

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.

## HOUSE ENROLLED ACT No. 1540

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

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

SECTION 1. IC 16-19-4-11, AS ADDED BY SEA 51-2017, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 11. (a) The state health commissioner or the commissioner's designated public health authority who is a licensed prescriber may, as part of the individual's official capacity, issue a statewide standing order, prescription, or protocol that allows a pharmacist to administer or dispense **any of the following:**

**(1)** An immunization that is recommended by the federal Centers for Disease Control and Prevention Advisory Committee on Immunization Practices for individuals who are not less than eleven (11) years of age.

**(2) A smoking cessation product. However, the pharmacist must inform the patient that the patient must have a follow-up consultation with the patient's licensed prescriber.**

(b) The state health commissioner or designated public health authority who issues a statewide standing order, prescription, or protocol under subsection (a) is immune from civil liability related to the issuing of the standing order, prescription, or protocol.

SECTION 2. IC 25-26-13-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 3. (a) The Indiana board of pharmacy is created. ~~It shall consist~~ **The board consists of**

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seven (7) members ~~not more than four (4) of whom may be from the same political party~~; appointed by the governor for terms of four (4) years. One (1) member of the board, to represent the general public, must be a resident of this state who has never been associated with pharmacy in any way other than as a consumer. Except for the member representing the general public, the members must be pharmacists in good standing of recognized experience and ability from varied practice settings who hold a current license to practice pharmacy in Indiana. One (1) member of the board must be a practicing hospital pharmacist. ~~A person employed as a full-time staff member or as a professor at a school of pharmacy may not serve on the board.~~ If a member leaves the board for any reason before the end of the member's term, the member's successor shall serve for the unexpired portion of the term.

(b) Not later than ten (10) days after a member's appointment, the member must subscribe by oath or affirmation to faithfully uphold the duties of the member's office. If a member fails to qualify as provided, a new member shall be appointed in the member's place.

(c) At the first meeting of each year the board shall elect from among its members a president and vice president who shall perform duties and have powers as the board prescribes.

(d) The board shall meet at least eight (8) times per year at such times and places as the board selects. At each meeting the board shall continue in session from day to day, for not more than five (5) days, until the business of the meeting is complete. Four (4) members of the board shall constitute a quorum.

(e) Each member of the board is entitled to compensation as determined by the rules of the budget agency for each day the member is actually engaged in business of the board, together with necessary travel and other expenses incurred in the performance of the member's duties.

(f) Approval by a majority of the quorum is required for any action to be taken by the board.

SECTION 3. IC 25-26-13-4.4 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4.4. The board may adopt emergency rules under IC 4-22-2-37.1 concerning pharmacies that perform compounding.**

SECTION 4. IC 25-26-13-17, AS AMENDED BY P.L.152-2012, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 17. (a) The board shall establish classes of pharmacy permits as follows:

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Category I. A retail permit for a pharmacy that provides pharmaceutical care to the general public by the dispensing of a drug or device.

Category II. An institutional permit for hospitals, clinics, health care facilities, sanitariums, nursing homes, or dispensaries that offer pharmaceutical care by dispensing a drug product to an inpatient under a drug order or to an outpatient of the institution under a prescription.

Category III. A permit for a pharmacy that provides closed door, central fill, mail order, or other processing operations that are not open to the general public but include:

- (A) traditional pharmacy functions; or
- (B) nontraditional pharmacy functions, such as infusion, nuclear pharmacy, or sterile compounding.

(b) **Except for when registration as a remote dispensing facility (as defined in IC 25-26-13.5-3) is required under IC 25-26-13.5**, the board may approve a remote or mobile location for Category I, II, or III permits. Pharmacy practice in a mobile or remote location may include, but is not limited to, telepharmacy, automated dispensing, or delivery of cognitive services.

(c) A hospital or hospital system holding a Category II permit may offer drugs or devices:

(1) to:

- (A) an employee, student, or volunteer of the hospital or hospital system;
- (B) a retiree who is participating in a retirement, pension, or benefit program administered by the hospital or hospital system;
- (C) an independent contractor who has an exclusive relationship with the hospital or hospital system;
- (D) a member of the hospital's or hospital system's governing board; or
- (E) a member of the hospital's or hospital system's medical staff; and

(2) to dependents of the individuals listed in subdivision (1); for their own use.

(d) Hospitals holding a Category II permit may operate remote locations within a reasonable distance of the licensed area, as determined by the board, after:

- (1) filing an application on a form prepared by the board;
- (2) having each location inspected by the board; and
- (3) obtaining approval from the board.



(e) Any applicable rule governing the practice of pharmacy in Indiana shall apply to all permits under this section.

(f) After June 30, 2012, a person with:

- (1) a Type I permit shall be treated as holding a Category I permit;
- (2) a Type II permit shall be treated as holding a Category II permit; and
- (3) a Type III, IV, V, or VI permit shall be treated as holding a Category III permit.

The change in the name of the permit does not change the expiration date of the permit.

(g) After June 30, 2012, a reference in any rule or other document to:

- (1) a Type I permit shall be treated as a reference to a Category I permit;
- (2) a Type II permit shall be treated as a reference to a Category II permit; or
- (3) a Type III, IV, V, or VI permit shall be treated as a reference to a Category III permit.

