Reprinted
February 13, 2013

SENATE BILL No. 272

DIGEST OF SB 272 (Updated February 12, 2013 2:12 pm - DI 104)

Citations Affected: IC 12-23; IC 25-22.5; IC 35-48; noncode.

Synopsis: Prescription drugs and INSPECT. Requires the Indiana professional licensing agency to report to the health finance commission during the 2013 legislative interim concerning how to implement a program to require an opioid treatment program to transmit specified information concerning a patient to the Indiana scheduled prescription electronic collection and tracking program (INSPECT) before dispensing or administering a controlled substance to the patient. Requires the medical licensing board of Indiana to adopt rules establishing standards and protocols in the prescribing of controlled substances. Beginning January 1, 2015, requires dispensers to transmit certain prescription drug information to INSPECT. Requires, during the 2013 legislative interim, the division of mental health and addiction to provide the health finance commission with specified information concerning opioid treatment programs.

Effective: July 1, 2013.

Miller Patricia, Breaux

January 8, 2013, read first time and referred to Committee on Health and Provider Services.
February 7, 2013, amended, reported favorably — Do Pass.
February 12, 2013, read second time, amended, ordered engrossed.

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First Regular Session 118th General Assembly (2013)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

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SENATE BILL No. 272

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 12-23-18-0.5, AS AMENDED BY P.L.1-2009, SECTION 108, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 0.5. (a) An opioid treatment program shall not operate in Indiana unless:

(1) the opioid treatment program is specifically approved and the opioid treatment facility is certified by the division; and

(2) the opioid treatment program is in compliance with state and federal law.

(b) Separate specific approval and certification under this chapter is required for each location at which an opioid treatment program is operated.

(c) During the 2013 legislative interim, the Indiana professional licensing agency shall report to the health finance commission established by IC 2-5-23-3 concerning how to implement a program to require, before dispensing or administering a controlled substance to a patient, an opioid treatment program to transmit to the Indiana scheduled prescription electronic collection

and tracking program (INSPECT) established by IC 25-1-13-4 the following information:

(1) The patient's name.

(2) The patient's date of birth.

(3) The national drug code number of the controlled substance dispensed or administered.

(4) The date the controlled substance is dispensed or administered.

(5) The quantity of the controlled substance dispensed or administered.

(6) The United States Drug Enforcement Agency registration number of the dispenser or prescriber.

(7) Other data required by the program.

The report must include whether to require the opioid treatment program to also check INSPECT for a patient's data before administering or dispensing a controlled substance to the patient.

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

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

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

(B) The examination for licensure.

(C) The license or permit.

(D) Fees for examination, permit, licensure, and registration.

(E) Reinstatement of licenses and permits.

(F) Payment of costs in disciplinary proceedings conducted by the board.

(2) Administer oaths in matters relating to the discharge of its official duties.

(3) Enforce this article and assign to the personnel of the agency duties as may be necessary in the discharge of the board's duty.

(4) Maintain, through the agency, full and complete records of all applicants for licensure or permit and of all licenses and permits issued.

(5) Make available, upon request, the complete schedule of minimum requirements for licensure or permit.

(6) Issue, at the board's discretion, a temporary permit to an applicant for the interim from the date of application until the next regular meeting of the board.

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(7) Issue an unlimited license, a limited license, or a temporary medical permit, depending upon the qualifications of the applicant, to any applicant who successfully fulfills all of the requirements of this article.

(8) Adopt rules establishing standards for the competent practice of medicine, osteopathic medicine, or any other form of practice regulated by a limited license or permit issued under this article.

(9) Adopt rules regarding the appropriate prescribing of Schedule III or Schedule IV controlled substances for the purpose of weight reduction or to control obesity.

(10) Adopt rules establishing standards for office based procedures that require moderate sedation, deep sedation, or general anesthesia.

(11) Adopt rules establishing standards and protocols for the prescribing of controlled substances.

