

HOUSE BILL No. 1276

DIGEST OF INTRODUCED BILL

Citations Affected: IC 25-26-13.

Synopsis: Dispensing without a prescription. Allows a pharmacist who meets certain requirements to furnish specified tobacco cessation products and immunization drugs or devices to individuals who are at least 18 years of age without a prescription or drug order. Provides that a third party contract or other agreement that restricts a pharmacist from practicing any legally allowed duty or action is void.

Effective: July 1, 2016.

Davisson

January 12, 2016, read first time and referred to Committee on Public Health.



Second Regular Session of the 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

HOUSE BILL No. 1276

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

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

1 SECTION 1. IC 25-26-13-25, AS AMENDED BY P.L.13-2013,
2 SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2016]: Sec. 25. (a) All original prescriptions, whether in
4 written or electronic format, shall be numbered and maintained in
5 numerical and chronological order, or in a manner approved by the
6 board and accessible for at least two (2) years in the pharmacy. A
7 prescription transmitted from a practitioner by means of
8 communication other than writing must immediately be reduced to
9 writing or recorded in an electronic format by the pharmacist. The files
10 shall be open for inspection to any member of the board or the board's
11 duly authorized agent or representative.

12 (b) A prescription may be electronically transmitted from the
13 practitioner by computer or another electronic device to a pharmacy
14 that is licensed under this article or any other state or territory. An
15 electronic data intermediary that is approved by the board:

16 (1) may transmit the prescription information between the
17 prescribing practitioner and the pharmacy;



- 1 (2) may archive copies of the electronic information related to the
 2 transmissions as necessary for auditing and security purposes; and
 3 (3) must maintain patient privacy and confidentiality of all
 4 archived information as required by applicable state and federal
 5 laws.
- 6 (c) Except as provided in subsection (d) **and section 34 of this**
 7 **chapter**, a prescription for any drug, the label of which bears either the
 8 legend, "Caution: Federal law prohibits dispensing without
 9 prescription" or "Rx Only", may not be refilled without written,
 10 electronically transmitted, or oral authorization of a licensed
 11 practitioner.
- 12 (d) **Except as provided in section 34 of this chapter**, a prescription
 13 for any drug, the label of which bears either the legend, "Caution:
 14 Federal law prohibits dispensing without prescription" or "Rx Only",
 15 may be refilled by a pharmacist one (1) time without the written,
 16 electronically transmitted, or oral authorization of a licensed
 17 practitioner if all of the following conditions are met:
- 18 (1) The pharmacist has made every reasonable effort to contact
 19 the original prescribing practitioner or the practitioner's designee
 20 for consultation and authorization of the prescription refill.
- 21 (2) The pharmacist believes that, under the circumstances, failure
 22 to provide a refill would be seriously detrimental to the patient's
 23 health.
- 24 (3) The original prescription authorized a refill but a refill would
 25 otherwise be invalid for either of the following reasons:
- 26 (A) All of the authorized refills have been dispensed.
 27 (B) The prescription has expired under subsection (h).
- 28 (4) The prescription for which the patient requests the refill was:
- 29 (A) originally filled at the pharmacy where the request for a
 30 refill is received and the prescription has not been transferred
 31 for refills to another pharmacy at any time; or
 32 (B) filled at or transferred to another location of the same
 33 pharmacy or its affiliate owned by the same parent corporation
 34 if the pharmacy filling the prescription has full access to
 35 prescription and patient profile information that is
 36 simultaneously and continuously updated on the parent
 37 corporation's information system.
- 38 (5) The drug is prescribed for continuous and uninterrupted use
 39 and the pharmacist determines that the drug is being taken
 40 properly in accordance with IC 25-26-16.
- 41 (6) The pharmacist shall document the following information
 42 regarding the refill:



- 1 (A) The information required for any refill dispensed under
 2 subsection (e).
 3 (B) The dates and times that the pharmacist attempted to
 4 contact the prescribing practitioner or the practitioner's
 5 designee for consultation and authorization of the prescription
 6 refill.
 7 (C) The fact that the pharmacist dispensed the refill without
 8 the authorization of a licensed practitioner.
 9 (7) The pharmacist notifies the original prescribing practitioner
 10 of the refill and the reason for the refill by the practitioner's next
 11 business day after the refill has been made by the pharmacist.
 12 (8) Any pharmacist initiated refill under this subsection may not
 13 be for more than the minimum amount necessary to supply the
 14 patient through the prescribing practitioner's next business day.
 15 However, a pharmacist may dispense a drug in an amount greater
 16 than the minimum amount necessary to supply the patient through
 17 the prescribing practitioner's next business day if:
 18 (A) the drug is packaged in a form that requires the pharmacist
 19 to dispense the drug in a quantity greater than the minimum
 20 amount necessary to supply the patient through the prescribing
 21 practitioner's next business day; or
 22 (B) the pharmacist documents in the patient's record the
 23 amount of the drug dispensed and a compelling reason for
 24 dispensing the drug in a quantity greater than the minimum
 25 amount necessary to supply the patient through the prescribing
 26 practitioner's next business day.
 27 (9) Not more than one (1) pharmacist initiated refill is dispensed
 28 under this subsection for a single prescription.
 29 (10) The drug prescribed is not a controlled substance.
 30 A pharmacist may not refill a prescription under this subsection if the
 31 practitioner has designated on the prescription form the words "No
 32 Emergency Refill".
 33 (e) When refilling a prescription, the refill record shall include:
 34 (1) the date of the refill;
 35 (2) the quantity dispensed if other than the original quantity; and
 36 (3) the dispenser's identity on:
 37 (A) the original prescription form; or
 38 (B) another board approved, uniformly maintained, readily
 39 retrievable record.
 40 (f) The original prescription form or the other board approved
 41 record described in subsection (e) must indicate by the number of the
 42 original prescription the following information:



- 1 (1) The name and dosage form of the drug.
 2 (2) The date of each refill.
 3 (3) The quantity dispensed.
 4 (4) The identity of the pharmacist who dispensed the refill.
 5 (5) The total number of refills for that prescription.
 6 (g) This subsection does not apply:
 7 (1) unless a patient requests a prescription drug supply of more
 8 than thirty (30) days;
 9 (2) to the dispensing of a controlled substance (as defined in
 10 IC 35-48-1-9); or
 11 (3) if a prescriber indicates on the prescription that the quantity of
 12 the prescription may not be changed.
 13 A pharmacist may dispense, upon request of the patient, personal or
 14 legal representative of the patient, or guardian of the patient, not more
 15 than a ninety (90) day supply of medication if the patient has completed
 16 an initial thirty (30) day supply of the drug therapy and the
 17 prescription, including any refills, allows a pharmacist to dispense at
 18 least a ninety (90) day supply of the medication. However, a pharmacist
 19 shall notify the prescriber of the change in the quantity filled and must
 20 comply with state and federal laws and regulations concerning the
 21 dispensing limitations concerning a prescription drug. The pharmacist
 22 shall inform the customer concerning whether the additional supply of
 23 the prescription will be covered under the patient's insurance, if
 24 applicable.
 25 (h) A prescription is valid for not more than one (1) year after the
 26 original date of issue.
 27 (i) A pharmacist may not knowingly dispense a prescription after
 28 the demise of the practitioner, unless in the pharmacist's professional
 29 judgment it is in the best interest of the patient's health.
 30 (j) A pharmacist may not knowingly dispense a prescription after
 31 the demise of the patient.
 32 (k) A pharmacist or a pharmacy shall not resell, reuse, or
 33 redistribute a medication that is returned to the pharmacy after being
 34 dispensed unless the medication:
 35 (1) was dispensed to an individual:
 36 (A) residing in an institutional facility (as defined in 856
 37 IAC 1-28.1-1(6));
 38 (B) in a hospice program under IC 16-25; or
 39 (C) in a county jail or department of correction facility;
 40 (2) was properly stored and securely maintained according to
 41 sound pharmacy practices;
 42 (3) is returned unopened and:



- 1 (A) was dispensed in the manufacturer's original:
 2 (i) bulk, multiple dose container with an unbroken tamper
 3 resistant seal; or
 4 (ii) unit dose package; or
 5 (B) was packaged by the dispensing pharmacy in a:
 6 (i) multiple dose blister container; or
 7 (ii) unit dose package;
 8 (4) was dispensed by the same pharmacy as the pharmacy
 9 accepting the return;
 10 (5) is not expired; and
 11 (6) is not a controlled substance (as defined in IC 35-48-1-9),
 12 unless the pharmacy holds a Category II permit (as described in
 13 section 17 of this chapter).
- 14 (l) A pharmacist or a pharmacy shall not resell, reuse, or redistribute
 15 medical devices or medical supplies used for prescription drug therapy
 16 that have been returned to the pharmacy after being dispensed unless
 17 the medical devices or medical supplies:
 18 (1) were dispensed to an individual in a county jail or department
 19 of correction facility;
 20 (2) are not expired; and
 21 (3) are returned unopened and in the original sealed packaging.
- 22 (m) A pharmacist may use the pharmacist's professional judgment
 23 as to whether to accept medication for return under this section.
- 24 (n) A pharmacist who violates subsection (d) commits a Class A
 25 infraction.
- 26 SECTION 2. IC 25-26-13-34 IS ADDED TO THE INDIANA
 27 CODE AS A NEW SECTION TO READ AS FOLLOWS
 28 [EFFECTIVE JULY 1, 2016]: **Sec. 34. (a) A pharmacist who meets
 29 the requirements of this section and rules adopted by the board
 30 may furnish the drugs or devices specified in this section to
 31 individuals who are at least eighteen (18) years of age without a
 32 prescription or drug order.**
- 33 **(b) Before July 1, 2017, the board shall adopt rules under
 34 IC 4-22-2 to establish protocols for pharmacists and record
 35 keeping requirements under this section.**
- 36 **(c) A pharmacist shall notify the individual's primary care
 37 provider of any drugs or devices furnished under this section to the
 38 individual, or enter the appropriate information in a patient record
 39 system shared with the primary care provider. If the individual
 40 does not have a primary care provider, the pharmacist shall
 41 provide the individual with a written record of the drugs or devices
 42 furnished under this section and advise the individual to consult a**



1 physician of the individual's choice.

2 (d) A pharmacist shall:

3 (1) receive consent from an individual who receives a drug or
4 device before the pharmacist may provide the individual the
5 drug or device under this section; and

6 (2) document each drug or device furnished under this
7 section, including a unique number assigned by the
8 pharmacist for record keeping purposes.

9 The consent and documentation concerning the drug or device
10 furnished to the individual must be documented, numbered, and
11 maintained in numerical and chronological order, or in a manner
12 approved by the board and accessible for a period of three (3)
13 years.

14 (e) A pharmacist may furnish tobacco cessation products,
15 including nicotine replacement and nonnicotine replacement drugs
16 and devices approved by the federal Food and Drug
17 Administration, for use by prescription if the following conditions
18 are met:

19 (1) The pharmacist is certified in smoking cessation therapy
20 by an organization that is:

21 (A) recognized by the board; and

22 (B) accredited by the Accreditation Council for Pharmacy
23 Education (ACPE).

24 (2) After the pharmacist has received certification under
25 subdivision (1), the pharmacist completes one (1) hour of
26 continuing education focused on smoking cessation therapy
27 biennially.

28 (f) Notwithstanding section 31.2 of this chapter, a pharmacist
29 may furnish the following immunizations:

30 (1) Immunizations listed in the federal Centers for Disease
31 Control and Prevention's recommended adult immunization
32 schedule.

33 (2) Immunizations recommended by the federal Centers for
34 Disease Control and Prevention's health information for
35 international travel.

36 (3) Immunizations administered by pharmacists under section
37 31.2(b)(1) through 31.2(b)(6) of this chapter.

38 (g) A pharmacist or pharmacist's designee shall provide
39 immunization data to the immunization data registry (IC 16-38-5)
40 in a manner prescribed by the state department of health unless:

41 (1) the individual receiving the immunization; or

42 (2) the legal guardian of the individual receiving the



1 **immunization, if a legal guardian has been appointed;**
2 **has completed and filed with the pharmacist or pharmacist's**
3 **designee a written immunization data exemption form, as provided**
4 **in IC 16-38-5-2.**

5 SECTION 3. IC 25-26-13-35 IS ADDED TO THE INDIANA
6 CODE AS A NEW SECTION TO READ AS FOLLOWS
7 [EFFECTIVE JULY 1, 2016]: **Sec. 35. (a) A third party contract or**
8 **other agreement may not restrict a pharmacist from practicing any**
9 **duties or actions allowed under this article.**

10 **(b) A third party contract provision or other agreement that**
11 **violates this section is void.**