SECTION 5. IC 25-26-13-18, AS AMENDED BY P.L.5-2015, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 18. (a) To be eligible for issuance of a pharmacy permit, an applicant must show to the satisfaction of the board that:

- (1) Persons at the location will engage in the bona fide practice of pharmacy. The application must show the number of hours each week, if any, that the pharmacy will be open to the general public.
- (2) The pharmacy will maintain a sufficient stock of emergency and frequently prescribed drugs and devices as to adequately serve and protect the public health.
- (3) Except as provided in **IC 25-26-13.5** and section 19 of this chapter, a registered pharmacist will be in personal attendance and on duty in the licensed premises at all times when the practice of pharmacy is being conducted and that the pharmacist will be responsible for the lawful conduct of the pharmacy.
- (4) The pharmacy will be located separate and apart from any area containing merchandise not offered for sale under the pharmacy permit. The pharmacy will:
  - (A) be stationary;
  - (B) be sufficiently secure, either through electronic or physical means, or a combination of both, to protect the products contained in the pharmacy and to detect and deter entry during those times when the pharmacy is closed;
  - (C) be well lighted and ventilated with clean and sanitary



surroundings;

(D) be equipped with a sink with hot and cold running water or some means for heating water, a proper sewage outlet, and refrigeration;

(E) have a prescription filling area of sufficient size to permit the practice of pharmacy as practiced at that particular pharmacy; and

(F) have such additional fixtures, facilities, and equipment as the board requires to enable it to operate properly as a pharmacy in compliance with federal and state laws and regulations governing pharmacies.

(b) Prior to opening a pharmacy after receipt of a pharmacy permit, the permit holder shall submit the premises to a qualifying inspection by a representative of the board and shall present a physical inventory of the drugs and all other items in the inventory on the premises.

(c) At all times, the wholesale value of the drug inventory on the licensed items must be at least ten percent (10%) of the wholesale value of the items in the licensed area.

SECTION 6. IC 25-26-13-18.5, AS ADDED BY P.L.5-2015, SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 18.5. (a) As used in this section, "immediate and personal supervision" means within reasonable visual and vocal distance of the pharmacist.

(b) **Except as provided in subsection (d)**, licensed pharmacy technicians or pharmacy technicians in training who are:

(1) licensed or certified under IC 25-26-19; and

(2) practicing at a pharmacy;

must practice under a licensed pharmacist's immediate and personal supervision at all times.

(c) A pharmacist may not supervise more than six (6) **pharmacy interns**, pharmacy technicians, or pharmacy technicians in training at any time. **Not more than three (3) of the six (6) individuals being supervised by a pharmacist may be pharmacy technicians in training.**

(d) **A licensed pharmacy technician employed at a remote dispensing facility (as defined in IC 25-26-13.5-3) may be under the supervision of a pharmacist through the use of a computer link, a video link, and an audio link.**

SECTION 7. IC 25-26-13-19, AS AMENDED BY P.L.152-2012, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 19. (a) A pharmacy holding a Category I or Category III permit **that is not operating as a remote dispensing**



**facility (as defined in IC 25-26-13.5-3)** may be open to the general public without a pharmacist on duty if the following conditions are met:

- (1) Approval is obtained from the board.
- (2) All legend drugs and other merchandise that can only be dispensed by a pharmacist are securely locked or secured by an alternative system approved by the board when the pharmacist is absent.
- (3) During the pharmacist's absence, a sign at least twenty (20) inches by thirty (30) inches is prominently displayed in the prescription department stating: "Prescription Department Closed, No Pharmacist on Duty".
- (4) Only a pharmacist has access to the secured area.

(b) The board may revoke or limit a pharmacy's privilege under this section after a hearing under IC 4-21.5-3.

SECTION 8. IC 25-26-13-24 IS REPEALED [EFFECTIVE JULY 1, 2017]. **Sec. 24. The pharmacy permit and the licenses of the pharmacists primarily employed in the pharmacy shall be prominently displayed in an area where customers at the prescription counter can readily see them.**

SECTION 9. IC 25-26-13-24.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2017]: **Sec. 24.5. The board shall post a copy of all statewide standing orders, prescriptions, and protocols issued under IC 16-19-4-11 on the board's Internet web site.**

SECTION 10. IC 25-26-13-25, AS AMENDED BY P.L.13-2013, SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 25. (a) All original prescriptions, whether in written or electronic format, shall be numbered and maintained in numerical and chronological order, or in a manner approved by the board and accessible for at least two (2) years in the pharmacy. A prescription transmitted from a practitioner by means of communication other than writing must immediately be reduced to writing or recorded in an electronic format by the pharmacist. The files shall be open for inspection to any member of the board or the board's duly authorized agent or representative.**

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

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



- (2) may archive copies of the electronic information related to the transmissions as necessary for auditing and security purposes; and
- (3) must maintain patient privacy and confidentiality of all archived information as required by applicable state and federal laws.

(c) Except as provided in subsection (d), a prescription for any drug, the label of which bears either the legend, "Caution: Federal law prohibits dispensing without prescription" or "Rx Only", may not be refilled without written, electronically transmitted, or oral authorization of a licensed practitioner.

(d) A prescription for any drug, the label of which bears either the legend, "Caution: Federal law prohibits dispensing without prescription" or "Rx Only", may be refilled by a pharmacist one (1) time without the written, electronically transmitted, or oral authorization of a licensed practitioner if all of the following conditions are met:

- (1) The pharmacist has made every reasonable effort to contact the original prescribing practitioner or the practitioner's designee for consultation and authorization of the prescription refill.
- (2) The pharmacist believes that, under the circumstances, failure to provide a refill would be seriously detrimental to the patient's health.
- (3) The original prescription authorized a refill but a refill would otherwise be invalid for either of the following reasons:
  - (A) All of the authorized refills have been dispensed.
  - (B) The prescription has expired under subsection (h).
- (4) The prescription for which the patient requests the refill was:
  - (A) originally filled at the pharmacy where the request for a refill is received and the prescription has not been transferred for refills to another pharmacy at any time; or
  - (B) filled at or transferred to another location of the same pharmacy or its affiliate owned by the same parent corporation if the pharmacy filling the prescription has full access to prescription and patient profile information that is simultaneously and continuously updated on the parent corporation's information system.
- (5) The drug is prescribed for continuous and uninterrupted use and the pharmacist determines that the drug is being taken properly in accordance with IC 25-26-16.
- (6) The pharmacist shall document the following information regarding the refill:
  - (A) The information required for any refill dispensed under



subsection (e).