(b) The board may adopt rules that establish:

(1) certification requirements for child death pathologists;

(2) an annual training program for child death pathologists under IC 16-35-7-3(b)(2); and

(3) a process to certify a qualified child death pathologist.

SECTION 3. IC 35-48-7-2.9, AS ADDED BY P.L.105-2008, SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2.9. (a) As used in this chapter, "dispense" has the meaning set forth in IC 35-48-1-12.

(b) The term does not apply to the following:

(1) A drug administered directly to a patient.

(2) A drug dispensed by a practitioner, if the quantity dispensed is not more than:

(A) a seventy-two (72) hour supply of a controlled substance listed in schedule II, III, IV, or V as set forth in IC 35-48-3-9; **or**

(B) beginning January 1, 2015, a ten (10) day supply of a prescription drug that is not described in clause (A) and that is provided at no cost to the patient.

SECTION 4. IC 35-48-7-5.4, AS ADDED BY P.L.65-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 5.4. As used in this chapter, "interoperability" refers to the INSPECT program electronically sharing reported information with another state concerning the dispensing of a controlled substance, **or beginning January 1, 2015, a prescription drug:**

(1) to a recipient who resides in the other state; or

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(2) prescribed by a practitioner whose principal place of business is located in another state.

SECTION 5. IC 35-48-7-5.8, AS ADDED BY P.L.65-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 5.8. As used in this chapter, "practitioner" means a physician, dentist, veterinarian, podiatrist, nurse practitioner, scientific investigator, pharmacist, hospital, or other institution or individual licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled substance **or, beginning January 1, 2015, a prescription drug** in the course of professional practice or research in the United States.

SECTION 6. IC 35-48-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6. As used in this chapter, "recipient" means an individual for whom a controlled substance **or, beginning January 1, 2015, a prescription drug** is dispensed.

SECTION 7. IC 35-48-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 7. As used in this chapter, "recipient representative" means the individual to whom a controlled substance **or, beginning January 1, 2014, a prescription drug** is dispensed if the recipient is either less than eighteen (18) years of age or unavailable to receive the controlled substance **or prescription drug.**

SECTION 8. IC 35-48-7-8.1, AS AMENDED BY P.L.152-2012, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 8.1. (a) The board shall provide for a controlled substance **prescription monitoring program or, beginning January 1, 2015, a** prescription **drug** monitoring program that includes the following components:

(1) Each time a controlled substance designated by the board under IC 35-48-2-5 through IC 35-48-2-10 **or, beginning January 1, 2015, a prescription drug** is dispensed, the dispenser shall transmit to the INSPECT program the following information:

(A) The controlled substance **or prescription drug** recipient's name.

(B) The controlled substance **or prescription drug** recipient's or the recipient representative's identification number or the identification number or phrase designated by the INSPECT program.

(C) The controlled substance **or prescription drug** recipient's date of birth.

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(D) The national drug code number of the controlled substance **or prescription drug** dispensed.
(E) The date the controlled substance **or prescription drug** is dispensed.
(F) The quantity of the controlled substance **or prescription drug** dispensed.
(G) The number of days of supply dispensed.
(H) **If the drug is a controlled substance,** the dispenser's United States Drug Enforcement Agency registration number.
(I) **If the drug is a controlled substance,** the prescriber's United States Drug Enforcement Agency registration number.
(J) An indication as to whether the prescription was transmitted to the pharmacist orally or in writing.
(K) Other data required by the board.

(2) The information required to be transmitted under this section must be transmitted not more than seven (7) days after the date on which a controlled substance **or, beginning January 1, 2015, a prescription drug** is dispensed.

(3) A dispenser shall transmit the information required under this section by:
(A) uploading to the INSPECT web site;
(B) a computer diskette; or
(C) a CD-ROM disk;
that meets specifications prescribed by the board.

