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.

SENATE ENROLLED ACT No. 161

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

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

SECTION 1. IC 25-26-13-4, AS AMENDED BY SEA 80-2016, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2016]: Sec. 4. (a) The board may:

(1) adopt rules under IC 4-22-2 for implementing and enforcing this chapter;

(2) establish requirements and tests to determine the moral, physical, intellectual, educational, scientific, technical, and professional qualifications for applicants for pharmacists' licenses;

(3) refuse to issue, deny, suspend, or revoke a license or permit or place on probation or fine any licensee or permittee under this chapter;

(4) regulate the sale of drugs and devices in the state of Indiana;

(5) impound, embargo, confiscate, or otherwise prevent from disposition any drugs, medicines, chemicals, poisons, or devices which by inspection are deemed unfit for use or would be dangerous to the health and welfare of the citizens of the state of Indiana; the board shall follow those embargo procedures found in IC 16-42-1-18 through IC 16-42-1-31, and persons may not refuse to permit or otherwise prevent members of the board or their representatives from entering such places and making such

inspections;

(6) prescribe minimum standards with respect to physical characteristics of pharmacies, as may be necessary to the maintenance of professional surroundings and to the protection of the safety and welfare of the public;

(7) subject to IC 25-1-7, investigate complaints, subpoena witnesses, schedule and conduct hearings on behalf of the public interest on any matter under the jurisdiction of the board;

(8) prescribe the time, place, method, manner, scope, and subjects of licensing examinations which shall be given at least twice annually; and

(9) perform such other duties and functions and exercise such other powers as may be necessary to implement and enforce this chapter.

(b) The board shall adopt rules under IC 4-22-2 for the following:

(1) Establishing standards for the competent practice of pharmacy.

(2) Establishing the standards for a pharmacist to counsel individuals regarding the proper use of drugs.

(3) Establishing standards and procedures before January 1, 2006, to ensure that a pharmacist:

(A) has entered into a contract that accepts the return of expired drugs with; or

(B) is subject to a policy that accepts the return of expired drugs of;

a wholesaler, manufacturer, or agent of a wholesaler or manufacturer concerning the return by the pharmacist to the wholesaler, the manufacturer, or the agent of expired legend drugs or controlled drugs. In determining the standards and procedures, the board may not interfere with negotiated terms related to cost, expenses, or reimbursement charges contained in contracts between parties, but may consider what is a reasonable quantity of a drug to be purchased by a pharmacy. The standards and procedures do not apply to vaccines that prevent influenza, medicine used for the treatment of malignant hyperthermia, and other drugs determined by the board to not be subject to a return policy. An agent of a wholesaler or manufacturer must be appointed in writing and have policies, personnel, and facilities to handle properly returns of expired legend drugs and controlled substances.

(c) The board may grant or deny a temporary variance to a rule it has adopted if:

(1) the board has adopted rules which set forth the procedures and standards governing the grant or denial of a temporary variance; and

(2) the board sets forth in writing the reasons for a grant or denial of a temporary variance.

(d) The board shall adopt rules and procedures, in consultation with the medical licensing board, concerning the electronic transmission of prescriptions. The rules adopted under this subsection must address the following:

(1) Privacy protection for the practitioner and the practitioner's patient.

(2) Security of the electronic transmission.

(3) A process for approving electronic data intermediaries for the electronic transmission of prescriptions.

(4) Use of a practitioner's United States Drug Enforcement Agency registration number.

(5) Protection of the practitioner from identity theft or fraudulent use of the practitioner's prescribing authority.

(e) The governor may direct the board to develop:

(1) a prescription drug program that includes the establishment of criteria to eliminate or significantly reduce prescription fraud; and

(2) a standard format for an official tamper resistant prescription drug form for prescriptions (as defined in IC 16-42-19-7(1)).

The board may adopt rules under IC 4-22-2 necessary to implement this subsection.

(f) The standard format for a prescription drug form described in subsection (e)(2) must include the following:

(1) A counterfeit protection bar code with human readable representation of the data in the bar code.

(2) A thermochromic mark on the front and the back of the prescription that:

(A) is at least one-fourth (1/4) of one (1) inch in height and width; and

(B) changes from blue to clear when exposed to heat.

