HOUSE ENROLLED ACT No. 1542

AN ACT to amend the Indiana Code concerning human services.

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

SECTION 1. IC 12-8-1.5-17.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 17.5. (a) Before October 1, 2019, the office of the secretary of family and social services shall prepare and submit a report as described in subsection (b) to the legislative council in an electronic format under IC 5-14-6.**

(b) The office of the secretary shall conduct a comprehensive study of the health programs that the office of the secretary administers or oversees, including programs administered by managed care programs under IC 12-15-12 and programs contracted with the office of Medicaid policy and planning. The report must:

(1) identify administrative and reporting requirements by health providers under contract with the office of the secretary that are unnecessary or overly burdensome; and

(2) include recommendations for reductions in administrative burdens related to the administration and oversight described in this subsection.

(c) This section expires July 1, 2020.

SECTION 2. IC 12-12.7-2-22 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 22. Notwithstanding any other**

law, any appropriation made to a program established under this chapter and 20 U.S.C. 1431 through 1444 (first steps program) that exceeds eleven million three hundred thirty-nine thousand sixty-three dollars ($11,339,063) in a state fiscal year must be distributed by the office of the secretary of family and social services as follows:

(1) Not more than ten percent (10%) to the division of disability and rehabilitative services for infrastructure expenses.

(2) Not less than forty percent (40%) to systems point of entry contracts.

(3) Not less than fifty percent (50%) to rates of providers who provide services under this chapter and 20 U.S.C. 1431 through 1444.

SECTION 3. IC 12-15-12-23 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 23. A managed care organization may not require a psychiatrist who is licensed under IC 25-22.5 to be certified by the American Board of Psychiatry and Neurology for purposes of credentialing or contracting with the psychiatrist while the psychiatrist is practicing at a community mental health center.**

SECTION 4. IC 16-21-1-7, AS AMENDED BY SEA 575-2019, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 7. (a) The executive board may adopt rules under IC 4-22-2 necessary to protect the health, safety, rights, and welfare of patients, including the following:

(1) Rules pertaining to the operation and management of hospitals, ambulatory outpatient surgical centers, abortion clinics, and birthing centers.

(2) Rules establishing standards for equipment, facilities, and staffing required for efficient and quality care of patients.

(b) Notwithstanding 410 IAC 15-1.7-1 and 410 IAC 15-2.7-1, the following apply to a publication that is referred to in 410 IAC 15:

(1) The Guidelines for Construction and Equipment of Hospital and Medical Facilities refers to the **following:**

(A) The 2018 edition or most recent publication **of the Guidelines for Design and Construction of Hospitals.**

(B) The 2018 edition or most recent publication of the Guidelines for Design and Construction of Outpatient Facilities.

(2) The National Fire Protection Association (NFPA) 101, Life

Safety Code Handbook publication refers to the 2018 edition or most recent publication.

~~(2)~~ **(3)** The National Fire Protection Association 99, Health Care Facilities publication refers to the 2018 edition or most recent publication.

~~(3)~~ **(4)** A publication incorporated by reference is not effective until one hundred eighty (180) days after the date of publication.

The executive board shall amend 410 IAC 15-1.7-1 and 410 IAC 15-2.7-1 to reflect the requirements in this subsection. This subsection expires July 1, 2021.

SECTION 5. IC 16-27-2.5-2, AS ADDED BY P.L.224-2017, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. (a) A home health agency must:

(1) have a written drug testing policy that is distributed to all employees; and

(2) require each employee to acknowledge receipt of the policy.

(b) A home health agency shall randomly test:

(1) at least fifty percent (50%) of the home health agency's employees who:

(A) have direct contact with patients; and

(B) are not licensed by a board or commission under IC 25;

at least annually; ~~or~~ **and**

(2) when the home health agency has reasonable suspicion that an employee is engaged in the illegal use of a controlled substance.

(c) A home health agency shall either discharge or discipline with a minimum of a six (6) month suspension an employee who refuses to submit to a drug test.

SECTION 6. IC 25-23.6-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 6. The board shall meet ~~at least one (1) time each year.~~ **monthly.**

SECTION 7. IC 25-26-13-17, AS AMENDED BY P.L.202-2017, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 17. (a) The board shall establish classes of pharmacy permits as follows:

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 **and any nonresident pharmacy registered with the board.** 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.

(h) A pharmacy holding a Category I permit may offer drugs or devices to the following:

(1) A long term care facility licensed under or subject to IC 16-28-2.

(2) A health facility licensed under IC 16-28.

(3) A housing with services establishment (as defined in IC 12-10-15-3) registered with the office of the secretary of family and social services.