(4) The board may require that prescriptions for controlled substances be written on a one (1) part form that cannot be duplicated. However, the board may not apply such a requirement to prescriptions filled at a pharmacy with a Category II permit (as described in IC 25-26-13-17) and operated by a hospital licensed under IC 16-21, or prescriptions ordered for and dispensed to bona fide enrolled patients in facilities licensed under IC 16-28. The board may not require multiple copy prescription forms for any prescriptions written. The board may not require different prescription forms for any individual drug or group of drugs. Prescription forms required under this subdivision must be approved by the Indiana board of pharmacy established by IC 25-26-13-3.

(5) The costs of the program.

(b) This subsection applies only to a retail pharmacy. A pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense a controlled substance may not dispense a controlled substance to a person who is not personally known to the pharmacist, pharmacy

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technician, or person authorized by a pharmacist to dispense a controlled substance unless the person taking possession of the controlled substance provides documented proof of the person's identification to the pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense a controlled substance.

SECTION 9. IC 35-48-7-10.1, AS AMENDED BY P.L.84-2010, SECTION 98, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 10.1. (a) The INSPECT program must do the following:

(1) Create a data base for information required to be transmitted under section 8.1 of this chapter in the form required under rules adopted by the board, including search capability for the following:

(A) A controlled substance **or prescription drug** recipient's name.

(B) A controlled substance **or prescription drug** recipient's or recipient representative's identification number.

(C) A controlled substance **or prescription drug** recipient's date of birth.

(D) The national drug code number of a controlled substance **or prescription drug** dispensed.

(E) The dates a controlled substance **or prescription drug** is dispensed.

(F) The quantities of a controlled substance **or prescription drug** dispensed.

(G) The number of days of supply dispensed.

(H) A dispenser's United States Drug Enforcement Agency registration number.

(I) A prescriber's United States Drug Enforcement Agency registration number.

(J) Whether a prescription was transmitted to the pharmacist orally or in writing.

(K) A controlled substance **or prescription drug** recipient's method of payment for the controlled substance **or prescription drug** dispensed.

(2) Provide the board with continuing twenty-four (24) hour a day online access to the data base.

(3) Secure the information collected and the data base maintained against access by unauthorized persons.

(b) The board may execute a contract with a vendor designated by the board to perform any function associated with the administration of the INSPECT program.

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(c) The INSPECT program may gather prescription data from the Medicaid retrospective drug utilization review (DUR) program established under IC 12-15-35.

(d) The board may accept and designate grants, public and private financial assistance, and licensure fees to provide funding for the INSPECT program.

SECTION 10. IC 35-48-7-11.1, AS AMENDED BY P.L.84-2010, SECTION 99, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 11.1. (a) Information received by the INSPECT program under section 8.1 of this chapter is confidential.

(b) The board shall carry out a program to protect the confidentiality of the information described in subsection (a). The board may disclose the information to another person only under subsection (c), (d), or (g).

(c) The board may disclose confidential information described in subsection (a) to any person who is authorized to engage in receiving, processing, or storing the information.

(d) Except as provided in subsections (e) and (f), the board may release confidential information described in subsection (a) to the following persons:

(1) A member of the board or another governing body that licenses practitioners and is engaged in an investigation, an adjudication, or a prosecution of a violation under any state or federal law that involves a controlled substance.

(2) An investigator for the consumer protection division of the office of the attorney general, a prosecuting attorney, the attorney general, a deputy attorney general, or an investigator from the office of the attorney general, who is engaged in:

(A) an investigation;

(B) an adjudication; or

(C) a prosecution;

of a violation under any state or federal law that involves a controlled substance.

(3) A law enforcement officer who is an employee of:

(A) a local, state, or federal law enforcement agency; or

(B) an entity that regulates controlled substances or enforces controlled substances rules or laws in another state;

that is certified to receive information from the INSPECT program **as described in subsection (e)(1).**

(4) A practitioner or practitioner's agent certified to receive information from the INSPECT program.