(g) The board may contract with a supplier to implement and manage the prescription drug program described in subsection (e). The supplier must:

(1) have been audited by a third party auditor using the SAS 70 audit or an equivalent audit for at least the three (3) previous years; and

(2) be audited by a third party auditor using the SAS 70 audit or an equivalent audit throughout the duration of the contract;

in order to be considered to implement and manage the program.

(h) The board shall adopt rules under IC 4-22-2, or emergency rules in the manner provided under IC 4-22-2-37.1 that take effect on July 1, 2016, concerning:

(1) professional determinations made under IC 35-48-4-14.7(d); and

(2) the determination of a relationship on record with the pharmacy under IC 35-48-4-14.7.

(i) The board ~~shall~~ **may:**

(1) review professional determinations made by a pharmacist; and

(2) take appropriate disciplinary action against a pharmacist who violates a rule adopted under subsection (h) concerning a professional determination made;

under IC 35-48-4-14.7 concerning the sale of ephedrine and pseudoephedrine.

SECTION 2. IC 33-23-1-9.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 9.7. "NPLEx" refers to the National Precursor Log Exchange.**

SECTION 3. IC 33-24-6-3, AS AMENDED BY P.L.284-2013, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The division of state court administration shall do the following:

(1) Examine the administrative and business methods and systems employed in the offices of the clerks of court and other offices related to and serving the courts and make recommendations for necessary improvement.

(2) Collect and compile statistical data and other information on the judicial work of the courts in Indiana. All justices of the supreme court, judges of the court of appeals, judges of all trial courts, and any city or town courts, whether having general or special jurisdiction, court clerks, court reporters, and other officers and employees of the courts shall, upon notice by the executive director and in compliance with procedures prescribed by the executive director, furnish the executive director the information as is requested concerning the nature and volume of judicial business. The information must include the following:

(A) The volume, condition, and type of business conducted by the courts.

(B) The methods of procedure in the courts.

(C) The work accomplished by the courts.

(D) The receipt and expenditure of public money by and for

the operation of the courts.

(E) The methods of disposition or termination of cases.

(3) Prepare and publish reports, not less than one (1) or more than two (2) times per year, on the nature and volume of judicial work performed by the courts as determined by the information required in subdivision (2).

(4) Serve the judicial nominating commission and the judicial qualifications commission in the performance by the commissions of their statutory and constitutional functions.

(5) Administer the civil legal aid fund as required by IC 33-24-12.

(6) Administer the judicial technology and automation project fund established by section 12 of this chapter.

(7) By December 31, 2013, develop and implement a standard protocol for sending and receiving court data:

(A) between the protective order registry, established by IC 5-2-9-5.5, and county court case management systems;

(B) at the option of the county prosecuting attorney, for:

(i) a prosecuting attorney's case management system;

(ii) a county court case management system; and

(iii) a county court case management system developed and operated by the division of state court administration;

to interface with the electronic traffic tickets, as defined by IC 9-30-3-2.5; and

(C) between county court case management systems and the case management system developed and operated by the division of state court administration.

The standard protocol developed and implemented under this subdivision shall permit private sector vendors, including vendors providing service to a local system and vendors accessing the system for information, to send and receive court information on an equitable basis and at an equitable cost.

(8) Establish and administer an electronic system for receiving information that relates to certain individuals who may be prohibited from possessing a firearm and transmitting this information to the Federal Bureau of Investigation for inclusion in the NICS.

(9) Establish and administer an electronic system for receiving felony conviction information for each felony described in IC 35-48-4-14.5(h)(1) from courts. The division shall notify NPLEx of each felony described in IC 35-48-4-14.5(h)(1) entered after June 30, 2012, and do the following:

(A) Provide NPLEx with the following information:

(i) The convicted individual's full name.

(ii) The convicted individual's date of birth.

(iii) The convicted individual's driver's license number, state personal identification number, or other unique number, if available.

(iv) The date the individual was convicted of the felony.

Upon receipt of the information from the division, a stop sale alert must be generated through NPLEx for each individual reported under this clause.

(B) Notify NPLEx if the felony of an individual reported under clause (A) has been:

(i) set aside;

(ii) reversed;

(iii) expunged; or

(iv) vacated.

Upon receipt of information under this clause, NPLEx shall remove the stop sale alert issued under clause (A) for the individual.

~~(9)~~ **(10)** Staff the judicial technology oversight committee established by IC 33-23-17-2.

(b) All forms to be used in gathering data must be approved by the supreme court and shall be distributed to all judges and clerks before the start of each period for which reports are required.