(B) The dates and times that the pharmacist attempted to contact the prescribing practitioner or the practitioner's designee for consultation and authorization of the prescription refill.

(C) The fact that the pharmacist dispensed the refill without the authorization of a licensed practitioner.

(7) The pharmacist notifies the original prescribing practitioner of the refill and the reason for the refill by the practitioner's next business day after the refill has been made by the pharmacist.

(8) Any pharmacist initiated refill under this subsection may not be for more than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day. However, a pharmacist may dispense a drug in an amount greater than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day if:

(A) the drug is packaged in a form that requires the pharmacist to dispense the drug in a quantity greater than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day; or

(B) the pharmacist documents in the patient's record the amount of the drug dispensed and a compelling reason for dispensing the drug in a quantity greater than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day.

(9) Not more than one (1) pharmacist initiated refill is dispensed under this subsection for a single prescription.

(10) The drug prescribed is not a controlled substance.

A pharmacist may not refill a prescription under this subsection if the practitioner has designated on the prescription form the words "No Emergency Refill".

(e) When refilling a prescription, the refill record shall include:

(1) the date of the refill;

(2) the quantity dispensed if other than the original quantity; and

(3) the dispenser's identity on:

(A) the original prescription form; or

(B) another board approved, uniformly maintained, readily retrievable record.

(f) The original prescription form or the other board approved record described in subsection (e) must indicate by the number of the original prescription the following information:

(1) The name and dosage form of the drug.





- (2) The date of each refill.
- (3) The quantity dispensed.
- (4) The identity of the pharmacist who dispensed the refill.
- (5) The total number of refills for that prescription.
- (g) This subsection does not apply:
  - (1) unless a patient requests a prescription drug supply of more than thirty (30) days;
  - (2) to the dispensing of a controlled substance (as defined in IC 35-48-1-9); or
  - (3) if a prescriber indicates on the prescription that the quantity of the prescription may not be changed.

A pharmacist may dispense, upon request of the patient, personal or legal representative of the patient, or guardian of the patient, not more than a ninety (90) day supply of medication if the patient has completed an initial thirty (30) day supply of the drug therapy and the prescription, including any refills, allows a pharmacist to dispense at least a ninety (90) day supply of the medication. However, a pharmacist shall ~~notify the prescriber of the change in the quantity filled and must~~ comply with state and federal laws and regulations concerning the dispensing limitations concerning a prescription drug. The pharmacist shall inform the customer concerning whether the additional supply of the prescription will be covered under the patient's insurance, if applicable.

(h) A prescription is valid for not more than one (1) year after the original date of issue.

(i) A pharmacist may not knowingly dispense a prescription after the demise of the practitioner, unless in the pharmacist's professional judgment it is in the best interest of the patient's health.

(j) A pharmacist may not knowingly dispense a prescription after the demise of the patient.

(k) A pharmacist or a pharmacy shall not resell, reuse, or redistribute a medication that is returned to the pharmacy after being dispensed unless the medication:

- (1) was dispensed to an individual:
  - (A) residing in an institutional facility (as defined in 856 IAC 1-28.1-1(6));
  - (B) in a hospice program under IC 16-25; or
  - (C) in a county jail or department of correction facility;
- (2) was properly stored and securely maintained according to sound pharmacy practices;
- (3) is returned unopened and:
  - (A) was dispensed in the manufacturer's original:



- (i) bulk, multiple dose container with an unbroken tamper resistant seal; or
- (ii) unit dose package; or
- (B) was packaged by the dispensing pharmacy in a:
  - (i) multiple dose blister container; or
  - (ii) unit dose package;
- (4) was dispensed by the same pharmacy as the pharmacy accepting the return;
- (5) is not expired; and
- (6) is not a controlled substance (as defined in IC 35-48-1-9), unless the pharmacy holds a Category II permit (as described in section 17 of this chapter).
- (l) A pharmacist or a pharmacy shall not resell, reuse, or redistribute medical devices or medical supplies used for prescription drug therapy that have been returned to the pharmacy after being dispensed unless the medical devices or medical supplies:
  - (1) were dispensed to an individual in a county jail or department of correction facility;
  - (2) are not expired; and
  - (3) are returned unopened and in the original sealed packaging.
- (m) A pharmacist may use the pharmacist's professional judgment as to whether to accept medication for return under this section.
- (n) A pharmacist who violates subsection (d) commits a Class A infraction.

SECTION 11. IC 25-26-13-31.2, AS AMENDED BY P.L. 113-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 31.2. (a) A pharmacist may administer an immunization to an individual under a drug order or prescription.