(5) A **prescription drug or** controlled substance monitoring program in another state with which Indiana has established an

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interoperability agreement.

(6) The state toxicologist.

(7) A certified representative of the Medicaid retrospective and prospective drug utilization review program.

(8) A substance abuse assistance program for a licensed health care provider who:

(A) has prescriptive authority under IC 25; and

(B) is participating in the assistance program.

(e) Information provided to an individual under:

(1) subsection (d)(3) is limited to **controlled substances** information:

(A) concerning an individual or proceeding involving the unlawful diversion or misuse of a schedule II, III, IV, or V controlled substance; and

(B) that will assist in an investigation or proceeding; and

(2) subsection (d)(4) may be released only for the purpose of:

(A) providing medical or pharmaceutical treatment; or

(B) evaluating the need for providing medical or pharmaceutical treatment to a patient.

(f) Before the board releases confidential information under subsection (d), the applicant must be approved by the INSPECT program in a manner prescribed by the board.

(g) The board may release to:

(1) a member of the board or another governing body that licenses practitioners;

(2) an investigator for the consumer protection division of the office of the attorney general, a prosecuting attorney, the attorney general, a deputy attorney general, or an investigator from the office of the attorney general; or

(3) a law enforcement officer who is:

(A) authorized by the state police department to receive the type of information released; and

(B) approved by the board to receive the type of information released;

confidential information generated from computer records that identifies practitioners who are prescribing or dispensing large quantities of a controlled substance.

(h) The information described in subsection (g) may not be released until it has been reviewed by:

(1) a member of the board who is licensed in the same profession as the prescribing or dispensing practitioner identified by the data; or

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(2) the board's designee;

and until that member or the designee has certified that further investigation is warranted. However, failure to comply with this subsection does not invalidate the use of any evidence that is otherwise admissible in a proceeding described in subsection (i).

(i) An investigator or a law enforcement officer receiving confidential information under subsection (c), (d), or (g) may disclose the information to a law enforcement officer or an attorney for the office of the attorney general for use as evidence in the following:

(1) A proceeding under IC 16-42-20.

(2) A proceeding under any state or federal law that involves a controlled substance.

(3) A criminal proceeding or a proceeding in juvenile court that involves a controlled substance.

(j) The board may compile statistical reports from the information described in subsection (a). The reports must not include information that identifies any practitioner, ultimate user, or other person administering a controlled substance **or a prescription drug.** Statistical reports compiled under this subsection are public records.

(k) This section may not be construed to require a practitioner to obtain information about a patient from the data base.

(l) A practitioner is immune from civil liability for an injury, death, or loss to a person solely due to a practitioner seeking or not seeking information from the INSPECT program. The civil immunity described in this subsection does not extend to a practitioner if the practitioner receives information directly from the INSPECT program and then negligently misuses this information. This subsection does not apply to an act or omission that is a result of gross negligence or intentional misconduct.

(m) The board may review the records of the INSPECT program. If the board determines that a violation of the law may have occurred, the board shall notify the appropriate law enforcement agency or the relevant government body responsible for the licensure, regulation, or discipline of practitioners authorized by law to prescribe ~~controlled substances.~~ **prescription drugs.**

(n) A practitioner who in good faith discloses information based on a report from the INSPECT program to a law enforcement agency is immune from criminal or civil liability. A practitioner that discloses information to a law enforcement agency under this subsection is presumed to have acted in good faith.

SECTION 11. IC 35-48-7-12.1, AS AMENDED BY P.L.42-2011, SECTION 77, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2013]: Sec. 12.1. (a) The board shall adopt rules under IC 4-22-2 to implement this chapter, including the following:

(1) Information collection and retrieval procedures for the INSPECT program, including the controlled substances **or beginning January 1, 2015, prescription drugs,** to be included in the program required under section 8.1 of this chapter.