(c) The division may adopt rules to implement this section.

SECTION 4. IC 34-30-2-152.3, AS AMENDED BY P.L.193-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 152.3. **(a)** ~~IC 35-48-4-14.7~~ **IC 35-48-4-14.7(d) and IC 35-48-4-14.7(k)** (Concerning a pharmacy or NPLEx retailer ~~who~~ **that** discloses information concerning the sale of a product containing ephedrine or pseudoephedrine).

(b) IC 35-48-4-14.7(d)(3) (Concerning a pharmacist's professional judgment not to sell ephedrine or pseudoephedrine to an individual).

SECTION 5. IC 35-48-4-14.3, AS ADDED BY SEA 80-2016, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2016]: Sec. 14.3. (a) The board ~~may~~ **shall** adopt:

(1) a rule under IC 4-22-2; or

(2) an emergency rule in the manner provided under IC 4-22-2-37.1;

to declare that a product is an extraction resistant or a conversion resistant form of ephedrine or pseudoephedrine.

(b) The board, in consultation with the state police, shall find that a product is an extraction resistant or a conversion resistant form of ephedrine or pseudoephedrine if the board determines that the product does not pose a significant risk of being used in the manufacture of methamphetamine. **In making its determination under this subsection, the board may receive information from the federal Drug Enforcement Administration (DEA) as to whether a product is extraction resistant or conversion resistant.**

SECTION 6. IC 35-48-4-14.7, AS AMENDED BY SEA 80-2016, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 14.7. (a) This section does not apply to the following:

(1) Ephedrine or pseudoephedrine dispensed pursuant to a prescription. Nothing in this section prohibits a person who is denied the sale of a nonprescription product containing pseudoephedrine or ephedrine from obtaining pseudoephedrine or ephedrine pursuant to a prescription.

(2) The sale of a drug containing ephedrine or pseudoephedrine to a licensed health care provider, pharmacist, retail distributor, wholesaler, manufacturer, or an agent of any of these persons if the sale occurs in the regular course of lawful business activities. However, a retail distributor, wholesaler, or manufacturer is required to report a suspicious order to the state police department in accordance with subsection (g).

(3) The sale of a drug containing ephedrine or pseudoephedrine by a person who does not sell exclusively to walk-in customers for the personal use of the walk-in customers. However, if the person described in this subdivision is a retail distributor, wholesaler, or manufacturer, the person is required to report a suspicious order to the state police department in accordance with subsection (g).

(b) The following definitions apply throughout this section:

(1) "Constant video monitoring" means the surveillance by an automated camera that:

(A) records at least one (1) photograph or digital image every ten (10) seconds;

(B) retains a photograph or digital image for at least seventy-two (72) hours;

(C) has sufficient resolution and magnification to permit the identification of a person in the area under surveillance; and

(D) stores a recorded photograph or digital image at a location that is immediately accessible to a law enforcement officer.

(2) "Convenience package" means a package that contains a drug

having as an active ingredient not more than sixty (60) milligrams of ephedrine or pseudoephedrine, or both.

(3) "Ephedrine" means pure or adulterated ephedrine.

(4) "Pharmacy or NPLEx retailer" means:

(A) a pharmacy, as defined in IC 25-26-13-2;

(B) a retailer containing a pharmacy, as defined in IC 25-26-13-2; or

(C) a retailer that electronically submits the required information to the National Precursor Log Exchange (NPLEx). ~~administered by the National Association of Drug Diversion Investigators (NADDI).~~

(5) "Pseudoephedrine" means pure or adulterated pseudoephedrine.

(6) "Retailer" means a grocery store, general merchandise store, or other similar establishment. The term does not include a pharmacy or NPLEx retailer.

(7) "Suspicious order" means a sale or transfer of a drug containing ephedrine or pseudoephedrine if the sale or transfer:

(A) is a sale or transfer that the retail distributor, wholesaler, or manufacturer is required to report to the United States Drug Enforcement Administration;

(B) appears suspicious to the retail distributor, wholesaler, or manufacturer in light of the recommendations contained in Appendix A of the report to the United States attorney general by the suspicious orders task force under the federal Comprehensive Methamphetamine Control Act of 1996; or

(C) is for cash or a money order in a total amount of at least two hundred dollars ($200).