(b) Subject to subsection (c), a pharmacist may administer immunizations for the following to a group of individuals under a drug order, under a prescription, or according to a protocol approved by a physician:

- (1) Influenza.
- (2) Shingles (herpes zoster).
- (3) Pneumonia.
- (4) Tetanus, diphtheria, and acellular pertussis (whooping cough).
- (5) Human papillomavirus (HPV) infection.
- (6) Meningitis.
- (7) Measles, mumps, and rubella.**
- (8) Varicella.**
- (9) Hepatitis A.**
- (10) Hepatitis B.**



**(11) Haemophilus influenzae type b (Hib).**

- (c) A pharmacist may administer an immunization under subsection (b) if the following requirements are met:
- (1) The physician specifies in the drug order, prescription, or protocol the group of individuals to whom the immunization may be administered.
  - (2) The physician who writes the drug order, prescription, or protocol is licensed and actively practicing with a medical office in Indiana and not employed by a pharmacy.
  - (3) The pharmacist who administers the immunization is responsible for notifying, not later than fourteen (14) days after the pharmacist administers the immunization, the physician who authorized the immunization and the individual's primary care physician that the individual received the immunization.
  - (4) If the physician uses a protocol, the protocol may apply only to an individual or group of individuals who:
    - (A) except as provided in clause (B), are at least eleven (11) years of age; or
    - (B) for the pneumonia immunization under subsection (b)(3), are at least ~~sixty-five (65)~~ **fifty (50)** years of age.
  - (5) Before administering an immunization to an individual according to a protocol approved by a physician, the pharmacist must receive the consent of one (1) of the following:
    - (A) If the individual to whom the immunization is to be administered is at least eleven (11) years of age but less than eighteen (18) years of age, the parent or legal guardian of the individual.
    - (B) If the individual to whom the immunization is to be administered is at least eighteen (18) years of age but has a legal guardian, the legal guardian of the individual.
    - (C) If the individual to whom the immunization is to be administered is at least eighteen (18) years of age but has no legal guardian, the individual.

A parent or legal guardian who is required to give consent under this subdivision must be present at the time of immunization.
- (d) If the state department of health or the department of homeland security determines that an emergency exists, **subject to IC 16-41-9-1.7(a)(2)**, a pharmacist may administer any immunization in accordance with:
- (1) the requirements of subsection (c)(1) through (c)(3); and
  - (2) any instructions in the emergency determination.
- (e) A pharmacist or pharmacist's designee shall provide



immunization data to the immunization data registry (IC 16-38-5) in a manner prescribed by the state department of health unless:

- (1) the individual receiving the immunization;
- (2) the parent of the individual receiving the immunization, if the individual receiving the immunization is less than eighteen (18) years of age; or
- (3) the legal guardian of the individual receiving the immunization, if a legal guardian has been appointed;

has completed and filed with the pharmacist or pharmacist's designee a written immunization data exemption form, as provided in IC 16-38-5-2.

(f) If an immunization is administered under a protocol, then the name, license number, and contact information of the physician who wrote the protocol must be posted in the location where the immunization is administered. A copy of the protocol must be available for inspection by the individual receiving the immunization.

**(g) A pharmacist may administer an immunization that is provided according to a standing order, prescription, or protocol issued under this section or IC 16-19-4-11 by the state health commissioner or the commissioner's designated public health authority who is a licensed prescriber. If a pharmacist has received a protocol to administer an immunization from a physician and that specific immunization is covered by a standing order, prescription, or protocol issued by the state health commissioner or the commissioner's designated public health authority, the pharmacist must administer the immunization according to the standing order, prescription, or protocol issued by the state health commissioner or the commissioner's designated public health authority.**

SECTION 12. IC 25-26-13.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]:

**Chapter 13.5. Remote Dispensing Facilities**

**Sec. 1. The definitions set forth in IC 25-26-13-2 apply to this chapter.**

**Sec. 2. As used in this chapter, "patient care" means patient care activities provided by a pharmacist, regardless of whether drugs or devices are dispensed, that are intended to achieve outcomes related to the cure or prevention of a disease, elimination or reduction of a patient's symptoms, or arresting or slowing of a disease process. The term includes the following:**

- (1) Drug review.**



- (2) Drug monitoring.
- (3) Drug and device dispensing.
- (4) Oral and sterile compounding verification.
- (5) Medication therapy management.
- (6) Patient assessment.
- (7) Patient counseling.

Sec. 3. As used in this chapter, "remote dispensing facility" means a facility or an automated dispensing system where prescription drugs are prepared or dispensed without the requirement of the use of an onsite pharmacist and where pharmacist supervision may be provided remotely. However, the term does not include a facility or an automated dispensing system that is located in a hospital licensed under IC 16-21-2, an ambulatory outpatient surgical center licensed under IC 16-21-2, or a health facility licensed under IC 16-28.

Sec. 4. As used in this chapter, "telepharmacy" means to provide patient care by a pharmacy and pharmacist licensed under IC 25-26 through the use of telecommunications or other technology:

- (1) to a patient or the patient's representative who is at a distance and located in a state or jurisdiction of the United States; and
- (2) where the pharmacy and pharmacist is located in Indiana.

However, the term does not include patient care through the use of telecommunications or other technology by a pharmacy or pharmacist that is located in a hospital licensed under IC 16-21-2, an ambulatory outpatient surgical center licensed under IC 16-21-2, or a health facility licensed under IC 16-28.

Sec. 5. (a) The registration required under this chapter is in addition to any other registration or permit required under this article.

(b) The board shall establish a registration procedure for remote dispensing facilities. An application for registration of a remote dispensing facility must include the following information:

- (1) A description of the technology being used at the facility, including information concerning any of the following:
  - (A) Telepharmacy communication.
  - (B) Electronic record keeping.
  - (C) Electronic verification systems.
- (2) Operating specifications of the facility, including the following:
  - (A) Location of the facility.



- (B) Ownership of the facility.
- (C) Staffing of the facility, including the number of pharmacists and pharmacy technicians to be employed at the facility.
- (D) The current number of remote dispensing facilities operated by the applicant.
- (3) A scale drawing of the facility that illustrates the following:
  - (A) The layout and location of the electronic communication systems. The information collected under this clause is confidential and may not be disclosed.
  - (B) The location of the patient counseling area.
  - (C) Access points to the electronic communication systems.
- (4) Identification of the proposed supervising pharmacy.

