



March 31, 2017

ENGROSSED HOUSE BILL No. 1148

DIGEST OF HB 1148 (Updated March 28, 2017 8:28 pm - DI 106)

Citations Affected: IC 4-13; IC 16-18; IC 16-42; IC 21-45; IC 25-26; IC 34-30; IC 35-48.

Synopsis: Cannabidiol and treatment resistant epilepsy. Defines cannabidiol and establishes a cannabidiol registry for certain physicians, nurses, individuals, and caregivers for the use of cannabidiol in the treatment of a person with treatment resistant
(Continued next page)

Effective: Upon passage; July 1, 2017.

**Friend, Moseley, Arnold L, Schaibley,
Lucas, Mahan, VanNatter, Taylor J,
Beumer, Lehe, Judy, Goodin, Pierce,
McNamara, Macer, Engleman, Morris,
Cook, Klinker, Lawson L, Forestal, Frye R,
Olthoff, Candelaria Reardon, Hatfield,
Summers, Brown C, DeVon, Pressel,
Siegrist, Errington, Stemler, Moed, Kersey,
Carbaugh, Gutwein, Ellington**
(SENATE SPONSORS — HEAD, DORIOT, TALLIAN)

January 5, 2017, read first time and referred to Committee on Courts and Criminal Code.
February 16, 2017, amended, reported — Do Pass.
February 20, 2017, read second time, ordered engrossed. Engrossed.
February 21, 2017, read third time, passed. Yeas 98, nays 0.

SENATE ACTION

February 23, 2017, read first time and referred to Committee on Corrections and Criminal Law.
March 30, 2017, amended, reported favorably — Do Pass.

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Digest Continued

epilepsy. Establishes a pilot study registry for physicians who want to study the use of cannabidiol in the treatment of treatment resistant epilepsy. Requires the state department of health to develop and maintain both registries. Provides civil, criminal, and administrative immunity for physicians and nurses in the use of cannabidiol in the treatment of treatment resistant epilepsy if certain requirements are met. Exempts physicians, caregivers, nurses and individuals from criminal penalties for possession or use of cannabidiol under certain conditions. Permits a pharmacy to dispense cannabidiol subject to specific requirements. Encourages state educational institutions to research the use of cannabidiol in the treatment of other treatment resistant diseases.



March 31, 2017

First Regular Session of the 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1148

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

- 1 SECTION 1. IC 4-13-18-6, AS ADDED BY P.L.160-2006,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 6. (a) A contractor's employee drug testing
4 program must satisfy all of the following:
5 (1) Each of the contractor's employees must be subject to a drug
6 test at least one (1) time each year.
7 (2) Subject to subdivision (1), the contractor's employees must be
8 tested randomly. At least two percent (2%) of the contractor's
9 employees must be randomly selected each month for testing.
10 (3) The program must contain at least a five (5) drug panel that
11 tests for the following:
12 (A) Amphetamines.
13 (B) Cocaine.
14 (C) Opiates (2000 ng/ml).
15 (D) PCP.
16 (E) THC.
17 (4) The program must impose progressive discipline on an

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1 employee who fails a drug test. The discipline must have at least
2 the following progression:

3 (A) After the first positive test, an employee must be:

- 4 (i) suspended from work for thirty (30) days;
5 (ii) directed to a program of treatment or rehabilitation; and
6 (iii) subject to unannounced drug testing for one (1) year,
7 beginning the day the employee returns to work.

8 (B) After a second positive test, an employee must be:

- 9 (i) suspended from work for ninety (90) days;
10 (ii) directed to a program of treatment or rehabilitation; and
11 (iii) subject to unannounced drug testing for one (1) year,
12 beginning the day the employee returns to work.

13 (C) After a third or subsequent positive test, an employee must
14 be:

- 15 (i) suspended from work for one (1) year;
16 (ii) directed to a program of treatment or rehabilitation; and
17 (iii) subject to unannounced drug testing for one (1) year,
18 beginning the day the employee returns to work.

19 The program may require dismissal of the employee after any
20 positive drug test or other discipline more severe than is described
21 in this subdivision.

22 (b) An employer complies with the requirement of subsection (a) to
23 direct an employee to a program of treatment or rehabilitation if the
24 employer does either of the following:

- 25 (1) Advises the employee of any program of treatment or
26 rehabilitation covered by insurance provided by the employer.
27 (2) If the employer does not provide insurance that covers drug
28 treatment or rehabilitation programs, the employer advises the
29 employee of agencies known to the employer that provide drug
30 treatment or rehabilitation programs.

31 **(c) A positive result on a drug test due solely to an employee's**
32 **use of cannabidiol (as defined in IC 16-42-28-2) in compliance with**
33 **IC 16-42-28 is not considered a positive test for purposes of this**
34 **section.**

35 SECTION 2. IC 16-18-2-45.5 IS ADDED TO THE INDIANA
36 CODE AS A NEW SECTION TO READ AS FOLLOWS
37 [EFFECTIVE UPON PASSAGE]: **Sec. 45.5. "Cannabidiol", for**
38 **purposes of IC 16-42-28, has the meaning set forth in**
39 **IC 16-42-28-2.**

40 SECTION 3. IC 16-18-2-48.7 IS ADDED TO THE INDIANA
41 CODE AS A NEW SECTION TO READ AS FOLLOWS
42 [EFFECTIVE UPON PASSAGE]: **Sec. 48.7. "Caregiver", for**



1 **purposes of IC 16-42-28, has the meaning set forth in**
 2 **IC 16-42-28-1.**

3 SECTION 4. IC 16-18-2-163, AS AMENDED BY P.L.117-2015,
 4 SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 UPON PASSAGE]: Sec. 163. (a) "Health care provider", for purposes
 6 of IC 16-21 and IC 16-41, means any of the following:

7 (1) An individual, a partnership, a corporation, a professional
 8 corporation, a facility, or an institution licensed or legally
 9 authorized by this state to provide health care or professional
 10 services as a licensed physician, a psychiatric hospital, a hospital,
 11 a health facility, an emergency ambulance service (IC 16-31-3),
 12 a dentist, a registered or licensed practical nurse, a midwife, an
 13 optometrist, a pharmacist, a podiatrist, a chiropractor, a physical
 14 therapist, a respiratory care practitioner, an occupational therapist,
 15 a psychologist, a paramedic, an emergency medical technician, an
 16 advanced emergency medical technician, an athletic trainer, or a
 17 person who is an officer, employee, or agent of the individual,
 18 partnership, corporation, professional corporation, facility, or
 19 institution acting in the course and scope of the person's
 20 employment.

21 (2) A college, university, or junior college that provides health
 22 care to a student, a faculty member, or an employee, and the
 23 governing board or a person who is an officer, employee, or agent
 24 of the college, university, or junior college acting in the course
 25 and scope of the person's employment.

26 (3) A blood bank, community mental health center, community
 27 intellectual disability center, community health center, or migrant
 28 health center.

29 (4) A home health agency (as defined in IC 16-27-1-2).

30 (5) A health maintenance organization (as defined in
 31 IC 27-13-1-19).

32 (6) A health care organization whose members, shareholders, or
 33 partners are health care providers under subdivision (1).

34 (7) A corporation, partnership, or professional corporation not
 35 otherwise qualified under this subsection that:

36 (A) provides health care as one (1) of the corporation's,
 37 partnership's, or professional corporation's functions;

38 (B) is organized or registered under state law; and

39 (C) is determined to be eligible for coverage as a health care
 40 provider under IC 34-18 for the corporation's, partnership's, or
 41 professional corporation's health care function.

42 Coverage for a health care provider qualified under this subdivision is



1 limited to the health care provider's health care functions and does not
2 extend to other causes of action.

3 (b) "Health care provider", for purposes of IC 16-35, has the
4 meaning set forth in subsection (a). However, for purposes of IC 16-35,
5 the term also includes a health facility (as defined in section 167 of this
6 chapter).

7 (c) "Health care provider", for purposes of IC 16-36-5 and
8 IC 16-36-6, means an individual licensed or authorized by this state to
9 provide health care or professional services as:

- 10 (1) a licensed physician;
- 11 (2) a registered nurse;
- 12 (3) a licensed practical nurse;
- 13 (4) an advanced practice nurse;
- 14 (5) a certified nurse midwife;
- 15 (6) a paramedic;
- 16 (7) an emergency medical technician;
- 17 (8) an advanced emergency medical technician; or
- 18 (9) an emergency medical responder, as defined by section 109.8
19 of this chapter.