(8) "Unusual theft" means the theft or unexplained disappearance from a particular pharmacy or NPLEx retailer of drugs containing ten (10) grams or more of ephedrine, pseudoephedrine, or both in a twenty-four (24) hour period.

(c) A drug containing ephedrine or pseudoephedrine may be sold only by a pharmacy or NPLEx retailer.

(d) A pharmacy or NPLEx retailer may sell a drug that contains the active ingredient of ephedrine, pseudoephedrine, or both only if the pharmacy or NPLEx retailer complies with the following conditions:

(1) The pharmacy or NPLEx retailer does not sell the drug to a person less than eighteen (18) years of age.

(2) The pharmacy or NPLEx retailer does not sell drugs containing more than:

(A) three and six-tenths (3.6) grams of ephedrine or

pseudoephedrine, or both, to one (1) individual on one (1) day;

(B) seven and two-tenths (7.2) grams of ephedrine or pseudoephedrine, or both, to one (1) individual in a thirty (30) day period; or

(C) sixty-one and two-tenths (61.2) grams of ephedrine or pseudoephedrine, or both, to one (1) individual in a three hundred sixty-five (365) day period.

(3) Except as provided in subsection (f), before the sale occurs the pharmacist or the pharmacy technician (as defined by IC 25-26-19-2) has determined that the purchaser has a relationship on record with the pharmacy, in compliance with rules adopted by the board under IC 25-26-13-4. If it has been determined that the purchaser does not have a relationship on record with the pharmacy, the pharmacist shall make a professional determination as to whether there is a legitimate medical or pharmaceutical need for ephedrine or pseudoephedrine before selling ephedrine or pseudoephedrine to an individual. The pharmacist's professional determination must comply with the rules adopted under IC 25-26-13-4 and may include the following:

(A) Prior medication filling history of the individual.

(B) Consulting with the individual.

(C) Other tools that provide professional reassurance to the pharmacist that a legitimate medical or pharmaceutical need for ephedrine or pseudoephedrine exists.

A pharmacist who in good faith does not sell ephedrine or pseudoephedrine to an individual under this subdivision is immune from civil liability unless the refusal to sell constitutes gross negligence or intentional, wanton, or willful misconduct.

(4) The pharmacy or NPLEx retailer requires:

(A) the purchaser to produce a valid government issued photo identification card showing the date of birth of the person;

(B) the purchaser to sign a written or electronic log attesting to the validity of the information; and

(C) the clerk who is conducting the transaction to initial or electronically record the clerk's identification on the log.

Records from the completion of a log must be retained for at least two (2) years. A law enforcement officer has the right to inspect and copy a log or the records from the completion of a log in accordance with state and federal law. A pharmacy or NPLEx retailer may not sell or release a log or the records from the completion of a log for a commercial purpose. The Indiana

criminal justice institute may obtain information concerning a log or the records from the completion of a log from a law enforcement officer if the information may not be used to identify a specific individual and is used only for statistical purposes. A pharmacy or NPLEx retailer that in good faith releases information maintained under this subsection is immune from civil liability unless the release constitutes gross negligence or intentional, wanton, or willful misconduct.

(5) The pharmacy or NPLEx retailer maintains a record of information for each sale of a nonprescription product containing pseudoephedrine or ephedrine. Required information includes:

(A) the name and address of each purchaser;

(B) the type of identification presented;

(C) the governmental entity that issued the identification;

(D) the identification number; and

(E) the ephedrine or pseudoephedrine product purchased, including the number of grams the product contains and the date and time of the transaction.

(6) A pharmacy or NPLEx retailer shall, except as provided in subdivision (7), before completing a sale of an over-the-counter product containing pseudoephedrine or ephedrine, electronically submit the required information to the National Precursor Log Exchange (NPLEx), ~~administered by the National Association of Drug Diversion Investigators (NADDI),~~ if the NPLEx system is available to pharmacies or NPLEx retailers in the state without a charge for accessing the system. The pharmacy or NPLEx retailer may not complete the sale if the system generates a stop sale alert, **including a stop sale alert for a person convicted of a felony reported under IC 33-24-6-3.**

(7) If a pharmacy or NPLEx retailer selling an over-the-counter product containing ephedrine or pseudoephedrine experiences mechanical or electronic failure of the electronic sales tracking system and is unable to comply with the electronic sales tracking requirement, the pharmacy or NPLEx retailer shall maintain a written log or an alternative electronic recordkeeping mechanism until the pharmacy or NPLEx retailer is able to comply with the electronic sales tracking requirement.