(c) This subsection does not apply to a remote dispensing facility that serves only hospital pharmacies. A supervising pharmacy of a remote dispensing facility must be located in Indiana and licensed under this article.

Sec. 6. (a) Before a remote dispensing facility may do business in Indiana, the remote dispensing facility must be registered with the board under this chapter and in the manner prescribed by the board.

(b) Before a pharmacy licensed under this article may operate a remote dispensing facility, the pharmacy must register with the board under this chapter.

(c) A facility must meet the following requirements in order to be registered as a remote dispensing facility under this chapter:

- (1) If the remote dispensing facility is not jointly owned by the pharmacy, operate under a contract with a supervising pharmacy.
- (2) Be supervised by a qualifying pharmacist who is licensed under this article and who is designated by the supervising pharmacy to be responsible for oversight of the remote dispensing facility.
- (3) Be located at least ten (10) miles from an existing retail pharmacy unless:
  - (A) the applicant with the proposed remote dispensing facility demonstrates to the board how the proposed remote dispensing facility will promote public health; or
  - (B) the pharmacy located less than ten (10) miles from the remote dispensing facility is part of a hospital or a physician clinic setting.



- (4) Maintain a patient counseling area.**
- (5) Display a sign visible to the public indicating that the location is a remote dispensing facility. The sign must include the following information:**
  - (A) That the facility provides remote services supervised by a pharmacist located in another pharmacy.**
  - (B) The identification and address of the supervising pharmacy.**
  - (C) Disclosure that a pharmacist is required to speak to the consumer using audio and video communication systems any time a new drug or device is dispensed at the remote dispensing facility.**
  - (D) Whether patient counseling is provided on a prescription drug refill at the remote dispensing facility.**
  - (E) That the facility is under continuous video surveillance and that the video is recorded.**

**(d) If the remote dispensing facility is operating under a contract with a supervising pharmacy, the contract must:**

- (1) specify the responsibilities of each party to the contract; and**
- (2) be available for review by the board at the board's request.**

**Sec. 7. A supervising pharmacy shall implement policies and procedures that address each of the following before engaging in the practice of telepharmacy under this chapter:**

- (1) Minimum standards and practices that ensure the safety, accuracy, security, sanitation, record keeping, and patient confidentiality at the remote dispensing facility. The standards and practices must include the following:**
  - (A) Identification of personnel authorized to accept delivery of the drugs and to have access to drug storage and dispensing areas at the remote dispensing facility.**
  - (B) Procedures for the procurement of drugs and devices at the remote dispensing facility and any automated dispensing machine system used.**
  - (C) Criteria for the required inspection of the remote dispensing facility by the qualifying pharmacist.**
- (2) The adoption of training standards required for personnel employed at a remote dispensing facility to ensure the competence and ability of employees in operating the electronic verification, electronic record keeping, and communication systems.**



(3) A written plan for recovery from an event that interrupts or prevents pharmacist supervision of the remote dispensing facility.

(4) Policies concerning the dispensing of prescription drugs.

**Sec. 8. (a)** The qualifying pharmacist and a pharmacist on duty are responsible for ensuring that the supervising pharmacy and remote dispensing facility are sufficiently staffed to avoid the risk of harm to public health and safety.

(b) In order to serve as a qualifying pharmacist, the pharmacist must be in good standing with the board.

(c) A qualifying pharmacist may have this designation for only one (1) supervising pharmacy and for one (1) remote dispensing facility at a time.

(d) A qualifying pharmacist must be able to be physically at the remote dispensing facility within a certain time set by the board to address emergencies and safety issues that arise.

(e) A qualifying pharmacist shall visit a remote dispensing facility at least as often as required by the board to inspect the facility and address personnel matters. The qualifying pharmacist shall complete any forms required by the board concerning the required inspection and maintain the records in a manner specified by the board.

(f) If the remote dispensing facility is located at a hospital or physician clinic and uses an automated dispensing machine, the qualifying pharmacist shall maintain an up to date inventory of any schedule II controlled substances. The qualifying pharmacist shall at least monthly inventory all controlled substances.

(g) The qualifying pharmacist shall develop and implement a continuous quality improvement program. The program must include a reporting mechanism for errors that occur concerning the remote dispensing facility. Information concerning the program must be available to the board upon request.

**Sec. 9. (a)** There must be at least one (1) pharmacist working at a remote dispensing facility for every six (6) pharmacist interns, licensed pharmacy technicians, and pharmacy technicians in training at the supervising pharmacy and remote dispensing facility. However, an individual whose only duty is to act as the cashier is not included in the number of employees that may work for one (1) pharmacist under this subsection.

(b) A remote dispensing facility that is not staffed by a pharmacist must be staffed by at least one (1) pharmacy technician who meets the following requirements:





- (1) Is licensed under IC 25-26-19.**
- (2) Has at least two thousand (2,000) hours of experience working as a pharmacy technician in a pharmacy licensed under this article and under the direct supervision of a pharmacist.**
- (3) Has successfully passed a certification examination offered by the Pharmacy Technician Certification Board or another nationally recognized certification body approved by the board.**
- (4) If the remote dispensing facility is located in a hospital or physician clinic setting, either:
  - (A) has graduated from a pharmacy technician training program accredited by the American Council of Pharmaceutical Education or the American Society of Health System Pharmacists; or**
  - (B) obtained the hours described in subdivision (2) before July 1, 2017.****
- (5) Is supervised by a pharmacist at the supervising pharmacy at all times that the remote dispensing facility is operational. As used in this subdivision, supervision does not require that the pharmacist be physically present at the remote dispensing facility as long as the pharmacist is supervising telepharmacy operations electronically through a computer link, video link, and audio link.**
- (6) Is currently in good standing with the board.**