20 The term includes an individual who is an employee or agent of a
21 health care provider acting in the course and scope of the individual's
22 employment.

23 (d) "Health care provider", for purposes of section 1.5 of this
24 chapter and IC 16-40-4, means any of the following:

- 25 (1) An individual, a partnership, a corporation, a professional
26 corporation, a facility, or an institution licensed or authorized by
27 the state to provide health care or professional services as a
28 licensed physician, a psychiatric hospital, a hospital, a health
29 facility, an emergency ambulance service (IC 16-31-3), an
30 ambulatory outpatient surgical center, a dentist, an optometrist, a
31 pharmacist, a podiatrist, a chiropractor, a psychologist, or a
32 person who is an officer, employee, or agent of the individual,
33 partnership, corporation, professional corporation, facility, or
34 institution acting in the course and scope of the person's
35 employment.
- 36 (2) A blood bank, laboratory, community mental health center,
37 community intellectual disability center, community health
38 center, or migrant health center.
- 39 (3) A home health agency (as defined in IC 16-27-1-2).
- 40 (4) A health maintenance organization (as defined in
41 IC 27-13-1-19).
- 42 (5) A health care organization whose members, shareholders, or



1 partners are health care providers under subdivision (1).

2 (6) A corporation, partnership, or professional corporation not
3 otherwise specified in this subsection that:

4 (A) provides health care as one (1) of the corporation's,
5 partnership's, or professional corporation's functions;

6 (B) is organized or registered under state law; and

7 (C) is determined to be eligible for coverage as a health care
8 provider under IC 34-18 for the corporation's, partnership's, or
9 professional corporation's health care function.

10 (7) A person that is designated to maintain the records of a person
11 described in subdivisions (1) through (6).

12 **(e) "Health care provider", for purposes of IC 16-42-28, has the**
13 **meaning set forth in subsection (a). However, for purposes of**
14 **IC 16-42-28, the term also includes a pharmacy and an advanced**
15 **practice nurse.**

16 **(e) (f) "Health care provider", for purposes of IC 16-45-4, has the**
17 **meaning set forth in 47 CFR 54.601(a).**

18 SECTION 5. IC 16-18-2-191.7 IS ADDED TO THE INDIANA
19 CODE AS A NEW SECTION TO READ AS FOLLOWS
20 [EFFECTIVE UPON PASSAGE]: **Sec. 191.7. "Treatment resistant**
21 **epilepsy", for purposes of IC 16-42-28, has the meaning set forth**
22 **in IC 16-42-28-3.**

23 SECTION 6. IC 16-18-2-253.6 IS ADDED TO THE INDIANA
24 CODE AS A NEW SECTION TO READ AS FOLLOWS
25 [EFFECTIVE UPON PASSAGE]: **Sec. 253.6. "Nurse", for purposes**
26 **of IC 16-42-28, has the meaning set forth in IC 16-42-28-4.**

27 SECTION 7. IC 16-18-2-272 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 272. (a) "Patient",
29 for purposes of IC 16-27-1, has the meaning set forth in IC 16-27-1-6.

30 (b) "Patient", for the purposes of IC 16-28 and IC 16-29, means an
31 individual who has been accepted and assured care by a health facility.

32 (c) "Patient", for purposes of IC 16-36-1.5, has the meaning set forth
33 in IC 16-36-1.5-3.

34 (d) "Patient", for purposes of IC 16-39, means an individual who has
35 received health care services from a provider for the examination,
36 treatment, diagnosis, or prevention of a physical or mental condition.

37 **(e) "Patient", for purposes of IC 16-42-28, has the meaning set**
38 **forth in IC 16-42-28-5.**

39 SECTION 8. IC 16-18-2-282, AS AMENDED BY P.L.6-2012,
40 SECTION 111, IS AMENDED TO READ AS FOLLOWS
41 [EFFECTIVE UPON PASSAGE]: Sec. 282. (a) "Physician", except as
42 provided in subsections (b) and (c); **through (d)**, means a licensed



1 physician (as defined in section 202 of this chapter).

2 (b) "Physician", for purposes of IC 16-41-12, has the meaning set
3 forth in IC 16-41-12-7.

4 (c) "Physician", for purposes of IC 16-37-1-3.1 and IC 16-37-3-5,
5 means an individual who:

6 (1) was the physician last in attendance (as defined in section
7 282.2 of this chapter); or

8 (2) is licensed under IC 25-22.5.

9 **(d) "Physician", for purposes of IC 16-42-28, has the meaning
10 set forth in IC 16-42-28-6.**

11 ~~(d)~~ (e) "Physician", for purposes of IC 16-48-1, is subject to
12 IC 16-48-1-2.

13 SECTION 9. IC 16-42-28 IS ADDED TO THE INDIANA CODE
14 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
15 UPON PASSAGE]:

16 **Chapter 28. Drugs: Use of Cannabidiol for the Treatment of
17 Epilepsy**

18 **Sec. 1. As used in this chapter, "caregiver" refers to a parent,
19 legal guardian, health care representative, or custodian of an
20 individual who has been diagnosed with treatment resistant
21 epilepsy by a physician.**

22 **Sec. 2. As used in this chapter, "cannabidiol" means an extract
23 from a cannabis plant or a mixture or preparation containing
24 cannabis plant material that:**

25 (1) is composed of not more than three-tenths percent (0.3%)
26 tetrahydrocannabinol (THC) by weight, based on the dry
27 weight of the plant;

28 (2) is composed of at least five percent (5%) cannabidiol by
29 weight, based on the dry weight of the plant; and

30 (3) contains no other controlled substances.

31 **Sec. 3. As used in this chapter, "treatment resistant epilepsy"
32 means:**

33 (1) Dravet syndrome;

34 (2) Lennox-Gastaut syndrome; or

35 (3) another seizure disorder in a patient who has not
36 responded to at least two (2) other seizure disorder treatment
37 options that have been provided in good faith;

38 **if the syndrome or disorder has been examined and diagnosed by
39 a physician.**

40 **Sec. 4. As used in this chapter, "nurse" means an individual
41 licensed under IC 25-23.**

42 **Sec. 5. As used in this chapter, "patient" refers to an individual**



1 who has been diagnosed with treatment resistant epilepsy by a
2 physician.

3 Sec. 6. As used in this chapter, "physician" means an individual
4 who:

- 5 (1) is licensed under IC 25-22.5; and
- 6 (2) is board certified in neurology.

7 Sec. 7. (a) The state department shall develop and implement a
8 cannabidiol registry for the registration of:

- 9 (1) physicians;
- 10 (2) patients;
- 11 (3) caregivers; and
- 12 (4) nurses;

13 for the use of cannabidiol in the treatment of patients who have
14 been diagnosed with treatment resistant epilepsy.

15 (b) The cannabidiol registry must include a secure, electronic
16 online data base that is accessible by law enforcement agencies in
17 order to verify the registration of an individual.

18 (c) The state department shall register a physician or nurse
19 who:

- 20 (1) meets the requirements of this chapter;
- 21 (2) submits a completed registration form issued by the state
22 department; and
- 23 (3) pays the registration fee.

24 (d) The state department shall register and issue an individual
25 described in subsection (a)(2) or (a)(3) a registration card under
26 this section only if the individual meets the following requirements:

- 27 (1) The individual is:
 - 28 (A) a caregiver at least eighteen (18) years of age; or
 - 29 (B) a patient.
- 30 (2) The individual is an Indiana resident.
- 31 (3) The individual provides a certified statement by a
32 physician registered under this section that a patient in the
33 care of the caregiver meets the following requirements:
 - 34 (A) The patient has been examined and diagnosed by the
35 physician to have treatment resistant epilepsy.
 - 36 (B) The patient has been recommended by the physician
37 for treatment by cannabidiol for the treatment resistant
38 epilepsy.
- 39 (4) The patient submits a completed registration application.
- 40 (5) The patient pays the registration fee set by the state
41 department.