(2) Design for the creation of the data base required under section 10.1 of this chapter.

(3) Requirements for the development and installation of online electronic access by the board to information collected by the INSPECT program.

(4) Identification of emergency situations or other circumstances in which a practitioner may prescribe, dispense, and administer a prescription drug specified in section 8.1 of this chapter without a written prescription or on a form other than a form specified in section 8.1(a)(4) of this chapter.

(b) The board may:

(1) set standards for education courses for individuals authorized to use the INSPECT program;

(2) identify treatment programs for individuals addicted to controlled substances **or prescription drugs** monitored by the INSPECT program; and

(3) work with impaired practitioner associations to provide intervention and treatment.

SECTION 12. [EFFECTIVE JULY 1, 2013] **(a) As used in this SECTION, "commission" refers to the health finance commission established by IC 2-5-23-3.**

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

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

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

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

(3) The drug testing protocol of Indiana opioid treatment programs.

(4) The number of opioid treatment program patients who have tested positive for other controlled substances during a drug test for a controlled substance provided under an opioid

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treatment program.

(5) The number of opioid treatment program patients who are subsequently determined to no longer need the assistance of the opioid treatment program and released from treatment.

(6) Any other information requested by the commission or that is determined by the division of mental health and addiction to be relevant to the study described in this SECTION.

(d) This SECTION expires December 31, 2013.

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COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 272, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, delete lines 14 through 42.

Delete page 3.

Page 4, delete lines 1 through 4.

Page 5, after line 8, begin a new paragraph and insert:

"SECTION 5. IC 35-48-7-2.9, AS ADDED BY P.L.105-2008, SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2.9. (a) As used in this chapter, "dispense" has the meaning set forth in IC 35-48-1-12.

(b) The term does not apply to the following:

(1) A drug administered directly to a patient.

(2) A drug dispensed by a practitioner, if the quantity dispensed is not more than:

(A) a seventy-two (72) hour supply of a controlled substance listed in schedule II, III, IV, or V as set forth in IC 35-48-3-9; **or**

(B) beginning January 1, 2014, a ten (10) day supply of a prescription drug that is not described in clause (A) and that is provided at no cost to the patient.

SECTION 6. IC 35-48-7-5.4, AS ADDED BY P.L.65-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 5.4. As used in this chapter, "interoperability" refers to the INSPECT program electronically sharing reported information with another state concerning the dispensing of a controlled substance, **or beginning January 1, 2014, a prescription drug:**

(1) to a recipient who resides in the other state; or

(2) prescribed by a practitioner whose principal place of business is located in another state.

SECTION 7. IC 35-48-7-5.8, AS ADDED BY P.L.65-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 5.8. As used in this chapter, "practitioner" means a physician, dentist, veterinarian, podiatrist, nurse practitioner, scientific investigator, pharmacist, hospital, or other institution or individual licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled

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substance **or, beginning January 1, 2014, a prescription drug** in the course of professional practice or research in the United States.

SECTION 8. IC 35-48-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6. As used in this chapter, "recipient" means an individual for whom a controlled substance **or, beginning January 1, 2014, a prescription drug** is dispensed.

SECTION 9. IC 35-48-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 7. As used in this chapter, "recipient representative" means the individual to whom a controlled substance **or, beginning January 1, 2014, a prescription drug** is dispensed if the recipient is either less than eighteen (18) years of age or unavailable to receive the controlled substance **or prescription drug.**

SECTION 10. IC 35-48-7-8.1, AS AMENDED BY P.L.152-2012, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 8.1. (a) The board shall provide for a controlled substance **prescription monitoring program or, beginning January 1, 2014, a** prescription **drug** monitoring program that includes the following components:

(1) Each time a controlled substance designated by the board under IC 35-48-2-5 through IC 35-48-2-10 **or, beginning January 1, 2014, a prescription drug** is dispensed, the dispenser shall transmit to the INSPECT program the following information:

(A) The controlled substance **or prescription drug** recipient's name.