(8) The pharmacy or NPLEx retailer stores the drug behind a counter in an area inaccessible to a customer or in a locked display case that makes the drug unavailable to a customer without the assistance of an employee.

(e) A person may not purchase drugs containing more than:

(1) three and six-tenths (3.6) grams of ephedrine or pseudoephedrine, or both, on one (1) day;

(2) seven and two-tenths (7.2) grams of ephedrine or pseudoephedrine, or both, in a thirty (30) day period; or

(3) sixty-one and two-tenths (61.2) grams of ephedrine or pseudoephedrine, or both, in a three hundred sixty-five (365) day period.

These limits apply to the total amount of base ephedrine and pseudoephedrine contained in the products and not to the overall weight of the products.

(f) If a purchaser does not have a relationship on record with the pharmacy, as determined by rules adopted by the board under IC 25-26-13-4, or the pharmacist has made a professional determination that there is not a legitimate medical or pharmaceutical need for ephedrine or pseudoephedrine under subsection (d), the purchaser may, at the pharmacist's discretion, purchase only the following:

(1) A product that has been determined under section 14.3 of this chapter to be an extraction resistant or a conversion resistant form of ephedrine or pseudoephedrine.

(2) A product that contains not more than:

(A) a total of seven hundred twenty (720) milligrams of ephedrine or pseudoephedrine per package; and

(B) thirty (30) milligrams of ephedrine or pseudoephedrine per tablet.

The pharmacist may not sell more than one (1) package of ephedrine or pseudoephedrine to a purchaser under this subdivision per day.

However, if the pharmacist believes that the ephedrine or pseudoephedrine purchase will be used to manufacture methamphetamine, the pharmacist may refuse to sell ephedrine or pseudoephedrine to the purchaser.

(g) A retail distributor, wholesaler, or manufacturer shall report a suspicious order to the state police department in writing.

(h) Not later than three (3) days after the discovery of an unusual theft at a particular retail store, the pharmacy or NPLEx retailer shall report the unusual theft to the state police department in writing. If three (3) unusual thefts occur in a thirty (30) day period at a particular pharmacy or NPLEx retailer, the pharmacy or NPLEx retailer shall, for at least one hundred eighty (180) days after the date of the last unusual theft, locate all drugs containing ephedrine or pseudoephedrine at that particular pharmacy or NPLEx retailer behind a counter in an area

inaccessible to a customer or in a locked display case that makes the drug unavailable to customers without the assistance of an employee.

(i) A unit (as defined in IC 36-1-2-23) may not adopt an ordinance after February 1, 2005, that is more stringent than this section.

(j) A person who knowingly or intentionally violates this section commits a Class C misdemeanor. However, the offense is a Class A misdemeanor if the person has a prior unrelated conviction under this section.

(k) A pharmacy or NPLEx retailer that uses the electronic sales tracking system in accordance with this section is immune from civil liability for any act or omission committed in carrying out the duties required by this section, unless the act or omission was due to ~~negligence,~~ recklessness or deliberate or wanton misconduct. A pharmacy or NPLEx retailer is immune from liability to a third party unless the pharmacy or NPLEx retailer has violated a provision of this section and the third party brings an action based on the pharmacy's or NPLEx retailer's violation of this section.

(l) The following requirements apply to the NPLEx:

(1) Information contained in the NPLEx may be shared only with law enforcement officials.

(2) A law enforcement official may access Indiana transaction information maintained in the NPLEx for investigative purposes.

(3) NADDI may not modify sales transaction data that is shared with law enforcement officials.

(4) At least one (1) time per ~~week, NADDI shall forward~~ **day,** Indiana data contained in the NPLEx ~~including data concerning a transaction that could not be completed due to the issuance of a stop sale alert,~~ **for the previous calendar day shall be forwarded** to the state police department.

(m) A person or corporate entity may not mandate a protocol or procedure that interferes with the pharmacist's ability to exercise the pharmacist's independent professional judgment under this section, including whether to deny the sale of ephedrine or pseudoephedrine under subsection (f).