42 (e) The state department shall develop the cannabidiol



1 registration application. The registration application for a
2 caregiver must ask for the following information:

- 3 (1) The caregiver's name and address.
- 4 (2) The patient's name and address.
- 5 (3) A copy of the caregiver's valid government issued photo
6 identification card.
- 7 (4) Any other relevant information the state department
8 considers necessary to implement this section.

9 (f) The state department shall charge a registration fee of not
10 more than fifty dollars (\$50) for an individual's initial registration
11 under this section to cover the costs of implementing and
12 administering the cannabidiol registry. The state department may
13 adopt rules under IC 4-22-2 permitting a fee reduction or fee
14 waiver for a patient who is indigent.

15 (g) Registration under this section is valid for one (1) year from
16 the date of issuance, unless the physician requests a shorter
17 expiration date. The state department shall renew registration
18 under this section for an individual if the initial registration is
19 current or has been updated by the individual and the individual
20 continues to meet the registration requirements under this chapter.
21 The state department shall charge a renewal fee of not more than
22 twenty-five dollars (\$25). The state department may adopt rules
23 under IC 4-22-2 permitting a fee reduction or fee waiver for a
24 patient who is indigent.

25 **Sec. 8.** When a patient or caregiver registers for the cannabidiol
26 registry, the state department shall contact and provide the local
27 department of health where the patient or caregiver resides with
28 the following information:

- 29 (1) The name and address of the patient or caregiver.
- 30 (2) Identifying information contained on the patient's or
31 caregiver's registration card.
- 32 (3) Any other information the state department determines is
33 necessary to disclose.

34 **Sec. 9. (a)** The state department shall establish and maintain a
35 pilot study registry for the monitoring of research performed by a
36 state educational institution as described in IC 21-45-7 concerning
37 the safety and efficacy of using cannabidiol in the treatment of
38 treatment resistant epilepsy.

39 (b) A physician or the state educational institution seeking to
40 conduct research described in subsection (a) shall submit to the
41 state department an application to be included in the pilot study
42 registry that includes the following information:



- 1 (1) The name of the pilot study.
- 2 (2) The name of the affiliated state educational institution.
- 3 (3) The scientific and clinical parameters of the pilot study.
- 4 (4) The protocols established to ensure patient safety.
- 5 (5) The name and address of any physician associated with the
- 6 pilot study.
- 7 (6) Any other information considered necessary by the state
- 8 department in order to determine the safety and evidence
- 9 based nature of the pilot study.
- 10 A physician may not conduct the research described in subsection
- 11 (a) until the pilot study has been certified by the state department
- 12 under subsection (c).
- 13 (c) The state department shall review each application
- 14 submitted under subsection (b) and include the pilot study on the
- 15 registry described in subsection (a) only after the state department
- 16 determines and certifies that the proposed pilot study does the
- 17 following:
- 18 (1) Adheres to minimum scientific methods.
- 19 (2) Protects patient safety.
- 20 (d) The state department may monitor a registered pilot study
- 21 under this section to ensure that the physician adheres to the
- 22 requirements set forth in subsection (c).
- 23 (e) A physician who has been approved for the pilot study
- 24 registry shall do the following while conducting the pilot study
- 25 research approved under this section:
- 26 (1) Maintain records of the evaluations and observations of a
- 27 patient participating in the pilot study, including the patient's
- 28 response to the cannabidiol treatment.
- 29 (2) Transmit the records described in subdivision (1) to the
- 30 state department upon the state department's request.
- 31 (f) The state department may charge a fee to cover
- 32 implementation and administration of the registry established
- 33 under this section.
- 34 Sec. 10. The state department shall maintain any medical
- 35 records obtained under this chapter as confidential, and the
- 36 medical records may not be disclosed to the public.
- 37 Sec. 11. (a) A physician who is registered and conducting a
- 38 registered pilot study under this chapter may approve the
- 39 dispensing or use of cannabidiol to a registered caregiver or
- 40 registered patient for the treatment of treatment resistant epilepsy.
- 41 (b) A physician or nurse registered under this chapter and any
- 42 health care provider, entity, or state educational institution



1 assisting in or collaborating with the physician in regard to the
 2 pilot study permitted under this chapter are immune from civil,
 3 criminal, and administrative liability for approving or making use
 4 of cannabidiol in the treatment of a patient diagnosed with
 5 treatment resistant epilepsy if the patient is validly registered
 6 under this chapter.

7 **Sec. 12. (a)** The state department shall study whether the
 8 registration under section 7 of this chapter should, based on sound
 9 medical findings, be extended to other individuals with treatment
 10 resistant medical conditions.

11 **(b)** Before November 1, 2018, the state department shall provide
 12 its findings under subsection (a) to the general assembly in an
 13 electronic format under IC 5-14-6.

14 **Sec. 13.** A health care provider is immune from civil and
 15 criminal liability if the patient who possesses the cannabidiol or the
 16 parent, guardian, or caretaker of the patient who possesses the
 17 cannabidiol presents and shows to a health care provider:

- 18 (1) a registration card authorized under this chapter; or
 19 (2) an equivalent authorization from another jurisdiction and
 20 the health care provider reasonably relies in good faith on the
 21 representation from the patient or the parent, guardian, or
 22 caretaker of the patient that the authorization is valid in that
 23 jurisdiction.

24 **Sec. 14.** If a patient or the parent, guardian, or caretaker of the
 25 patient presents at a facility of a health care provider and shows to
 26 the health care provider:

- 27 (1) a registration card authorized under this chapter; or
 28 (2) an equivalent authorization from another jurisdiction and
 29 the health care provider reasonably relies in good faith on the
 30 representation from the patient or the parent, guardian, or
 31 caretaker of the patient that the authorization is valid in that
 32 jurisdiction;

33 the health care provider is not required to administer the
 34 cannabidiol and, instead, may require the patient or the parent,
 35 guardian, or caretaker of the patient to self administer the
 36 cannabidiol.

37 **Sec. 15.** The department shall review the practices used in other
 38 states that permit the use of cannabidiol by patients suffering from
 39 treatment resistant epilepsy, and shall approve, for purposes of
 40 IC 35-48-4-10 through IC 35-48-4-11 a state having the same
 41 standards for and safeguards concerning cannabidiol as Indiana.

42 **Sec. 16.** The state department may adopt rules under IC 4-22-2



1 **necessary to implement this chapter.**

2 SECTION 10. IC 21-45-7 IS ADDED TO THE INDIANA CODE
3 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
4 UPON PASSAGE]:

5 **Chapter 7. Research on Cannabidiol for Treatment of Epilepsy**

6 **Sec. 1. As used in this chapter, "cannabidiol" has the meaning**
7 **set forth in IC 16-42-28-2.**

8 **Sec. 2. As used in this chapter, "treatment resistant epilepsy"**
9 **has the meaning set forth in IC 16-42-28-3.**

10 **Sec. 3. The state encourages state educational institutions that**
11 **perform medical research and that are affiliated with a physician**
12 **registered under IC 16-42-28 to:**

13 **(1) conduct research by the physician; and**

14 **(2) participate in clinical studies or trials;**

15 **concerning the safety and efficacy of using cannabidiol in the**
16 **treatment of treatment resistant epilepsy.**

17 SECTION 11. IC 25-26-24 IS ADDED TO THE INDIANA CODE
18 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
19 UPON PASSAGE]:

20 **Chapter 24. Dispensing Cannabidiol**

21 **Sec. 1. As used in this chapter, "cannabidiol" has the meaning**
22 **set forth in IC 16-42-28-2.**

23 **Sec. 2. A pharmacist may dispense cannabidiol if all of the**
24 **following conditions are met:**

25 **(1) The pharmacist stores the cannabidiol behind the counter.**

26 **(2) The pharmacist dispenses the cannabidiol only to a person**
27 **holding a valid registration card issued by the Indiana state**
28 **department of health, as described in IC 16-42-28-7.**

29 **(3) The pharmacist dispenses the cannabidiol only to a person**
30 **who possesses a valid government issued photo identification.**

31 **(4) The pharmacist dispenses no more than one (1) thirty (30)**
32 **day supply of cannabidiol in any one (1) thirty (30) day period**
33 **to any one (1) person who meets the requirements of**
34 **subdivisions (2) and (3).**

35 **(5) The cannabidiol is packaged in a container labeled with**
36 **the origin, volume, and concentration by weight of total THC,**
37 **including its precursors and derivatives, and cannabidiol.**

38 **(6) The pharmacist is in compliance with all other state and**
39 **federal laws.**

40 **Sec. 3. Notwithstanding any other law, a pharmacist and any**
41 **person employing the pharmacist is immune from civil, criminal,**
42 **and administrative liability based on dispensing cannabidiol if the:**



- 1 (1) pharmacist complies with section 2 of this chapter; and
 2 (2) dispensing of cannabidiol does not constitute gross
 3 negligence or willful or wanton misconduct.