**(c) A pharmacy technician in training may not work at a remote dispensing facility unless a pharmacist is on site.**

**Sec. 10. A remote dispensing facility and the supervising pharmacy must use a common electronic record keeping system that is capable of the following:**

- (1) Allowing the electronic records to be available to and accessible from both the supervising pharmacy and the remote dispensing facility.**
- (2) Distinguishing between prescriptions filled at the supervising pharmacy and those filled at the remote dispensing facility.**
- (3) Allowing pharmacies to generate labels at the supervising pharmacy.**

**Sec. 11. (a) A supervising pharmacy of a remote dispensing facility must maintain a video and audio communication system that provides for effective communication between the supervising pharmacy, the remote dispensing facility, and any consumers. The**



system must do the following:

- (1) Provide an adequate number of views of the entire remote dispensing facility.
- (2) Facilitate adequate pharmacist supervision.
- (3) Allow an appropriate exchange of visual, verbal, and written communications for patient counseling and other matters concerning the lawful transaction of business.

(b) The remote dispensing facility must retain a recording of facility surveillance, excluding patient communications, for at least forty-five (45) days.

(c) A qualifying pharmacist is adequately supervising through the use of video surveillance by maintaining constant visual supervision and auditory communication with the remote dispensing facility and by maintaining full supervisory control of the automated system, if applicable.

(d) A video monitor that is being used to properly identify and communicate with consumers must meet the following requirements:

- (1) Be at least twelve (12) inches wide.
- (2) Be high definition.
- (3) Provide both the supervising pharmacy and the remote dispensing facility with direct visual contact between the pharmacist and the consumer.
- (4) Be secure and compliant with the federal Health Insurance Portability and Accountability Act (HIPAA).

(e) If any component of the communication system is not in operating order, the remote dispensing facility shall remain closed until the communication system is fully operational, unless a pharmacist is located at the remote dispensing facility.

Sec. 12. The remote dispensing facility must maintain records of any dispensing of a controlled substance at the remote dispensing facility, unless the remote dispensing facility has received approval to centrally store the records in compliance with federal law.

Sec. 13. A remote dispensing facility may not be open and employees may not have access to the facility when the supervising pharmacy is closed, unless a pharmacist is on duty at the remote dispensing facility.

Sec. 14. (a) A remote dispensing facility shall have adequate security. The security must do the following:

- (1) Record the entrance and exit of individuals to the facility.
- (2) Use alarms or other comparable monitoring systems that



protect the equipment, records, drug supply, devices, and other items from unauthorized access, acquisition, or use.

(3) Use at least two (2) factoring credentials for employee entry to the remote dispensing facility, using two (2) of the following:

- (A) A knowledge factor, including a password.
- (B) Biometrics.
- (C) An inanimate object.

(b) The qualifying pharmacist shall periodically review the record of entries into the remote dispensing facility.

(c) The prescription storage area may remain open while a pharmacist or pharmacy technician is on duty.

Sec. 15. (a) A controlled substance may not be dispensed at the remote dispensing facility unless:

(1) the facility maintains a perpetual inventory of controlled substances; and

(2) the supervising pharmacist checks the Indiana scheduled prescription electronic collection and tracking program established by IC 25-1-13-4 or as directed by the board before:

- (A) verification of the finished controlled substance prescription; and
- (B) counseling the patient.

(b) Drugs may be transported to a remote dispensing facility that uses an automated dispensing machine only in a sealed container with a list identifying each drug, drug strength, and quantity included in the container.

(c) A delivery of drugs may be accepted at the remote dispensing facility only if a pharmacist or a licensed pharmacy technician is present to accept delivery and verify and sign for the receipt of the drugs, unless the drugs are placed in a secured delivery area that complies with federal and state law.

(d) If the delivery is received by a pharmacy technician, a pharmacist at the supervising pharmacy shall ensure through the use of the electronic audio and video communication system or bar code technology that the pharmacy technician has accurately restocked the drugs.

(e) A remote dispensing facility must store drugs in a manner that:

- (1) complies with federal and state law;
- (2) protects the identity, safety, security, and integrity of the drug; and



**(3) limits access to:**

- (A) a pharmacist employed by the supervising pharmacy;**
- and**
- (B) a pharmacy technician who has written authorization of the qualifying pharmacist to access the facility.**

**Sec. 16. (a) If a pharmacy technician at a remote dispensing facility enters prescription drug information into an automated pharmacy system, a pharmacist at the supervising pharmacy shall, before approving the prescription, verify the information entered against a faxed, electronic, or video image of the original prescription.**

**(b) The pharmacy technician may do any of the following:**

- (1) Transmit the prescription drug order to the pharmacist by scanning the order into the electronic record keeping system as long as the image is legible and does not obscure the prescription drug information.**
- (2) Make the original prescription available to the pharmacist by placing the prescription in view of the video communication system. The pharmacist shall also verify the accuracy of the drug dispensed and check the prescription drug label for accuracy.**
- (3) Fax the prescription to the pharmacist, unless prohibited by law for controlled substances.**

**(c) Both the initials or other unique identifier of the pharmacy technician and the pharmacist involved in the dispensing must appear on the prescription record.**

**(d) The remote dispensing facility must use an electronic verification system that confirms the drug stock selected to fill the prescription is the same as the drug indicated on the prescription label.**

**(e) The pharmacist shall verify each prescription before it is dispensed.**

**Sec. 17. The board may suspend a registration under this chapter if the facility poses a danger to the public.**

**Sec. 18. The board may adopt rules under IC 4-22-2 necessary to implement this chapter.**

SECTION 13. IC 25-26-16-1, AS AMENDED BY P.L.197-2011, SECTION 110, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1. As used in this chapter, "protocol" means the policies, procedures, and protocols of a:

- (1) hospital listed in IC 16-18-2-161(a)(1); or**
- (2) physician licensed under IC 25-22.5; or**



**(3) physician group practice;**

concerning the adjustment of a patient's drug regimen by a pharmacist.