(B) The controlled substance **or prescription drug** recipient's or the recipient representative's identification number or the identification number or phrase designated by the INSPECT program.

(C) The controlled substance **or prescription drug** recipient's date of birth.

(D) The national drug code number of the controlled substance **or prescription drug** dispensed.

(E) The date the controlled substance **or prescription drug** is dispensed.

(F) The quantity of the controlled substance **or prescription drug** dispensed.

(G) The number of days of supply dispensed.

(H) **If the drug is a controlled substance,** the dispenser's United States Drug Enforcement Agency registration number.

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(I) **If the drug is a controlled substance,** the prescriber's United States Drug Enforcement Agency registration number.

(J) An indication as to whether the prescription was transmitted to the pharmacist orally or in writing.

(K) Other data required by the board.

(2) The information required to be transmitted under this section must be transmitted not more than seven (7) days after the date on which a controlled substance **or, beginning January 1, 2014, a prescription drug** is dispensed.

(3) A dispenser shall transmit the information required under this section by:

(A) uploading to the INSPECT web site;

(B) a computer diskette; or

(C) a CD-ROM disk;

that meets specifications prescribed by the board.

(4) The board may require that prescriptions for controlled substances be written on a one (1) part form that cannot be duplicated. However, the board may not apply such a requirement to prescriptions filled at a pharmacy with a Category II permit (as described in IC 25-26-13-17) and operated by a hospital licensed under IC 16-21, or prescriptions ordered for and dispensed to bona fide enrolled patients in facilities licensed under IC 16-28. The board may not require multiple copy prescription forms for any prescriptions written. The board may not require different prescription forms for any individual drug or group of drugs. Prescription forms required under this subdivision must be approved by the Indiana board of pharmacy established by IC 25-26-13-3.

(5) The costs of the program.

(b) This subsection applies only to a retail pharmacy. A pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense a controlled substance may not dispense a controlled substance to a person who is not personally known to the pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense a controlled substance unless the person taking possession of the controlled substance provides documented proof of the person's identification to the pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense a controlled substance.

SECTION 11. IC 35-48-7-10.1, AS AMENDED BY P.L.84-2010, SECTION 98, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 10.1. (a) The INSPECT program must do the following:

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(1) Create a data base for information required to be transmitted under section 8.1 of this chapter in the form required under rules adopted by the board, including search capability for the following:

(A) A controlled substance **or prescription drug** recipient's name.

(B) A controlled substance **or prescription drug** recipient's or recipient representative's identification number.

(C) A controlled substance **or prescription drug** recipient's date of birth.

(D) The national drug code number of a controlled substance **or prescription drug** dispensed.

(E) The dates a controlled substance **or prescription drug** is dispensed.

(F) The quantities of a controlled substance **or prescription drug** dispensed.

(G) The number of days of supply dispensed.

(H) A dispenser's United States Drug Enforcement Agency registration number.

(I) A prescriber's United States Drug Enforcement Agency registration number.

(J) Whether a prescription was transmitted to the pharmacist orally or in writing.

(K) A controlled substance **or prescription drug** recipient's method of payment for the controlled substance **or prescription drug** dispensed.

(2) Provide the board with continuing twenty-four (24) hour a day online access to the data base.

(3) Secure the information collected and the data base maintained against access by unauthorized persons.

(b) The board may execute a contract with a vendor designated by the board to perform any function associated with the administration of the INSPECT program.

(c) The INSPECT program may gather prescription data from the Medicaid retrospective drug utilization review (DUR) program established under IC 12-15-35.

(d) The board may accept and designate grants, public and private financial assistance, and licensure fees to provide funding for the INSPECT program.