4 **For purposes of this section, dispensing cannabidiol does not**
 5 **constitute gross negligence or willful or wanton misconduct solely**
 6 **because cannabidiol has not been approved by a state or federal**
 7 **agency or is not legal in another jurisdiction.**

8 SECTION 12. IC 34-30-2-83.9 IS ADDED TO THE INDIANA
 9 CODE AS A NEW SECTION TO READ AS FOLLOWS
 10 [EFFECTIVE UPON PASSAGE]: **Sec. 83.9. (a) IC 16-42-28-11**
 11 **(Concerning making use of cannabidiol in the treatment of**
 12 **treatment resistant epilepsy).**

13 **(b) IC 16-42-28-13 (Concerning possession of cannabidiol).**

14 SECTION 13. IC 34-30-2-101.9 IS ADDED TO THE INDIANA
 15 CODE AS A NEW SECTION TO READ AS FOLLOWS
 16 [EFFECTIVE UPON PASSAGE]: **Sec. 101.9. IC 25-26-24-3**
 17 **(Concerning a pharmacist who dispenses cannabidiol under**
 18 **IC 25-26-24).**

19 SECTION 14. IC 35-48-1-9 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 9. (a) Except as**
 21 **provided in subsection (b), "controlled substance" means a drug,**
 22 **substance, or immediate precursor in schedule I, II, III, IV, or V under:**

- 23 (1) IC 35-48-2-4, IC 35-48-2-6, IC 35-48-2-8, IC 35-48-2-10, or
 24 IC 35-48-2-12, if IC 35-48-2-14 does not apply; or
 25 (2) a rule adopted by the board, if IC 35-48-2-14 applies.

26 **(b) For the following purposes, the term does not include**
 27 **cannabidiol used in compliance with IC 16-42-28:**

- 28 (1) A condition of a probation.
 29 (2) A condition of parole.
 30 (3) A condition of a pretrial diversion program.
 31 (4) A condition of participation in a community corrections
 32 program.
 33 (5) A condition of participation in a forensic diversion
 34 program.
 35 (6) A condition of a community transition program under
 36 IC 11-10-11.5.
 37 (7) An order in a dispositional decree under IC 31-34-20 to
 38 participate in a family dependency drug court if the
 39 individual is a parent, guardian, or another household
 40 member of a child adjudicated a child in need of services.
 41 (8) A condition of an informal adjustment program.
 42 (9) A condition of a program authorized by the:



1 **(A) judge of a problem solving court; and**

2 **(B) department of correction or the county sheriff.**

3 **(10) A condition of pretrial release.**

4 SECTION 15. IC 35-48-4-8.5, AS AMENDED BY P.L.208-2015,
5 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
6 UPON PASSAGE]: Sec. 8.5. (a) A person who keeps for sale, offers
7 for sale, delivers, or finances the delivery of a raw material, an
8 instrument, a device, or other object that is intended to be or that is
9 designed or marketed to be used primarily for:

10 (1) ingesting, inhaling, or otherwise introducing into the human
11 body marijuana, hash oil, hashish, salvia, a synthetic drug, or a
12 controlled substance;

13 (2) testing the strength, effectiveness, or purity of marijuana, hash
14 oil, hashish, salvia, a synthetic drug, or a controlled substance;

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

16 (4) manufacturing, compounding, converting, producing,
17 processing, or preparing marijuana, hash oil, hashish, salvia, a
18 synthetic drug, or a controlled substance;

19 (5) diluting or adulterating marijuana, hash oil, hashish, salvia, a
20 synthetic drug, or a controlled substance by individuals; or

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

23 commits a Class A infraction for dealing in paraphernalia.

24 (b) A person who knowingly or intentionally violates subsection (a)
25 commits a Class A misdemeanor. However, the offense is a Level 6
26 felony if the person has a prior unrelated judgment or conviction under
27 this section.

28 (c) This section does not apply to the following:

29 (1) Items marketed for use in the preparation, compounding,
30 packaging, labeling, or other use of marijuana, hash oil, hashish,
31 salvia, a synthetic drug, or a controlled substance as an incident
32 to lawful research, teaching, or chemical analysis and not for sale.

33 (2) Items marketed for or historically and customarily used in
34 connection with the planting, propagating, cultivating, growing,
35 harvesting, manufacturing, compounding, converting, producing,
36 processing, preparing, testing, analyzing, packaging, repackaging,
37 storing, containing, concealing, injecting, ingesting, or inhaling
38 of tobacco or any other lawful substance.

39 (3) A qualified entity (as defined in IC 16-41-7.5-3) that provides
40 a syringe or needle as part of a program under IC 16-41-7.5.

41 (4) Any entity or person that provides funding to a qualified entity
42 (as defined in IC 16-41-7.5-3) to operate a program described in



- 1 IC 16-41-7.5.
- 2 **(5) A physician described in IC 16-42-28 who:**
- 3 **(A) has been approved by the state department of health**
- 4 **under IC 16-42-28 to make use of cannabidiol in the**
- 5 **treatment of a patient for treatment resistant epilepsy in a**
- 6 **pilot study research described in IC 16-42-28; and**
- 7 **(B) is making use of the cannabidiol in the treatment of the**
- 8 **registered individual diagnosed with treatment resistant**
- 9 **epilepsy.**
- 10 **(6) A physician, patient, nurse, or caregiver who is registered**
- 11 **under IC 16-42-28 for the use of cannabidiol in the treatment**
- 12 **of treatment resistant epilepsy only if the cannabidiol is being**
- 13 **used:**
- 14 **(A) for the person; and**
- 15 **(B) in the manner;**
- 16 **approved by the state department of health for the purposes**
- 17 **of the registry.**
- 18 SECTION 16. IC 35-48-4-10, AS AMENDED BY P.L.44-2016,
- 19 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 20 UPON PASSAGE]: Sec. 10. (a) A person who:
- 21 (1) knowingly or intentionally:
- 22 (A) manufactures;
- 23 (B) finances the manufacture of;
- 24 (C) delivers; or
- 25 (D) finances the delivery of;
- 26 marijuana, hash oil, hashish, or salvia, pure or adulterated; or
- 27 (2) possesses, with intent to:
- 28 (A) manufacture;
- 29 (B) finance the manufacture of;
- 30 (C) deliver; or
- 31 (D) finance the delivery of;
- 32 marijuana, hash oil, hashish, or salvia, pure or adulterated;
- 33 commits dealing in marijuana, hash oil, hashish, or salvia, a Class A
- 34 misdemeanor, except as provided in subsections (b) through (d).
- 35 (b) A person may be convicted of an offense under subsection (a)(2)
- 36 only if:
- 37 (1) there is evidence in addition to the weight of the drug that the
- 38 person intended to manufacture, finance the manufacture of,
- 39 deliver, or finance the delivery of the drug; or
- 40 (2) the amount of the drug involved is at least:
- 41 (A) ten (10) pounds, if the drug is marijuana; or
- 42 (B) three hundred (300) grams, if the drug is hash oil, hashish,