SECTION 8. IC 25-26-14-11, AS AMENDED BY P.L.212-2005, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 11. As used in this chapter, "wholesale distribution" means to distribute legend drugs to persons other than a consumer or patient. The term does not include:

(1) a sale or transfer between a division, a subsidiary, a parent, an affiliated, or a related company under the common ownership and control of a corporate entity;

(2) the purchase or acquisition by a hospital or other health care entity that is a member of a group purchasing organization of a drug for the hospital's or health care entity's own use from the group purchasing organization or from other hospitals or health care entities that are members of the organization;

(3) the sale **or transfer** of a drug by a charitable organization described in Section 501(c)(3) of the Internal Revenue Code, to:

(A) a nonprofit affiliate of the organization; **or**

(B) a nonprofit entity described in Section 501(c)(3) of the Internal Revenue Code that is not affiliated with the organization;

to the extent otherwise permitted by law;

(4) the sale of a drug among hospitals or other health care entities that are under common control;

(5) the sale of a drug for emergency medical reasons, including

transfers of legend drugs by a retail pharmacy to another retail pharmacy to alleviate a temporary shortage, if the gross dollar value of the transfers does not exceed five percent (5%) of the total legend drug sales revenue of either the transferor or transferee pharmacy during any twelve (12) consecutive month period;

(6) the sale of a drug or the dispensing of a drug pursuant to a prescription;

(7) the distribution of drug samples by manufacturers' representatives or distributors' representatives;

(8) the sale of blood and blood components intended for transfusion;

(9) the sale of a drug by a retail pharmacy to a practitioner (as defined in IC 25-26-13-2) for office use, if the gross dollar value of the transfers does not exceed five percent (5%) of the retail pharmacy's total legend drug sales during any twelve (12) consecutive months;

(10) the sale of a drug by a retail pharmacy that is ending its business and liquidating its inventory to another retail pharmacy;

(11) drug returns by a hospital, health care entity, or charitable institution conducted under 21 CFR 203.23;

(12) the sale of minimal quantities of drugs by retail pharmacies to licensed practitioners for office use;

(13) the distribution of prescription drugs by the original manufacturer of the finished form of the prescription drug or the distribution of the co-licensed products by a partner of the original manufacturer of the finished form of the prescription drug; or

(14) drug returns that meet criteria established by rules adopted by the board.

SECTION 9. IC 25-26-23-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 9. (a) As used in this section, "unit" means a city, town, or county.**

(b) A program to accept unused medication by a business or other entity that complies with applicable state and federal law is not subject to regulation by a unit.

(c) A unit may not do any of the following:

(1) Impose a tax, fee, assessment, or charge on a consumer, business, or other entity to pay for or support a program to accept unused medication in the unit's jurisdiction.

(2) Require a business or other entity to establish, pay for, or

operate a program to accept unused medication in the unit's jurisdiction.

(d) Nothing in this section prohibits a unit from using money in the unit's general fund to operate a program to accept unused medication.

SECTION 10. IC 25-26-24-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 2.5. As used in this chapter, "controlled substance" has the meaning set forth in IC 35-48-1-9. The term includes gabapentin.**

SECTION 11. IC 25-26-24-26 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE APRIL 18, 2019 (RETROACTIVE)]: **Sec. 26. Any administrative rule adopted under IC 35-48-7-12.1 (before its repeal) is hereby considered to be adopted under section 22 of this chapter.**

SECTION 12. IC 27-1-37.4-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 8. (a) As used in this section, "step therapy protocol" means a protocol that specifies, as a condition of coverage under a health plan, the order in which certain prescription drugs must be used to treat a covered individual's condition.**

(b) A health plan that denies prior authorization for a prescription drug described in subdivision (1) or (2) shall provide, in the notice of denial, an alternative list of prescription drugs or alternative treatments as follows:

(1) If:

(A) the prescription drug is not included in the health plan's formulary; and

(B) there is at least one (1) alternative prescription drug in the same therapeutic classification (as defined in IC 12-15-35-17.5);

the alternative list must specify the alternative prescription drugs described in clause (B) that are covered by the health plan.

(2) If the prescription drug is prescribed to treat a condition for which coverage under the health plan requires use of a step therapy protocol, the alternative list must specify the alternative prescription drugs or alternative treatments that are required by the step therapy protocol.

SECTION 13. [EFFECTIVE UPON PASSAGE] **(a) The Indiana**

board of veterinary medical examiners shall study the regulation of veterinary technicians and submit a report to the legislative council in an electronic format under IC 5-14-6 before November 1, 2019.

(b) This SECTION expires January 1, 2020.

SECTION 14. **An emergency is declared for this act.**

Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____