SECTION 14. IC 25-26-16-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 2. For purposes of this chapter, a pharmacist adjusts a drug regimen if the pharmacist:

- (1) changes the duration of treatment for a current drug therapy;
- (2) adjusts a drug's strength, dosage form, frequency of administration, or route of administration;
- (3) discontinues the use of a drug; ~~or~~
- (4) adds a drug to the treatment regimen; **or**
- (5) issues a new prescription for the purposes of subdivision (1), (2), or (4).**

SECTION 15. IC 25-26-16-3.5, AS ADDED BY P.L.197-2011, SECTION 112, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 3.5. (a) This section does not apply to a protocol adopted in a hospital.

(b) Upon authorization of a physician **or physician group practice** ~~who~~ **that** has adopted a protocol under this chapter, the following apply:

- (1) The physician shall signify in writing **or by means of electronic transmission** whether the protocol applies in the care and treatment of the patient **or a group of patients, at the discretion of the physician or physician group practice.**
- (2) A pharmacist may adjust the drug therapy regimen of the patient **or group of patients** under the authorization of the physician, **including issuing new prescriptions in writing, by electronic transmission, or by other means allowed by law.**
- (3) The pharmacist shall review the appropriate medical records of the patient to determine whether the physician has authorized the use of a specific protocol before adjusting the patient's drug therapy regimen.

(c) The physician **or physician group practice** ~~who~~ **that** has adopted a protocol under this chapter:

- (1) shall take appropriate actions to assure that the pharmacist has the appropriate training to administer the protocol; and
- (2) may at any time modify or cancel a protocol by entering the modification or cancellation in the patient's medical record.

**(d) A physician group practice that has adopted a protocol under this chapter shall designate a physician administrator who may adopt a protocol on behalf of the physician group practice for authorization by individual physicians.**

SECTION 16. IC 25-26-16-4.5, AS AMENDED BY P.L.89-2015,



SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4.5. (a) This section does not apply to a pharmacist who is practicing in a hospital.

(b) As used in this section, "direct supervision" means that ~~the~~ a supervising:

- (1) physician;
- (2) advanced practice nurse who meets the requirements of IC 25-23-1-19.5; or
- (3) physician assistant licensed under IC 25-27.5 who is delegated prescriptive authority under IC 25-27.5-5-6;

is readily available to consult with the pharmacist while the protocol services are being provided.

(c) This section applies to a pharmacist who:

- (1) is employed by, or has entered into a contract with, a physician, a group of physicians, or an outpatient clinic; and
- (2) is under the direct supervision of a person described in subsection (b)(1) through (b)(3).

(d) The protocols developed under this chapter: ~~must~~:

- (1) ~~must be developed~~ **agreed upon** by:
  - (A) the physician ~~or the physician administrator~~ described in ~~subsection (c)(2)~~ **section 3.5(d) of this chapter**; and
  - (B) the pharmacist; ~~and~~
- (2) ~~must~~, at a minimum, require that:
  - (A) the medical records of the patient are available to both the patient's physician and the pharmacist; and
  - (B) the procedures performed by the pharmacist relate to a condition for which the patient has first seen the physician or another licensed practitioner; ~~and~~
- (3) **may apply to a single patient or group of patients, as specified by the physician.**

SECTION 17. IC 25-26-16-7, AS AMENDED BY P.L.197-2011, SECTION 115, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 7. A protocol of a health care facility, ~~or a physician,~~ **or physician group practice** that is developed under this chapter must be reviewed at least annually.

SECTION 18. IC 25-26-16-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 8. Documentation of protocols must be maintained in a current, consistent, and readily retrievable manner. A pharmacist is required to document decisions made under this chapter in a manner that shows adequate, consistent, and regular communication with an authorizing practitioner. After making an adjustment or a change to the drug regimen of a patient, the



pharmacist shall ~~immediately~~ enter the change in the patient's medical record **within twenty-four (24) hours**.

SECTION 19. IC 25-26-19-5, AS AMENDED BY P.L.58-2014, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. (a) The board shall issue a pharmacy technician license to an individual who:

- (1) applies to the board in the form and manner prescribed by the board;
- (2) is at least eighteen (18) years of age;
- (3) has:
  - (A) graduated from high school; or
  - (B) received a:
    - (i) high school equivalency certificate; or
    - (ii) state general educational development (GED) diploma under IC 20-20-6 (before its repeal) or IC 22-4.1-18;
- (4) has not been convicted of:
  - (A) a crime that has a direct bearing upon the individual's ability to practice competently; or
  - (B) a felony involving controlled substances;
- (5) is not in violation of this chapter or rules adopted by the board under section 4 of this chapter;
- (6) has paid the fee set by the board under section 4 of this chapter;
- (7) has:
  - (A) graduated from a competency based pharmacy technician education and training program approved by the board;
  - (B) completed an employer provided training program that:
    - (i) beginning July 1, 2015, uses training requirements and minimum standards developed by the board;
    - (ii) has been approved by the board; and
    - (iii) includes specific training in the duties required to assist the pharmacist in the technical functions associated with the practice of pharmacy; or
  - (C) successfully passed a certification examination offered by the Pharmacy Technician Certification Board or another nationally recognized certification body approved by the board.