- 1 or salvia.
- 2 (c) The offense is a Level 6 felony if:
- 3 (1) the person has a prior conviction for a drug offense and the
- 4 amount of the drug involved is:
- 5 (A) less than thirty (30) grams of marijuana; or
- 6 (B) less than five (5) grams of hash oil, hashish, or salvia; or
- 7 (2) the amount of the drug involved is:
- 8 (A) at least thirty (30) grams but less than ten (10) pounds of
- 9 marijuana; or
- 10 (B) at least five (5) grams but less than three hundred (300)
- 11 grams of hash oil, hashish, or salvia.
- 12 (d) The offense is a Level 5 felony if:
- 13 (1) the person has a prior conviction for a drug dealing offense
- 14 and the amount of the drug involved is:
- 15 (A) at least thirty (30) grams but less than ten (10) pounds of
- 16 marijuana; or
- 17 (B) at least five (5) grams but less than three hundred (300)
- 18 grams of hash oil, hashish, or salvia; or
- 19 (2) the:
- 20 (A) amount of the drug involved is:
- 21 (i) at least ten (10) pounds of marijuana; or
- 22 (ii) at least three hundred (300) grams of hash oil, hashish,
- 23 or salvia; or
- 24 (B) offense involved a sale to a minor.
- 25 **(e) This section does not apply to the following:**
- 26 **(1) A physician described in IC 16-42-28 who:**
- 27 **(A) has been approved by the state department of health**
- 28 **under IC 16-42-28 to make use of cannabidiol in the**
- 29 **treatment of a patient for treatment resistant epilepsy in a**
- 30 **pilot study research described in IC 16-42-28; and**
- 31 **(B) is making use of the cannabidiol in the treatment of the**
- 32 **registered individual diagnosed with treatment resistant**
- 33 **epilepsy.**
- 34 **(2) A physician, patient, nurse, or caregiver who is registered**
- 35 **under IC 16-42-28 for the use of cannabidiol in the treatment**
- 36 **of treatment resistant epilepsy only if the cannabidiol is being**
- 37 **used:**
- 38 **(A) for the person; and**
- 39 **(B) in the manner;**
- 40 **approved by the state department of health for the purposes**
- 41 **of the registry.**
- 42 **(f) It is a defense to a prosecution under this section that:**



1 (1) the person is a physician, patient, nurse, or caregiver
2 registered under IC 16-42-28 for the use of cannabidiol;

3 (2) the person reasonably believed that the substance
4 possessed by the person was cannabidiol as defined by
5 IC 16-42-28-2;

6 (3) the person obtained the substance from a pharmacy or
7 other entity authorized by a governmental agency in:

8 (A) Indiana, Kentucky, or Missouri to dispense
9 cannabidiol; or

10 (B) another state approved by the state department of
11 health as having the same standards for and safeguards
12 concerning cannabidiol as Indiana; and

13 (4) the substance is packaged in a container labeled with the
14 origin, volume, and concentration by weight of total THC,
15 including its precursors and derivatives, and cannabidiol.

16 SECTION 17. IC 35-48-4-11, AS AMENDED BY
17 P.L.226-2014(ts), SECTION 12, IS AMENDED TO READ AS
18 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 11. (a) A person who:

19 (1) knowingly or intentionally possesses (pure or adulterated)
20 marijuana, hash oil, hashish, or salvia;

21 (2) knowingly or intentionally grows or cultivates marijuana; or

22 (3) knowing that marijuana is growing on the person's premises,
23 fails to destroy the marijuana plants;

24 commits possession of marijuana, hash oil, hashish, or salvia, a Class
25 B misdemeanor, except as provided in subsections (b) through (c).

26 (b) The offense described in subsection (a) is a Class A
27 misdemeanor if the person has a prior conviction for a drug offense.

28 (c) The offense described in subsection (a) is a Level 6 felony if:

29 (1) the person has a prior conviction for a drug offense; and

30 (2) the person possesses:

31 (A) at least thirty (30) grams of marijuana; or

32 (B) at least five (5) grams of hash oil, hashish, or salvia.

33 (d) This section does not apply to the following:

34 (1) A physician described in IC 16-42-28 who:

35 (A) has been approved by the state department of health
36 under IC 16-42-28 to make use of cannabidiol in the
37 treatment of a patient for treatment resistant epilepsy in a
38 pilot study research described in IC 16-42-28; and

39 (B) is making use of the cannabidiol in the treatment of the
40 registered individual diagnosed with treatment resistant
41 epilepsy.

42 (2) A physician, patient, nurse, or caregiver who is validly



1 registered under IC 16-42-28 for the use of cannabidiol in the
2 treatment of treatment resistant epilepsy only if the
3 cannabidiol is being used:

4 (A) for the person; and

5 (B) in the manner;

6 approved by the state department of health for the purposes
7 of the registry.

8 (e) It is a defense to a prosecution under this section that:

9 (1) the person is a physician, patient, nurse, or caregiver
10 registered under IC 16-42-28 for the use of cannabidiol;

11 (2) the person reasonably believed that the substance
12 possessed by the person was cannabidiol as defined by
13 IC 16-42-28-2;

14 (3) the person obtained the substance from a pharmacy or
15 other entity authorized by a governmental agency in:

16 (A) Indiana, Kentucky, or Missouri to dispense
17 cannabidiol; or

18 (B) another state approved by the state department of
19 health as having the same standards for and safeguards
20 concerning cannabidiol as Indiana; and

21 (4) the substance is packaged in a container labeled with the
22 origin, volume, and concentration by weight of total THC,
23 including its precursors and derivatives, and cannabidiol.

24 SECTION 18. An emergency is declared for this act.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1148, 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:

Page 2, line 6, delete "this section" and insert "**subsection (a)(1)**".

Page 2, line 21, after "concentration" insert "**by weight**".

Page 2, line 22, delete "the active ingredient." and insert "**total THC, including its precursors and derivatives, and cannabidiol.**".

Page 2, delete lines 23 through 24, begin a new line block indented and insert:

"(3) The substance contains:

(A) not more than three-tenths percent (0.3%) total THC, including its precursors and derivatives, by weight; and

(B) at least ten percent (10%) cannabidiol by weight."

Page 2, line 29, delete "parent, guardian, or caretaker" and insert "**parent or guardian**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1148 as introduced.)

WASHBURNE

Committee Vote: yeas 8, nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred House Bill No. 1148, 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 1, delete lines 1 through 5, begin a new paragraph and insert:

"SECTION 1. IC 4-13-18-6, AS ADDED BY P.L.160-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) A contractor's employee drug testing program must satisfy all of the following:

(1) Each of the contractor's employees must be subject to a drug test at least one (1) time each year.

(2) Subject to subdivision (1), the contractor's employees must be

EH 1148—LS 6457/DI 106



tested randomly. At least two percent (2%) of the contractor's employees must be randomly selected each month for testing.

(3) The program must contain at least a five (5) drug panel that tests for the following:

- (A) Amphetamines.
- (B) Cocaine.
- (C) Opiates (2000 ng/ml).
- (D) PCP.
- (E) THC.

(4) The program must impose progressive discipline on an employee who fails a drug test. The discipline must have at least the following progression:

- (A) After the first positive test, an employee must be:
 - (i) suspended from work for thirty (30) days;
 - (ii) directed to a program of treatment or rehabilitation; and
 - (iii) subject to unannounced drug testing for one (1) year, beginning the day the employee returns to work.
- (B) After a second positive test, an employee must be:
 - (i) suspended from work for ninety (90) days;
 - (ii) directed to a program of treatment or rehabilitation; and
 - (iii) subject to unannounced drug testing for one (1) year, beginning the day the employee returns to work.
- (C) After a third or subsequent positive test, an employee must be:
 - (i) suspended from work for one (1) year;
 - (ii) directed to a program of treatment or rehabilitation; and
 - (iii) subject to unannounced drug testing for one (1) year, beginning the day the employee returns to work.

The program may require dismissal of the employee after any positive drug test or other discipline more severe than is described in this subdivision.

(b) An employer complies with the requirement of subsection (a) to direct an employee to a program of treatment or rehabilitation if the employer does either of the following:

- (1) Advises the employee of any program of treatment or rehabilitation covered by insurance provided by the employer.
- (2) If the employer does not provide insurance that covers drug treatment or rehabilitation programs, the employer advises the employee of agencies known to the employer that provide drug treatment or rehabilitation programs.

(c) A positive result on a drug test due solely to an employee's use of cannabidiol (as defined in IC 16-42-28-2) in compliance with



IC 16-42-28 is not considered a positive test for purposes of this section.

