# 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 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.

(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:

(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 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:

(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:

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

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

Renumber all SECTIONS consecutively.

(Reference is to SB 272 as introduced.)

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

Committee Vote: Yeas 9, Nays 2.

**Senator Miller Patricia, Chairperson**