SECTION 7. IC 35-48-7-2.7, AS ADDED BY SEA 80-2016, SECTION 5, IS REPEALED [EFFECTIVE JULY 1, 2016]. ~~Sec. 2.7. As used in this chapter, "controlled substance" has the meaning set forth in IC 35-48-1-9 and includes pure or adulterated ephedrine or pseudoephedrine.~~

SECTION 8. IC 35-48-7-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 3.5. As used in this chapter, "ephedrine" includes**

only ephedrine that is dispensed pursuant to a prescription or drug order.

SECTION 9. IC 35-48-7-5.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 5.9. As used in this chapter, "pseudoephedrine" includes only pseudoephedrine that is dispensed pursuant to a prescription or drug order.**

SECTION 10. IC 35-48-7-8.1, AS AMENDED BY P.L.89-2015, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 8.1. (a) The board shall provide for ~~a~~ **an ephedrine, pseudoephedrine, and** controlled substance prescription monitoring program that includes the following components:

(1) Each time **ephedrine, pseudoephedrine, or** a controlled substance designated by the board under IC 35-48-2-5 through IC 35-48-2-10 is dispensed, the dispenser shall transmit to the INSPECT program the following information:

(A) The **ephedrine, pseudoephedrine, or** controlled substance recipient's name.

(B) The **ephedrine, pseudoephedrine, or** controlled substance recipient's or the recipient representative's identification number or the identification number or phrase designated by the INSPECT program.

(C) The **ephedrine, pseudoephedrine, or** controlled substance recipient's date of birth.

(D) The national drug code number of the **ephedrine, pseudoephedrine, or** controlled substance dispensed.

(E) The date the **ephedrine, pseudoephedrine, or** controlled substance is dispensed.

(F) The quantity of the **ephedrine, pseudoephedrine, or** controlled substance dispensed.

(G) The number of days of supply dispensed.

(H) The dispenser's United States Drug Enforcement Agency registration number.

(I) The prescriber's United States Drug Enforcement Agency registration number.

(J) An indication as to whether the prescription was transmitted to the pharmacist orally or in writing.

(K) Other data required by the board.

(2) The information required to be transmitted under this section must be transmitted as follows:

(A) Before July 1, 2015, not more than seven (7) days after the date on which **ephedrine, pseudoephedrine, or** a controlled

substance is dispensed.

(B) Beginning July 1, 2015, and until December 31, 2015, not more than three (3) days after the date on which **ephedrine, pseudoephedrine, or** a controlled substance is dispensed.

(C) Beginning January 1, 2016, and thereafter, not more than twenty-four (24) hours after the date on which **ephedrine, pseudoephedrine, or** a controlled substance is dispensed. However, if the dispenser's pharmacy is closed the day following the dispensing, the information must be transmitted by the end of the next business day.

(3) A dispenser shall transmit the information required under this section by:

(A) uploading to the INSPECT web site;

(B) a computer diskette; or

(C) a CD-ROM disk;

that meets specifications prescribed by the board.

(4) The board may require that prescriptions for **ephedrine, pseudoephedrine, or** controlled substances be written on a one (1) part form that cannot be duplicated. However, the board may not apply such a requirement to prescriptions filled at a pharmacy with a Category II permit (as described in IC 25-26-13-17) and operated by a hospital licensed under IC 16-21, or prescriptions ordered for and dispensed to bona fide enrolled patients in facilities licensed under IC 16-28. The board may not require multiple copy prescription forms for any prescriptions written. The board may not require different prescription forms for any individual drug or group of drugs. Prescription forms required under this subdivision must be approved by the Indiana board of pharmacy established by IC 25-26-13-3.

(5) The costs of the program.

(b) The board shall consider the recommendations of the committee concerning the INSPECT program.

(c) This subsection applies only to a retail pharmacy. A pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense **ephedrine, pseudoephedrine, or** a controlled substance may not dispense **ephedrine, pseudoephedrine, or** a controlled substance to a person who is not personally known to the pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense a controlled substance unless the person taking possession of the **ephedrine, pseudoephedrine, or** controlled substance provides documented proof of the person's identification to the pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense

ephedrine, pseudoephedrine, or a controlled substance.

SECTION 11. IC 35-48-7-10.1, AS AMENDED BY P.L.89-2015, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 10.1. (a) The INSPECT program must do the following:

(1) Create a data base for information required to be transmitted under section 8.1 of this chapter in the form required under rules adopted by the board, including search capability for the following:

(A) **An ephedrine, pseudoephedrine, or** a controlled substance recipient's name.