SECTION 2. IC 16-18-2-45.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 45.5. "Cannabidiol", for purposes of IC 16-42-28, has the meaning set forth in IC 16-42-28-2.**

SECTION 3. IC 16-18-2-48.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 48.7. "Caregiver", for purposes of IC 16-42-28, has the meaning set forth in IC 16-42-28-1.**

SECTION 4. IC 16-18-2-163, AS AMENDED BY P.L.117-2015, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 163. (a) "Health care provider", for purposes of IC 16-21 and IC 16-41, means any of the following:

- (1) An individual, a partnership, a corporation, a professional corporation, a facility, or an institution licensed or legally authorized by this state to provide health care or professional services as a licensed physician, a psychiatric hospital, a hospital, a health facility, an emergency ambulance service (IC 16-31-3), a dentist, a registered or licensed practical nurse, a midwife, an optometrist, a pharmacist, a podiatrist, a chiropractor, a physical therapist, a respiratory care practitioner, an occupational therapist, a psychologist, a paramedic, an emergency medical technician, an advanced emergency medical technician, an athletic trainer, or a person who is an officer, employee, or agent of the individual, partnership, corporation, professional corporation, facility, or institution acting in the course and scope of the person's employment.
- (2) A college, university, or junior college that provides health care to a student, a faculty member, or an employee, and the governing board or a person who is an officer, employee, or agent of the college, university, or junior college acting in the course and scope of the person's employment.
- (3) A blood bank, community mental health center, community intellectual disability center, community health center, or migrant health center.
- (4) A home health agency (as defined in IC 16-27-1-2).
- (5) A health maintenance organization (as defined in IC 27-13-1-19).
- (6) A health care organization whose members, shareholders, or



partners are health care providers under subdivision (1).

(7) A corporation, partnership, or professional corporation not otherwise qualified under this subsection that:

- (A) provides health care as one (1) of the corporation's, partnership's, or professional corporation's functions;
- (B) is organized or registered under state law; and
- (C) is determined to be eligible for coverage as a health care provider under IC 34-18 for the corporation's, partnership's, or professional corporation's health care function.

Coverage for a health care provider qualified under this subdivision is limited to the health care provider's health care functions and does not extend to other causes of action.

(b) "Health care provider", for purposes of IC 16-35, has the meaning set forth in subsection (a). However, for purposes of IC 16-35, the term also includes a health facility (as defined in section 167 of this chapter).

(c) "Health care provider", for purposes of IC 16-36-5 and IC 16-36-6, means an individual licensed or authorized by this state to provide health care or professional services as:

- (1) a licensed physician;
- (2) a registered nurse;
- (3) a licensed practical nurse;
- (4) an advanced practice nurse;
- (5) a certified nurse midwife;
- (6) a paramedic;
- (7) an emergency medical technician;
- (8) an advanced emergency medical technician; or
- (9) an emergency medical responder, as defined by section 109.8 of this chapter.

The term includes an individual who is an employee or agent of a health care provider acting in the course and scope of the individual's employment.

(d) "Health care provider", for purposes of section 1.5 of this chapter and IC 16-40-4, means any of the following:

- (1) An individual, a partnership, a corporation, a professional corporation, a facility, or an institution licensed or authorized by the state to provide health care or professional services as a licensed physician, a psychiatric hospital, a hospital, a health facility, an emergency ambulance service (IC 16-31-3), an ambulatory outpatient surgical center, a dentist, an optometrist, a pharmacist, a podiatrist, a chiropractor, a psychologist, or a person who is an officer, employee, or agent of the individual,



partnership, corporation, professional corporation, facility, or institution acting in the course and scope of the person's employment.

(2) A blood bank, laboratory, community mental health center, community intellectual disability center, community health center, or migrant health center.

(3) A home health agency (as defined in IC 16-27-1-2).

(4) A health maintenance organization (as defined in IC 27-13-1-19).

(5) A health care organization whose members, shareholders, or partners are health care providers under subdivision (1).

(6) A corporation, partnership, or professional corporation not otherwise specified in this subsection that:

(A) provides health care as one (1) of the corporation's, partnership's, or professional corporation's functions;

(B) is organized or registered under state law; and

(C) is determined to be eligible for coverage as a health care provider under IC 34-18 for the corporation's, partnership's, or professional corporation's health care function.

(7) A person that is designated to maintain the records of a person described in subdivisions (1) through (6).

(e) "Health care provider", for purposes of IC 16-42-28, has the meaning set forth in subsection (a). However, for purposes of IC 16-42-28, the term also includes a pharmacy and an advanced practice nurse.

(f) "Health care provider", for purposes of IC 16-45-4, has the meaning set forth in 47 CFR 54.601(a).

SECTION 5. IC 16-18-2-191.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 191.7. "Treatment resistant epilepsy", for purposes of IC 16-42-28, has the meaning set forth in IC 16-42-28-3.**

SECTION 6. IC 16-18-2-253.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 253.6. "Nurse", for purposes of IC 16-42-28, has the meaning set forth in IC 16-42-28-4.**

SECTION 7. IC 16-18-2-272 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 272. (a) "Patient", for purposes of IC 16-27-1, has the meaning set forth in IC 16-27-1-6.

(b) "Patient", for the purposes of IC 16-28 and IC 16-29, means an individual who has been accepted and assured care by a health facility.

(c) "Patient", for purposes of IC 16-36-1.5, has the meaning set forth



in IC 16-36-1.5-3.

(d) "Patient", for purposes of IC 16-39, means an individual who has received health care services from a provider for the examination, treatment, diagnosis, or prevention of a physical or mental condition.

(e) "Patient", for purposes of IC 16-42-28, has the meaning set forth in IC 16-42-28-5.

SECTION 8. IC 16-18-2-282, AS AMENDED BY P.L.6-2012, SECTION 111, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 282. (a) "Physician", except as provided in subsections (b) ~~and (c)~~; **through (d)**, means a licensed physician (as defined in section 202 of this chapter).

(b) "Physician", for purposes of IC 16-41-12, has the meaning set forth in IC 16-41-12-7.

(c) "Physician", for purposes of IC 16-37-1-3.1 and IC 16-37-3-5, means an individual who:

- (1) was the physician last in attendance (as defined in section 282.2 of this chapter); or
- (2) is licensed under IC 25-22.5.

(d) "Physician", for purposes of IC 16-42-28, has the meaning set forth in IC 16-42-28-6.

~~(e)~~ (e) "Physician", for purposes of IC 16-48-1, is subject to IC 16-48-1-2.

SECTION 9. IC 16-42-28 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 28. Drugs: Use of Cannabidiol for the Treatment of Epilepsy

Sec. 1. As used in this chapter, "caregiver" refers to a parent, legal guardian, health care representative, or custodian of an individual who has been diagnosed with treatment resistant epilepsy by a physician.

Sec. 2. As used in this chapter, "cannabidiol" means an extract from a cannabis plant or a mixture or preparation containing cannabis plant material that:

- (1) is composed of not more than three-tenths percent (0.3%) tetrahydrocannabinol (THC) by weight, based on the dry weight of the plant;**
- (2) is composed of at least five percent (5%) cannabidiol by weight, based on the dry weight of the plant; and**
- (3) contains no other controlled substances.**

Sec. 3. As used in this chapter, "treatment resistant epilepsy" means:



(1) Dravet syndrome;
(2) Lennox-Gastaut syndrome; or
(3) another seizure disorder in a patient who has not responded to at least two (2) other seizure disorder treatment options that have been provided in good faith;
if the syndrome or disorder has been examined and diagnosed by a physician.

Sec. 4. As used in this chapter, "nurse" means an individual licensed under IC 25-23.

Sec. 5. As used in this chapter, "patient" refers to an individual who has been diagnosed with treatment resistant epilepsy by a physician.

Sec. 6. As used in this chapter, "physician" means an individual who:

- (1) is licensed under IC 25-22.5; and
- (2) is board certified in neurology.

Sec. 7. (a) The state department shall develop and implement a cannabidiol registry for the registration of:

- (1) physicians;
- (2) patients;
- (3) caregivers; and
- (4) nurses;

for the use of cannabidiol in the treatment of patients who have been diagnosed with treatment resistant epilepsy.

(b) The cannabidiol registry must include a secure, electronic online data base that is accessible by law enforcement agencies in order to verify the registration of an individual.

(c) The state department shall register a physician or nurse who:

- (1) meets the requirements of this chapter;
- (2) submits a completed registration form issued by the state department; and
- (3) pays the registration fee.