(b) For good cause, the board may waive the age requirement under subsection (a)(2).

(c) A person who has been certified or licensed as a pharmacy technician by the board before July 1, 2014, and who remains in good standing on July 1, 2014, shall, for all purposes, be considered licensed



beginning on July 1, 2014. A person described in this subsection is subject to the license renewal requirements set forth in this chapter.

(d) A training program approved by the board before July 1, 2015, must be resubmitted to the board for approval in meeting current standards.

**(e) A licensed pharmacy technician must meet the requirements of IC 25-26-13.5 in order to work in a remote dispensing facility (as defined in IC 25-26-13.5-3).**

SECTION 20. IC 27-8-31.4 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]:

**Chapter 31.4. Synchronized Medication Dispensing**

**Sec. 1. This chapter does not apply to a mail order pharmacy or to specialty drugs.**

**Sec. 2. As used in this chapter, "covered individual" means an insured individual who is entitled to coverage under a policy of accident and sickness insurance.**

**Sec. 3. As used in this chapter, "policy of accident and sickness insurance" has the meaning set forth in IC 27-8-5-1. The term includes only a policy that:**

- (1) is issued on an individual or a group basis; and**
- (2) provides coverage for prescription medications.**

**Sec. 4. As used in this chapter, "synchronize" means to use a single pharmacy dispensing process as a means of coordinating the covered individual's medications at the same time when:**

- (1) a particular medication:**
  - (A) is of a formulation that can be effectively split; and**
  - (B) does not have quantity limits or dose optimization criteria as specified in the policy of accident and sickness insurance's formulary and prior authorization requirements;**
- (2) the covered individual is on a stabilized treatment plan for a chronic condition and the synchronization is for those drugs treating a chronic condition; and**
- (3) the medication is not:**
  - (A) an opioid, stimulant, sedative, or hypnotic medication;**
  - or**
  - (B) another medication that is addictive and subject to abuse.**

**Sec. 5. A policy of accident and sickness insurance that provides coverage for prescription drugs may not deny coverage for the refill of any drug prescribed for the treatment of a chronic illness**





that is made in accordance with a plan between the covered individual and a pharmacist to synchronize the refilling of multiple prescriptions for the covered individual.

**Sec. 6. A policy of accident and sickness insurance must provide coverage for a medication that is dispensed in a quantity that allows synchronization of the covered individual's medications in accordance with a plan made between the covered individual and the pharmacy to synchronize the covered individual's medications for chronic conditions.**

SECTION 21. IC 27-13-38-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 8. (a) This section does not apply to a mail order pharmacy or to specialty drugs.**

**(b) This section applies to an individual contract or a group contract that provides coverage for prescription medications.**

**(c) As used in this section, "synchronize" means to use a single pharmacy dispensing process as a means of coordinating the enrollee's medications at the same time when:**

**(1) a particular medication:**

**(A) is of a formulation that can be effectively split; and**

**(B) does not have quantity limits or dose optimization criteria as specified in the individual or group contract's formulary and prior authorization requirements;**

**(2) the enrollee is on a stabilized treatment plan for a chronic condition and the synchronization is for those drugs treating a chronic condition; and**

**(3) the medication is not:**

**(A) an opioid, stimulant, sedative, or hypnotic medication; or**

**(B) another medication that is addictive and subject to abuse.**

**(d) An individual contract or group contract that provides coverage for prescription drugs may not deny coverage for the refill of any drug prescribed for the treatment of a chronic illness that is made in accordance with a plan between the enrollee and a pharmacist to synchronize the refilling of multiple prescriptions for the enrollee.**

**(e) An individual contract or a group contract must provide coverage for a medication that is dispensed in a quantity that allows synchronization of the enrollee's medications in accordance with a plan made between the enrollee and the pharmacy to synchronize the enrollee's medications for chronic conditions.**



SECTION 22. IC 34-30-2-60.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 60.1. IC 16-19-4-11 (Concerning issuance of certain standing orders, prescriptions, or protocols regarding pharmacists).**

SECTION 23. IC 35-31.5-2-235.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 235.3. "Pharmacist", for purposes of IC 35-42-5-1, means an individual who is licensed, registered, or otherwise permitted by the laws of Indiana or the United States to:**

- (1) dispense;**
- (2) distribute; or**
- (3) prescribe;**

**a controlled substance as part of the individual's professional practice.**

SECTION 24. IC 35-31.5-2-235.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 235.4. "Pharmacy", for purposes of IC 35-42-5-1, means a facility or part of a facility used to:**

- (1) dispense;**
- (2) distribute; or**
- (3) store;**

**controlled substances.**

SECTION 25. IC 35-42-5-1, AS AMENDED BY P.L.158-2013, SECTION 450, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 1. (a) Except as provided in subsection (b), a person who knowingly or intentionally takes property from another person or from the presence of another person:**

- (1) by using or threatening the use of force on any person; or**
- (2) by putting any person in fear;**

**commits robbery, a Level 5 felony. However, the offense is a Level 3 felony if it is committed while armed with a deadly weapon or results in bodily injury to any person other than a defendant, and a Level 2 felony if it results in serious bodily injury to any person other than a defendant.**

**(b) A person who knowingly or intentionally takes a controlled substance from a pharmacist acting in an official capacity or from a pharmacy by:**

- (1) using or threatening the use of force on any person; or**
- (2) putting any person in fear;**

**commits robbery, a Level 4 felony. However, the offense is a Level**



**2 felony if it is committed while armed with a deadly weapon or results in bodily injury to any person other than the defendant, and the offense is a Level 1 felony if it results in serious bodily injury to any person other than the defendant.**



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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

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

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