SECTION 12. IC 35-48-7-11.1, AS AMENDED BY P.L.84-2010, SECTION 99, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 11.1. (a) Information received by the INSPECT

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program under section 8.1 of this chapter is confidential.

(b) The board shall carry out a program to protect the confidentiality of the information described in subsection (a). The board may disclose the information to another person only under subsection (c), (d), or (g).

(c) The board may disclose confidential information described in subsection (a) to any person who is authorized to engage in receiving, processing, or storing the information.

(d) Except as provided in subsections (e) and (f), the board may release confidential information described in subsection (a) to the following persons:

(1) A member of the board or another governing body that licenses practitioners and is engaged in an investigation, an adjudication, or a prosecution of a violation under any state or federal law that involves a controlled substance.

(2) An investigator for the consumer protection division of the office of the attorney general, a prosecuting attorney, the attorney general, a deputy attorney general, or an investigator from the office of the attorney general, who is engaged in:

(A) an investigation;

(B) an adjudication; or

(C) a prosecution;

of a violation under any state or federal law that involves a controlled substance.

(3) A law enforcement officer who is an employee of:

(A) a local, state, or federal law enforcement agency; or

(B) an entity that regulates controlled substances or enforces controlled substances rules or laws in another state;

that is certified to receive information from the INSPECT program **as described in subsection (e)(1).**

(4) A practitioner or practitioner's agent certified to receive information from the INSPECT program.

(5) A **prescription drug or** controlled substance monitoring program in another state with which Indiana has established an interoperability agreement.

(6) The state toxicologist.

(7) A certified representative of the Medicaid retrospective and prospective drug utilization review program.

(8) A substance abuse assistance program for a licensed health care provider who:

(A) has prescriptive authority under IC 25; and

(B) is participating in the assistance program.

(e) Information provided to an individual under:

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(1) subsection (d)(3) is limited to **controlled substances** information:

(A) concerning an individual or proceeding involving the unlawful diversion or misuse of a schedule II, III, IV, or V controlled substance; and

(B) that will assist in an investigation or proceeding; and

(2) subsection (d)(4) may be released only for the purpose of:

(A) providing medical or pharmaceutical treatment; or

(B) evaluating the need for providing medical or pharmaceutical treatment to a patient.

(f) Before the board releases confidential information under subsection (d), the applicant must be approved by the INSPECT program in a manner prescribed by the board.

(g) The board may release to:

(1) a member of the board or another governing body that licenses practitioners;

(2) an investigator for the consumer protection division of the office of the attorney general, a prosecuting attorney, the attorney general, a deputy attorney general, or an investigator from the office of the attorney general; or

(3) a law enforcement officer who is:

(A) authorized by the state police department to receive the type of information released; and

(B) approved by the board to receive the type of information released;

confidential information generated from computer records that identifies practitioners who are prescribing or dispensing large quantities of a controlled substance.

(h) The information described in subsection (g) may not be released until it has been reviewed by:

(1) a member of the board who is licensed in the same profession as the prescribing or dispensing practitioner identified by the data; or

(2) the board's designee;

and until that member or the designee has certified that further investigation is warranted. However, failure to comply with this subsection does not invalidate the use of any evidence that is otherwise admissible in a proceeding described in subsection (i).

(i) An investigator or a law enforcement officer receiving confidential information under subsection (c), (d), or (g) may disclose the information to a law enforcement officer or an attorney for the office of the attorney general for use as evidence in the following:

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(1) A proceeding under IC 16-42-20.

(2) A proceeding under any state or federal law that involves a controlled substance.

(3) A criminal proceeding or a proceeding in juvenile court that involves a controlled substance.

(j) The board may compile statistical reports from the information described in subsection (a). The reports must not include information that identifies any practitioner, ultimate user, or other person administering a controlled substance **or a prescription drug.** Statistical reports compiled under this subsection are public records.

(k) This section may not be construed to require a practitioner to obtain information about a patient from the data base.

