must obtain biennially a  
 17           registration issued by the board in accordance with ~~its~~ **the board's**  
 18           rules.

19           (b) Every person who dispenses or proposes to dispense any  
 20           controlled substance within Indiana must have a registration issued by  
 21           the board in accordance with ~~its~~ **the board's** rules. A registration  
 22           issued to a dispenser under this subsection expires whenever the  
 23           dispenser's license as a practitioner expires. The board shall renew a  
 24           dispenser's registration under this subsection concurrently with any  
 25           state license authorizing the dispenser to act as a practitioner.

26           **(c) This subsection is effective January 1, 2014. An owner must**  
 27           **have a registration issued by the board in accordance with the**  
 28           **board's rules. An owner shall adopt reasonable procedures to**  
 29           **ensure that employed or contracted individuals who are dispensing**  
 30           **controlled substances in the office, facility, clinic, or location owned**  
 31           **or controlled by the owner dispense the controlled substances in a**  
 32           **manner that complies with laws, rules, and regulations.**

33           ~~(c)~~ **(d)** Persons registered by the board under this article to  
 34           manufacture, distribute, dispense, or conduct research with controlled  
 35           substances may possess, manufacture, distribute, dispense, or conduct  
 36           research with those substances to the extent authorized by their  
 37           registration and in conformity with the other provisions of this chapter.

38           ~~(d)~~ **(e)** The following persons need not register and may lawfully

1 possess controlled substances under this article:

2 (1) An agent or employee of any registered manufacturer,  
3 distributor, or dispenser of any controlled substance if ~~he~~ **the**  
4 **agent or employee** is acting in the usual course of ~~his~~ **the agent's**  
5 **or employee's** business or employment.

6 (2) A common or contract carrier or warehouseman, or an  
7 employee thereof, whose possession of any controlled substance  
8 is in the usual course of business or employment.

9 (3) An ultimate user or a person in possession of any controlled  
10 substance under a lawful order of a practitioner or in lawful  
11 possession of a schedule V substance.

12 ~~(e)~~ **(f)** The board may waive by rule the requirement for registration  
13 of certain manufacturers, distributors, or dispensers if it finds it  
14 consistent with the public health and safety.

15 ~~(f)~~ **(g)** A separate registration is required at each principal place of  
16 business or professional practice where the applicant:

17 (1) manufactures, distributes, dispenses, or possesses controlled  
18 substances; **and**

19 (2) **employs or contracts with individuals to dispense**  
20 **controlled substances. This subdivision is effective January 1,**  
21 **2014.**

22 ~~(g)~~ **(h)** The board may inspect the establishment of a registrant or  
23 applicant for registration in accordance with the board's rules.

24 (i) **Beginning January 1, 2014, the attorney general may file a**  
25 **petition in circuit or superior court to obtain an injunction against**  
26 **a violation of this chapter by an owner. In an action filed by the**  
27 **attorney general under this subsection, the court may:**

28 (1) **issue an injunction;**

29 (2) **order the owner to pay a civil penalty not to exceed five**  
30 **thousand dollars (\$5,000);**

31 (3) **order the owner to pay the state the reasonable costs of the**  
32 **attorney general's investigation and prosecution related to the**  
33 **action; and**

34 (4) **provide the appointment of a receiver.**

35 SECTION 7. [EFFECTIVE JULY 1, 2013] (a) **As used in this**  
36 **SECTION, "commission" refers to the health finance commission**  
37 **established by IC 2-5-23-3.**

38 (b) **During the 2013 legislative interim, the commission shall**

1 study issues concerning pharmacy programs designed to take back  
 2 and dispose of old and expired prescription drugs. The commission  
 3 shall examine existing obstacles that pharmacies encounter in  
 4 operating a prescription drug take-back program and recommend  
 5 solutions that would allow consumers to dispose of old and expired  
 6 prescription drugs at local pharmacies without difficulty.

7 (c) This SECTION expires December 31, 2013.

8 SECTION 8. [EFFECTIVE JULY 1, 2013] (a) As used in this  
 9 SECTION, "commission" refers to the Indiana commission on  
 10 mental health and addiction established by IC 12-21-6.5-2.

11 (b) During the 2013 legislative interim, the commission shall  
 12 study issues concerning treatment and recovery from prescription  
 13 drug use addiction. The commission shall study and make  
 14 recommendations concerning the following:

15 (1) Use of the Indiana health care professional recruitment  
 16 and retention fund established by IC 16-46-5-8 to provide loan  
 17 repayment for student loans incurred by addiction  
 18 professionals.

19 (2) Criteria for Medicaid reimbursement for detoxification  
 20 and rehabilitation services for addiction treatment.

21 (3) Best practice treatment for pregnant mothers and  
 22 newborns with prescription pain medication dependencies  
 23 and addictions.

24 (c) This SECTION expires December 31, 2013.

25 SECTION 9. [EFFECTIVE JULY 1, 2013] (a) As used in this  
 26 SECTION, "commission" refers to the health finance commission  
 27 established by IC 2-5-23-3.

28 (b) During the 2013 legislative interim, the commission shall  
 29 study the use of methadone and opioids in treatment programs and  
 30 clinic settings.

31 (c) Not later than September 1, 2013, the division of mental  
 32 health and addiction shall provide the commission with the  
 33 following information in writing:

34 (1) The number of patients served in Indiana opioid treatment  
 35 programs certified under IC 12-23-18.

36 (2) The opioid treatment medications provided to patients,  
 37 including the dosage.

38 (3) The drug testing protocol of Indiana opioid treatment

- 1           **programs.**
- 2           **(4) The number of opioid treatment program patients who**
- 3           **have tested positive for other controlled substances during a**
- 4           **drug test for a controlled substance provided under an opioid**
- 5           **treatment program.**
- 6           **(5) The number of opioid treatment program patients who are**
- 7           **subsequently determined to no longer need the assistance of**
- 8           **the opioid treatment program and released from treatment.**
- 9           **(6) Any other information that is requested by the commission**
- 10           **or determined by the division of mental health and addiction**
- 11           **to be relevant to the study described in this SECTION.**
- 12           **(d) This SECTION expires December 31, 2013."**
- 13           Renumber all SECTIONS consecutively.
- (Reference is to SB 246 as reprinted February 22, 2013.)

**and when so amended that said bill do pass.**

---

Representative Clere