(d) The state department shall register and issue an individual described in subsection (a)(2) or (a)(3) a registration card under this section only if the individual meets the following requirements:

- (1) The individual is:
 - (A) a caregiver at least eighteen (18) years of age; or
 - (B) a patient.
- (2) The individual is an Indiana resident.
- (3) The individual provides a certified statement by a physician registered under this section that a patient in the



care of the caregiver meets the following requirements:

- (A) The patient has been examined and diagnosed by the physician to have treatment resistant epilepsy.
- (B) The patient has been recommended by the physician for treatment by cannabidiol for the treatment resistant epilepsy.
- (4) The patient submits a completed registration application.
- (5) The patient pays the registration fee set by the state department.
- (e) The state department shall develop the cannabidiol registration application. The registration application for a caregiver must ask for the following information:
 - (1) The caregiver's name and address.
 - (2) The patient's name and address.
 - (3) A copy of the caregiver's valid government issued photo identification card.
 - (4) Any other relevant information the state department considers necessary to implement this section.
- (f) The state department shall charge a registration fee of not more than fifty dollars (\$50) for an individual's initial registration under this section to cover the costs of implementing and administering the cannabidiol registry. The state department may adopt rules under IC 4-22-2 permitting a fee reduction or fee waiver for a patient who is indigent.
- (g) Registration under this section is valid for one (1) year from the date of issuance, unless the physician requests a shorter expiration date. The state department shall renew registration under this section for an individual if the initial registration is current or has been updated by the individual and the individual continues to meet the registration requirements under this chapter. The state department shall charge a renewal fee of not more than twenty-five dollars (\$25). The state department may adopt rules under IC 4-22-2 permitting a fee reduction or fee waiver for a patient who is indigent.

Sec. 8. When a patient or caregiver registers for the cannabidiol registry, the state department shall contact and provide the local department of health where the patient or caregiver resides with the following information:

- (1) The name and address of the patient or caregiver.
- (2) Identifying information contained on the patient's or caregiver's registration card.
- (3) Any other information the state department determines is



necessary to disclose.

Sec. 9. (a) The state department shall establish and maintain a pilot study registry for the monitoring of research performed by a state educational institution as described in IC 21-45-7 concerning the safety and efficacy of using cannabidiol in the treatment of treatment resistant epilepsy.

(b) A physician or the state educational institution seeking to conduct research described in subsection (a) shall submit to the state department an application to be included in the pilot study registry that includes the following information:

- (1)** The name of the pilot study.
- (2)** The name of the affiliated state educational institution.
- (3)** The scientific and clinical parameters of the pilot study.
- (4)** The protocols established to ensure patient safety.
- (5)** The name and address of any physician associated with the pilot study.
- (6)** Any other information considered necessary by the state department in order to determine the safety and evidence based nature of the pilot study.

A physician may not conduct the research described in subsection (a) until the pilot study has been certified by the state department under subsection (c).

(c) The state department shall review each application submitted under subsection (b) and include the pilot study on the registry described in subsection (a) only after the state department determines and certifies that the proposed pilot study does the following:

- (1)** Adheres to minimum scientific methods.
- (2)** Protects patient safety.

(d) The state department may monitor a registered pilot study under this section to ensure that the physician adheres to the requirements set forth in subsection (c).

(e) A physician who has been approved for the pilot study registry shall do the following while conducting the pilot study research approved under this section:

- (1)** Maintain records of the evaluations and observations of a patient participating in the pilot study, including the patient's response to the cannabidiol treatment.
- (2)** Transmit the records described in subdivision (1) to the state department upon the state department's request.

(f) The state department may charge a fee to cover implementation and administration of the registry established



under this section.

Sec. 10. The state department shall maintain any medical records obtained under this chapter as confidential, and the medical records may not be disclosed to the public.

Sec. 11. (a) A physician who is registered and conducting a registered pilot study under this chapter may approve the dispensing or use of cannabidiol to a registered caregiver or registered patient for the treatment of treatment resistant epilepsy.

(b) A physician or nurse registered under this chapter and any health care provider, entity, or state educational institution assisting in or collaborating with the physician in regard to the pilot study permitted under this chapter are immune from civil, criminal, and administrative liability for approving or making use of cannabidiol in the treatment of a patient diagnosed with treatment resistant epilepsy if the patient is validly registered under this chapter.

Sec. 12. (a) The state department shall study whether the registration under section 7 of this chapter should, based on sound medical findings, be extended to other individuals with treatment resistant medical conditions.

(b) Before November 1, 2018, the state department shall provide its findings under subsection (a) to the general assembly in an electronic format under IC 5-14-6.

Sec. 13. A health care provider is immune from civil and criminal liability if the patient who possesses the cannabidiol or the parent, guardian, or caretaker of the patient who possesses the cannabidiol presents and shows to a health care provider:

- (1)** a registration card authorized under this chapter; or
- (2)** an equivalent authorization from another jurisdiction and the health care provider reasonably relies in good faith on the representation from the patient or the parent, guardian, or caretaker of the patient that the authorization is valid in that jurisdiction.

Sec. 14. If a patient or the parent, guardian, or caretaker of the patient presents at a facility of a health care provider and shows to the health care provider:

- (1)** a registration card authorized under this chapter; or
- (2)** an equivalent authorization from another jurisdiction and the health care provider reasonably relies in good faith on the representation from the patient or the parent, guardian, or caretaker of the patient that the authorization is valid in that jurisdiction;



the health care provider is not required to administer the cannabidiol and, instead, may require the patient or the parent, guardian, or caretaker of the patient to self administer the cannabidiol.

Sec. 15. The department shall review the practices used in other states that permit the use of cannabidiol by patients suffering from treatment resistant epilepsy, and shall approve, for purposes of IC 35-48-4-10 through IC 35-48-4-11 a state having the same standards for and safeguards concerning cannabidiol as Indiana.

Sec. 16. The state department may adopt rules under IC 4-22-2 necessary to implement this chapter.

SECTION 10. IC 21-45-7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 7. Research on Cannabidiol for Treatment of Epilepsy

Sec. 1. As used in this chapter, "cannabidiol" has the meaning set forth in IC 16-42-28-2.

Sec. 2. As used in this chapter, "treatment resistant epilepsy" has the meaning set forth in IC 16-42-28-3.

Sec. 3. The state encourages state educational institutions that perform medical research and that are affiliated with a physician registered under IC 16-42-28 to:

- (1) conduct research by the physician; and
- (2) participate in clinical studies or trials;

concerning the safety and efficacy of using cannabidiol in the treatment of treatment resistant epilepsy.

SECTION 11. IC 25-26-24 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 24. Dispensing Cannabidiol

Sec. 1. As used in this chapter, "cannabidiol" has the meaning set forth in IC 16-42-28-2.

Sec. 2. A pharmacist may dispense cannabidiol if all of the following conditions are met:

- (1) The pharmacist stores the cannabidiol behind the counter.
- (2) The pharmacist dispenses the cannabidiol only to a person holding a valid registration card issued by the Indiana state department of health, as described in IC 16-42-28-7.
- (3) The pharmacist dispenses the cannabidiol only to a person who possesses a valid government issued photo identification.
- (4) The pharmacist dispenses no more than one (1) thirty (30) day supply of cannabidiol in any one (1) thirty (30) day period



to any one (1) person who meets the requirements of subdivisions (2) and (3).

(5) The cannabidiol is packaged in a container labeled with the origin, volume, and concentration by weight of total THC, including its precursors and derivatives, and cannabidiol.

(6) The pharmacist is in compliance with all other state and federal laws.

Sec. 3. Notwithstanding any other law, a pharmacist and any person employing the pharmacist is immune from civil, criminal, and administrative liability based on dispensing cannabidiol if the:

- (1) pharmacist complies with section 2 of this chapter; and
- (2) dispensing of cannabidiol does not constitute gross negligence or willful or wanton misconduct.

For purposes of this section, dispensing cannabidiol does not constitute gross negligence or willful or wanton misconduct solely because cannabidiol has not been approved by a state or federal agency or is not legal in another jurisdiction.

SECTION 12. IC 34-30-2-83.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 83.9. (a) IC 16-42-28-11 (Concerning making use of cannabidiol in the treatment of treatment resistant epilepsy).**

(b) IC 16-42-28-13 (Concerning possession of cannabidiol).