(l) A practitioner is immune from civil liability for an injury, death, or loss to a person solely due to a practitioner seeking or not seeking information from the INSPECT program. The civil immunity described in this subsection does not extend to a practitioner if the practitioner receives information directly from the INSPECT program and then negligently misuses this information. This subsection does not apply to an act or omission that is a result of gross negligence or intentional misconduct.

(m) The board may review the records of the INSPECT program. If the board determines that a violation of the law may have occurred, the board shall notify the appropriate law enforcement agency or the relevant government body responsible for the licensure, regulation, or discipline of practitioners authorized by law to prescribe ~~controlled substances.~~ **prescription drugs.**

(n) A practitioner who in good faith discloses information based on a report from the INSPECT program to a law enforcement agency is immune from criminal or civil liability. A practitioner that discloses information to a law enforcement agency under this subsection is presumed to have acted in good faith.

SECTION 13. IC 35-48-7-12.1, AS AMENDED BY P.L.42-2011, SECTION 77, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 12.1. (a) The board shall adopt rules under IC 4-22-2 to implement this chapter, including the following:

(1) Information collection and retrieval procedures for the INSPECT program, including the controlled substances **or beginning January 1, 2014, prescription drugs,** to be included in the program required under section 8.1 of this chapter.

(2) Design for the creation of the data base required under section 10.1 of this chapter.

(3) Requirements for the development and installation of online

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electronic access by the board to information collected by the INSPECT program.

(4) Identification of emergency situations or other circumstances in which a practitioner may prescribe, dispense, and administer a prescription drug specified in section 8.1 of this chapter without a written prescription or on a form other than a form specified in section 8.1(a)(4) of this chapter.

(b) The board may:

(1) set standards for education courses for individuals authorized to use the INSPECT program;

(2) identify treatment programs for individuals addicted to controlled substances **or prescription drugs** monitored by the INSPECT program; and

(3) work with impaired practitioner associations to provide intervention and treatment.

SECTION 14. [EFFECTIVE JULY 1, 2013] **(a) As used in this SECTION, "commission" refers to the health finance commission established by IC 2-5-23-3.**

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

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

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

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

(3) The drug testing protocol of Indiana opioid treatment programs.

(4) The number of opioid treatment program patients who have tested positive for other controlled substances during a drug test for a controlled substance provided by an opioid treatment program.

(5) The number of opioid treatment program patients who are subsequently determined to no longer need the assistance of the opioid treatment program and released from treatment.

(6) Any other information requested by the commission or that is determined by the division of mental health and

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addiction to be relevant to the study described in this SECTION.

(d) This SECTION expires December 31, 2013.".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 272 as introduced.)

MILLER PATRICIA, Chairperson

Committee Vote: Yeas 9, Nays 2.

SENATE MOTION

Madam President: I move that Senate Bill 272 be amended to read as follows:

Page 1, line 12, delete "Before" and insert "**During the 2013 legislative interim, the Indiana professional licensing agency shall report to the health finance commission established by IC 2-5-23-3 concerning how to implement a program to require, before**".

Page 1, line 13, delete "shall" and insert "**to**".

Page 2, line 11, after "The" insert "**report must include whether to require the**".

Page 2, line 11, delete "shall" and insert "**to**".

Page 3, line 29, delete "2014," and insert "**2015,**".

Page 3, line 37, delete "2014," and insert "**2015,**".

Page 4, line 7, delete "2014," and insert "**2015,**".

Page 4, line 12, delete "2014," and insert "**2015,**".

Page 4, line 25, delete "2014," and insert "**2015,**".

Page 4, line 29, delete "2014," and insert "**2015,**".

Page 5, line 14, delete "2014," and insert "**2015,**".

Page 10, line 2, delete "2014," and insert "**2015,**".

Page 10, line 39, delete "by" and insert "**under**".

(Reference is to SB 272 as printed February 8, 2013.)

MILLER PATRICIA

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