(B) **An ephedrine, pseudoephedrine, or** a controlled substance recipient's or recipient representative's identification number.

(C) **An ephedrine, pseudoephedrine, or** a controlled substance recipient's date of birth.

(D) The national drug code number of **ephedrine, pseudoephedrine, or** a controlled substance dispensed.

(E) The dates **ephedrine, pseudoephedrine, or** a controlled substance ~~is~~ **are** dispensed.

(F) The quantities of **ephedrine, pseudoephedrine, or** ~~a~~ controlled substance dispensed.

(G) The number of days of supply dispensed.

(H) A dispenser's United States Drug Enforcement Agency registration number.

(I) A prescriber's United States Drug Enforcement Agency registration number.

(J) Whether a prescription was transmitted to the pharmacist orally or in writing.

(K) **An ephedrine, pseudoephedrine, or** a controlled substance recipient's method of payment for the **ephedrine, pseudoephedrine, or** controlled substance dispensed.

(2) Provide the board with continuing twenty-four (24) hour a day online access to the data base.

(3) Secure the information collected and the data base maintained against access by unauthorized persons.

(b) The board may not execute a contract with a vendor designated by the board to perform any function associated with the administration of the INSPECT program, unless the contract has been approved by the committee.

(c) The INSPECT program may gather prescription data from the Medicaid retrospective drug utilization review (DUR) program

established under IC 12-15-35.

(d) The board may accept and designate grants, public and private financial assistance, and licensure fees to provide funding for the INSPECT program.

SECTION 12. IC 35-48-7-11.1, AS AMENDED BY P.L.201-2015, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 11.1. (a) Information received by the INSPECT program under section 8.1 of this chapter is confidential.

(b) The board shall carry out a program to protect the confidentiality of the information described in subsection (a). The board may disclose the information to another person only under subsection (c), (d), or (g).

(c) The board may disclose confidential information described in subsection (a) to any person who is authorized to engage in receiving, processing, or storing the information.

(d) Except as provided in subsections (e) and (f), the board may release confidential information described in subsection (a) to the following persons:

(1) A member of the board or another governing body that licenses practitioners and is engaged in an investigation, an adjudication, or a prosecution of a violation under any state or federal law that involves **ephedrine, pseudoephedrine, or** a controlled substance.

(2) An investigator for the consumer protection division of the office of the attorney general, a prosecuting attorney, the attorney general, a deputy attorney general, or an investigator from the office of the attorney general, who is engaged in:

(A) an investigation;

(B) an adjudication; or

(C) a prosecution;

of a violation under any state or federal law that involves **ephedrine, pseudoephedrine, or** a controlled substance.

(3) A law enforcement officer who is an employee of:

(A) a local, state, or federal law enforcement agency; or

(B) an entity that regulates **ephedrine, pseudoephedrine, or** controlled substances or enforces **ephedrine, pseudoephedrine, or** controlled substances rules or laws in another state;

that is certified to receive **ephedrine, pseudoephedrine, or** controlled substance prescription drug information from the INSPECT program.

(4) A practitioner or practitioner's agent certified to receive information from the INSPECT program.

(5) **An ephedrine, pseudoephedrine, or** a controlled substance monitoring program in another state with which Indiana has established an interoperability agreement.

(6) The state toxicologist.

(7) A certified representative of the Medicaid retrospective and prospective drug utilization review program.

(8) A substance abuse assistance program for a licensed health care provider who:

(A) has prescriptive authority under IC 25; and

(B) is participating in the assistance program.

(9) An individual who holds a valid temporary medical permit issued under IC 25-22.5-5-4 or **a temporary fellowship permit under** IC 25-22.5-5-4.6.

(e) Information provided to an individual under:

(1) subsection (d)(3) is limited to information:

(A) concerning an individual or proceeding involving the unlawful diversion or misuse of a schedule II, III, IV, or V controlled substance; and

(B) that will assist in an investigation or proceeding; and

(2) subsection (d)(4) may be released only for the purpose of:

(A) providing medical or pharmaceutical treatment; or

(B) evaluating the need for providing medical or pharmaceutical treatment to a patient.

(f) Before the board releases confidential information under subsection (d), the applicant must be approved by the INSPECT program in a manner prescribed by the board.

