

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 2017 Regular Session of the General Assembly.

## SENATE ENROLLED ACT No. 369

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AN ACT to amend the Indiana Code concerning labor and safety.

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

SECTION 1. IC 22-3-3-4.7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 4.7. (a) As used in this section, "formulary" refers to the Official Disability Guidelines (ODG) Workers' Compensation Drug Formulary Appendix A published by MCG Health.**

**(b) As used in this section, "medical emergency" means the sudden onset of a medical condition manifested by acute symptoms of sufficient severity, including severe pain, that in the absence of immediate medical attention could reasonably be expected to result in:**

- (1) serious jeopardy to the employee's health or bodily functions; or**
- (2) serious dysfunction of a body part or organ.**

**(c) Beginning January 1, 2019, reimbursement is not permitted for a claim for payment for a drug that:**

- (1) is prescribed for use by an employee who files a notice of injury under this chapter; and**
- (2) according to the formulary, is an "N" drug.**

**However, if the employee begins use of the "N" drug before July 1, 2018, and the use continues after January 1, 2019, reimbursement is permitted for the "N" drug until January 1, 2020.**

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(d) If a prescribing physician submits to an employer a request to permit use of an "N" drug described in subsection (c), including the prescribing physician's reason for requesting use of an "N" drug, and the employer approves the request, the prescribing physician may prescribe the "N" drug for use by the injured employee.

(e) If the employer does not approve the prescribing physician's request under subsection (d) to permit use of an "N" drug, the employer shall:

(1) send the request to a third party that is certified by the Utilization Review Accreditation Commission to make a determination concerning the request; and

(2) notify the prescribing physician and the injured employee of the third party's determination not more than five (5) business days after receiving the request.

(f) If an employer fails to provide the notice required by subsection (e)(2), the prescribing physician's request under subsection (d) is considered approved, and reimbursement of the "N" drug prescribed for use by the injured employee is authorized.

(g) If the third party's determination under subsection (e) is to deny the prescribing physician's request to permit the use of an "N" drug:

(1) the employer shall notify the prescribing physician and the injured employee; and

(2) the injured employee may apply to the worker's compensation board for a final determination concerning the third party's determination under subsection (e).

(h) Notwithstanding subsections (c) through (f), during a medical emergency, an employee shall receive a drug prescribed for the employee even if the drug is an "N" drug according to the formulary.

SECTION 2. IC 22-3-7-17.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 17.6. (a) As used in this section, "formulary" refers to the Official Disability Guidelines (ODG) Workers' Compensation Drug Formulary Appendix A published by MCG Health.

(b) As used in this section, "medical emergency" means the sudden onset of a medical condition manifested by acute symptoms of sufficient severity, including severe pain, that in the absence of immediate medical attention could reasonably be expected to result in:



(1) serious jeopardy to the employee's health or bodily functions; or

(2) serious dysfunction of a body part or organ.

(c) Beginning January 1, 2019, reimbursement is not permitted for a claim for payment for a drug that:

(1) is prescribed for use by an employee who files a notice of occupational disease under this chapter; and

(2) according to the formulary, is an "N" drug.

However, if the employee begins use of the "N" drug before July 1, 2018, and the use continues after January 1, 2019, reimbursement is permitted for the "N" drug until January 1, 2020.

(d) If a prescribing physician submits to an employer a request to permit use of an "N" drug described in subsection (c), including the prescribing physician's reason for requesting use of an "N" drug, and the employer approves the request, the prescribing physician may prescribe the "N" drug for use by the disabled employee.

(e) If the employer does not approve the prescribing physician's request under subsection (d) to permit use of an "N" drug, the employer shall:

(1) send the request to a third party that is certified by the Utilization Review Accreditation Commission to make a determination concerning the request; and

(2) notify the prescribing physician and the disabled employee of the third party's determination not more than five (5) business days after receiving the request.

(f) If an employer fails to provide the notice required by subsection (e)(2), the prescribing physician's request under subsection (d) is considered approved, and reimbursement of the "N" drug prescribed for use by the disabled employee is authorized.

(g) If the third party's determination under subsection (e) is to deny the prescribing physician's request to permit the use of an "N" drug:

(1) the employer shall notify the prescribing physician and the disabled employee; and

(2) the disabled employee may apply to the worker's compensation board for a final determination concerning the third party's determination under subsection (e).

(h) Notwithstanding subsections (c) through (f), during a medical emergency, an employee shall receive a drug prescribed



**for the employee even if the drug is an "N" drug according to the formulary.**



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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

**SEA 369 — Concur**