SECTION 13. IC 34-30-2-101.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 101.9. IC 25-26-24-3 (Concerning a pharmacist who dispenses cannabidiol under IC 25-26-24).**

SECTION 14. IC 35-48-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 9. (a) Except as provided in subsection (b), "controlled substance" means a drug, substance, or immediate precursor in schedule I, II, III, IV, or V under:**

- (1) IC 35-48-2-4, IC 35-48-2-6, IC 35-48-2-8, IC 35-48-2-10, or IC 35-48-2-12, if IC 35-48-2-14 does not apply; or
- (2) a rule adopted by the board, if IC 35-48-2-14 applies.

(b) For the following purposes, the term does not include cannabidiol used in compliance with IC 16-42-28:

- (1) A condition of a probation.
- (2) A condition of parole.
- (3) A condition of a pretrial diversion program.
- (4) A condition of participation in a community corrections program.



(5) A condition of participation in a forensic diversion program.

(6) A condition of a community transition program under IC 11-10-11.5.

(7) An order in a dispositional decree under IC 31-34-20 to participate in a family dependency drug court if the individual is a parent, guardian, or another household member of a child adjudicated a child in need of services.

(8) A condition of an informal adjustment program.

(9) A condition of a program authorized by the:

(A) judge of a problem solving court; and

(B) department of correction or the county sheriff.

(10) A condition of pretrial release.

SECTION 15. IC 35-48-4-8.5, AS AMENDED BY P.L.208-2015, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8.5. (a) A person who keeps for sale, offers for sale, delivers, or finances the delivery of a raw material, an instrument, a device, or other object that is intended to be or that is designed or marketed to be used primarily for:

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

(2) testing the strength, effectiveness, or purity of marijuana, hash oil, hashish, salvia, a synthetic drug, or a controlled substance;

(3) enhancing the effect of a controlled substance;

(4) manufacturing, compounding, converting, producing, processing, or preparing marijuana, hash oil, hashish, salvia, a synthetic drug, or a controlled substance;

(5) diluting or adulterating marijuana, hash oil, hashish, salvia, a synthetic drug, or a controlled substance by individuals; or

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

commits a Class A infraction for dealing in paraphernalia.

(b) A person who knowingly or intentionally violates subsection (a) commits a Class A misdemeanor. However, the offense is a Level 6 felony if the person has a prior unrelated judgment or conviction under this section.

(c) This section does not apply to the following:

(1) Items marketed for use in the preparation, compounding, packaging, labeling, or other use of marijuana, hash oil, hashish, salvia, a synthetic drug, or a controlled substance as an incident to lawful research, teaching, or chemical analysis and not for sale.



(2) Items marketed for or historically and customarily used in connection with the planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, or inhaling of tobacco or any other lawful substance.

(3) A qualified entity (as defined in IC 16-41-7.5-3) that provides a syringe or needle as part of a program under IC 16-41-7.5.

(4) Any entity or person that provides funding to a qualified entity (as defined in IC 16-41-7.5-3) to operate a program described in IC 16-41-7.5.

(5) A physician described in IC 16-42-28 who:

(A) has been approved by the state department of health under IC 16-42-28 to make use of cannabidiol in the treatment of a patient for treatment resistant epilepsy in a pilot study research described in IC 16-42-28; and

(B) is making use of the cannabidiol in the treatment of the registered individual diagnosed with treatment resistant epilepsy.

(6) A physician, patient, nurse, or caregiver who is registered under IC 16-42-28 for the use of cannabidiol in the treatment of treatment resistant epilepsy only if the cannabidiol is being used:

(A) for the person; and

(B) in the manner;

approved by the state department of health for the purposes of the registry.

SECTION 16. IC 35-48-4-10, AS AMENDED BY P.L.44-2016, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) A person who:

(1) knowingly or intentionally:

(A) manufactures;

(B) finances the manufacture of;

(C) delivers; or

(D) finances the delivery of;

marijuana, hash oil, hashish, or salvia, pure or adulterated; or

(2) possesses, with intent to:

(A) manufacture;

(B) finance the manufacture of;

(C) deliver; or

(D) finance the delivery of;

marijuana, hash oil, hashish, or salvia, pure or adulterated;



commits dealing in marijuana, hash oil, hashish, or salvia, a Class A misdemeanor, except as provided in subsections (b) through (d).

(b) A person may be convicted of an offense under subsection (a)(2) only if:

(1) there is evidence in addition to the weight of the drug that the person intended to manufacture, finance the manufacture of, deliver, or finance the delivery of the drug; or

(2) the amount of the drug involved is at least:

(A) ten (10) pounds, if the drug is marijuana; or

(B) three hundred (300) grams, if the drug is hash oil, hashish, or salvia.

(c) The offense is a Level 6 felony if:

(1) the person has a prior conviction for a drug offense and the amount of the drug involved is:

(A) less than thirty (30) grams of marijuana; or

(B) less than five (5) grams of hash oil, hashish, or salvia; or

(2) the amount of the drug involved is:

(A) at least thirty (30) grams but less than ten (10) pounds of marijuana; or

(B) at least five (5) grams but less than three hundred (300) grams of hash oil, hashish, or salvia.

(d) The offense is a Level 5 felony if:

(1) the person has a prior conviction for a drug dealing offense and the amount of the drug involved is:

(A) at least thirty (30) grams but less than ten (10) pounds of marijuana; or

(B) at least five (5) grams but less than three hundred (300) grams of hash oil, hashish, or salvia; or

(2) the:

(A) amount of the drug involved is:

(i) at least ten (10) pounds of marijuana; or

(ii) at least three hundred (300) grams of hash oil, hashish, or salvia; or

(B) offense involved a sale to a minor.

(e) This section does not apply to the following:

(1) A physician described in IC 16-42-28 who:

(A) has been approved by the state department of health under IC 16-42-28 to make use of cannabidiol in the treatment of a patient for treatment resistant epilepsy in a pilot study research described in IC 16-42-28; and

(B) is making use of the cannabidiol in the treatment of the registered individual diagnosed with treatment resistant



epilepsy.

(2) A physician, patient, nurse, or caregiver who is registered under IC 16-42-28 for the use of cannabidiol in the treatment of treatment resistant epilepsy only if the cannabidiol is being used:

(A) for the person; and

(B) in the manner;

approved by the state department of health for the purposes of the registry.

(f) It is a defense to a prosecution under this section that:

(1) the person is a physician, patient, nurse, or caregiver registered under IC 16-42-28 for the use of cannabidiol;

(2) the person reasonably believed that the substance possessed by the person was cannabidiol as defined by IC 16-42-28-2;

(3) the person obtained the substance from a pharmacy or other entity authorized by a governmental agency in:

(A) Indiana, Kentucky, or Missouri to dispense cannabidiol; or

(B) another state approved by the state department of health as having the same standards for and safeguards concerning cannabidiol as Indiana; and

(4) the substance is packaged in a container labeled with the origin, volume, and concentration by weight of total THC, including its precursors and derivatives, and cannabidiol."

Page 2, delete lines 6 through 35, begin a new paragraph and insert:

"(d) This section does not apply to the following:

(1) A physician described in IC 16-42-28 who:

(A) has been approved by the state department of health under IC 16-42-28 to make use of cannabidiol in the treatment of a patient for treatment resistant epilepsy in a pilot study research described in IC 16-42-28; and

(B) is making use of the cannabidiol in the treatment of the registered individual diagnosed with treatment resistant epilepsy.

(2) A physician, patient, nurse, or caregiver who is validly registered under IC 16-42-28 for the use of cannabidiol in the treatment of treatment resistant epilepsy only if the cannabidiol is being used:

(A) for the person; and

(B) in the manner;

approved by the state department of health for the purposes



of the registry.

(e) It is a defense to a prosecution under this section that:

- (1) the person is a physician, patient, nurse, or caregiver registered under IC 16-42-28 for the use of cannabidiol;**
- (2) the person reasonably believed that the substance possessed by the person was cannabidiol as defined by IC 16-42-28-2;**
- (3) the person obtained the substance from a pharmacy or other entity authorized by a governmental agency in:**
 - (A) Indiana, Kentucky, or Missouri to dispense cannabidiol; or**
 - (B) another state approved by the state department of health as having the same standards for and safeguards concerning cannabidiol as Indiana; and**
- (4) the substance is packaged in a container labeled with the origin, volume, and concentration by weight of total THC, including its precursors and derivatives, and cannabidiol.**

SECTION 17. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1148 as printed February 17, 2017.)

YOUNG M, Chairperson

Committee Vote: Yeas 7, Nays 2.