(g) The board may release to:

(1) a member of the board or another governing body that licenses practitioners;

(2) an investigator for the consumer protection division of the office of the attorney general, a prosecuting attorney, the attorney general, a deputy attorney general, or an investigator from the office of the attorney general; or

(3) a law enforcement officer who is:

(A) authorized by the state police department to receive **ephedrine, pseudoephedrine, or** controlled substance prescription drug information; and

(B) approved by the board to receive the type of information released;

confidential information generated from computer records that identifies practitioners who are prescribing or dispensing large quantities of a controlled substance.

(h) The information described in subsection (g) may not be released until it has been reviewed by:

(1) a member of the board who is licensed in the same profession as the prescribing or dispensing practitioner identified by the data; or

(2) the board's designee;

and until that member or the designee has certified that further investigation is warranted. However, failure to comply with this subsection does not invalidate the use of any evidence that is otherwise admissible in a proceeding described in subsection (i).

(i) An investigator or a law enforcement officer receiving confidential information under subsection (c), (d), or (g) may disclose the information to a law enforcement officer or an attorney for the office of the attorney general for use as evidence in the following:

(1) A proceeding under IC 16-42-20.

(2) A proceeding under any state or federal law that involves **ephedrine, pseudoephedrine, or** a controlled substance.

(3) A criminal proceeding or a proceeding in juvenile court that involves **ephedrine, pseudoephedrine, or** a controlled substance.

(j) The board may compile statistical reports from the information described in subsection (a). The reports must not include information that identifies any practitioner, ultimate user, or other person administering **ephedrine, pseudoephedrine, or** a controlled substance. Statistical reports compiled under this subsection are public records.

(k) Except as provided in IC 25-22.5-13, this section may not be construed to require a practitioner to obtain information about a patient from the data base.

(l) A practitioner is immune from civil liability for an injury, death, or loss to a person solely due to a practitioner seeking or not seeking information from the INSPECT program. The civil immunity described in this subsection does not extend to a practitioner if the practitioner receives information directly from the INSPECT program and then negligently misuses this information. This subsection does not apply to an act or omission that is a result of gross negligence or intentional misconduct.

(m) The board may review the records of the INSPECT program. If the board determines that a violation of the law may have occurred, the board shall notify the appropriate law enforcement agency or the relevant government body responsible for the licensure, regulation, or discipline of practitioners authorized by law to prescribe controlled substances.

(n) A practitioner who in good faith discloses information based on

a report from the INSPECT program to a law enforcement agency is immune from criminal or civil liability. A practitioner that discloses information to a law enforcement agency under this subsection is presumed to have acted in good faith.

SECTION 13. IC 35-48-7-12.1, AS AMENDED BY P.L.89-2015, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 12.1. (a) The board shall adopt rules under IC 4-22-2 to implement this chapter, including the following:

(1) Information collection and retrieval procedures for the INSPECT program, including the controlled substances to be included in the program required under section 8.1 of this chapter.

(2) Design for the creation of the data base required under section 10.1 of this chapter.

(3) Requirements for the development and installation of online electronic access by the board to information collected by the INSPECT program.

(4) Identification of emergency situations or other circumstances in which a practitioner may prescribe, dispense, and administer a prescription drug specified in section 8.1 of this chapter without a written prescription or on a form other than a form specified in section 8.1(a)(4) of this chapter.

(5) Requirements for a practitioner providing treatment for a patient at an opioid treatment program operating under IC 12-23-18 to check the INSPECT program:

(A) before initially prescribing **ephedrine, pseudoephedrine, or** a controlled substance to a patient; and

(B) periodically during the course of treatment that uses **ephedrine, pseudoephedrine, or** a controlled substance.

(b) The board may:

(1) set standards for education courses for individuals authorized to use the INSPECT program;

(2) identify treatment programs for individuals addicted to controlled substances monitored by the INSPECT program; and

(3) work with impaired practitioner associations to provide intervention and treatment.

(c) The executive director of the Indiana professional licensing agency may hire a person to serve as the director of the INSPECT program, with the approval of the chairperson of the board.

SECTION 14. [EFFECTIVE UPON PASSAGE] **(a) The general assembly recognizes that SEA 80-2016 adds IC35-48-7-2.7 and that SECTION 5 of this act repeals IC 35-48-7-2.7. The general assembly intends to repeal IC 35-48-7-2.7 effective July 1, 2016.**

(b) This SECTION expires January 1, 2018.

SECTION 15. **An emergency is declared for this act.**

President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____