SENATE ENROLLED ACT No. 176

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 16-41-43-3, AS ADDED BY P.L.59-2015, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3. (a) An entity may fill a prescription for auto-injectable epinephrine and store the auto-injectable epinephrine on the premises of the entity if a health care provider who is licensed in Indiana and whose scope of practice includes the prescribing of medication writes **or electronically transmits** the prescription for auto-injectable epinephrine for the entity.

(b) The entity shall store the auto-injectable epinephrine in a safe location in which only the entity's personnel or agents have access.

SECTION 2. IC 16-41-43-5, AS ADDED BY P.L.59-2015, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 5. (a) A health care provider who is licensed in Indiana and whose scope of practice includes the prescribing of medication may write **or electronically transmit** a prescription, drug order, or protocol for auto-injectable epinephrine for the entity.

(b) A pharmacist licensed under IC 25-26 may dispense a valid prescription, drug order, or protocol for auto-injectable epinephrine issued in the name of an entity.

SECTION 3. IC 16-41-43-6, AS ADDED BY P.L.59-2015, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2019]: Sec. 6. (a) A nurse employed by an entity or an employee of the entity who administers auto-injectable epinephrine in accordance with the manufacturer's guidelines and with this chapter is not liable for civil damages resulting from the administration of auto-injectable epinephrine under this chapter unless the act or omission constitutes gross negligence or willful or wanton misconduct.

(b) A licensed health care provider who:

(1) writes a prescription, drug order, or protocol under this chapter; ~~or~~

(2) transmits in an electronic format a prescription, drug order, or protocol for an electronically transmitted prescription under this chapter; or

~~(2)~~ **(3)** provides training to an entity's personnel under this chapter;

is not liable for civil damages resulting from the administration of auto-injectable epinephrine under this chapter.

SECTION 4. IC 16-42-19-7, AS AMENDED BY P.L.204-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 7. As used in this chapter, "prescription" means:

(1) a written order to or for an ultimate user for a drug or device containing the name and address of the patient, the name and strength or size of the drug or device, the amount to be dispensed, adequate directions for the proper use of the drug or device by the patient, and the name of the practitioner, issued and signed by a practitioner; or

(2) an order transmitted by other means of communication from a practitioner that is:

(A) immediately reduced to writing by the pharmacist or pharmacist intern (as defined in IC 25-26-13-2); or

(B) for an electronically transmitted prescription:

(i) has the electronic signature of the practitioner; ~~and~~

(ii) is recorded by the pharmacist in an electronic format; **and**

(iii) is issued in accordance with IC 25-1-9.3.

SECTION 5. IC 20-34-4.5-3, AS AMENDED BY P.L.117-2017, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3. (a) A health care provider who is licensed in Indiana and whose scope of practice includes the prescribing of medication may:

(1) write; **or**

(2) transmit in an electronic format for an electronically transmitted prescription;

a prescription, drug order, or protocol for an emergency medication for a school or school corporation.

(b) A pharmacist licensed under IC 25-26 may dispense a valid prescription, drug order, or protocol for an emergency medication issued in the name of a school or school corporation.

SECTION 6. IC 20-34-4.5-4, AS AMENDED BY P.L.117-2017, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. (a) A school nurse or school employee who administers an emergency stock medication in accordance with the manufacturer's guidelines and with this chapter is not liable for civil damages resulting from the administration of the emergency stock medication under this chapter unless the act or omission constitutes gross negligence or willful or wanton misconduct.

(b) A health care provider described in section 3 of this chapter who:

(1) writes; **or**

(2) transmits in an electronic format for an electronically transmitted prescription;

a prescription, drug order, or protocol under this chapter is not liable for civil damages resulting from the administration of an emergency stock medication under this chapter.

(c) A health care provider described in section 2(b)(1) of this chapter who provides training to school employees under this chapter is not liable for civil damages resulting from the administration of an emergency stock medication.

SECTION 7. IC 21-44.5-2-5, AS ADDED BY P.L.45-2014, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 5. (a) A postsecondary educational institution may fill a prescription for auto-injectable epinephrine and store the auto-injectable epinephrine on the campus if a health care provider who is licensed in Indiana and whose scope of practice includes the prescribing of medication:

(1) writes; **or**

(2) transmits in an electronic format for an electronically transmitted prescription;

the prescription for auto-injectable epinephrine for the postsecondary educational institution.

(b) The postsecondary educational institution shall store the auto-injectable epinephrine in a safe location in which only postsecondary educational institution personnel have access.

(c) A health care provider who is licensed in Indiana and whose scope of practice includes the prescribing of medication may:

(1) write; **or**

(2) transmit in an electronic format for an electronically transmitted prescription;

a prescription, drug order, or protocol for auto-injectable epinephrine for the postsecondary educational institution.

(d) A pharmacist licensed under IC 25-26 may dispense a valid prescription, drug order, or protocol for auto-injectable epinephrine issued in the name of a postsecondary educational institution.

SECTION 8. IC 21-44.5-2-6, AS ADDED BY P.L.45-2014, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 6. (a) A licensed campus medical professional who acts in accordance with this chapter is not liable for civil damages for any act or omission committed in accordance with this chapter unless the act or omission constitutes gross negligence or willful or wanton misconduct.

(b) A trained designee who administers auto-injectable epinephrine in accordance with this chapter is not liable for civil damages resulting from the administration of auto-injectable epinephrine under this chapter unless the act or omission constitutes gross negligence or willful or wanton misconduct.

(c) A licensed health care provider who:

(1) writes; **or**

(2) transmits in an electronic format for an electronically transmitted prescription;

a prescription, drug order, or protocol under this chapter is not liable for civil damages resulting from the administration of auto-injectable epinephrine under this chapter unless the act or omission constitutes gross negligence or willful or wanton misconduct.

SECTION 9. IC 25-1-9.3 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]:

Chapter 9.3. Electronically Transmitted Prescriptions for Controlled Substances

Sec. 1. A reference to a written or electronically transmitted prescription for a controlled substance in the Indiana Code shall be construed to be issued under this chapter.

Sec. 2. As used in this chapter, "board" refers to the Indiana board of pharmacy established by IC 25-26-13-3.

Sec. 3. As used in this chapter, "controlled substance" has the meaning set forth in IC 35-48-1-9.

Sec. 4. As used in this chapter, "electronically transmitted" or "electronic transmission" has the meaning set forth in

IC 25-26-13-2.

Sec. 5. As used in this chapter, "prescriber" means any of the following:

(1) A dentist licensed under IC 25-14.

(2) A physician licensed under IC 25-22.5.

(3) An advanced practice registered nurse licensed and granted the authority to prescribe under IC 25-23.

(4) An optometrist licensed under IC 25-24.

(5) A physician assistant licensed under IC 25-27.5 and granted the authority to prescribe by the physician assistant's supervisory physician in accordance with IC 25-27.5-5-4.

(6) A podiatrist licensed under IC 25-29.

Sec. 6. As used in this chapter, "prescription" has the meaning set forth in IC 25-26-13-2.

Sec. 7. After December 31, 2020, except as provided in section 8 of this chapter, a prescriber shall issue a prescription for a controlled substance:

(1) in an electronic format; and

(2) by electronic transmission from the prescriber to a pharmacy;

in accordance with rules adopted by the board under IC 25-26-13-4(d).

Sec. 8. A prescriber may issue a prescription for a controlled substance in a written format, a faxed format, or an oral order if any of the following apply:

(1) The prescriber cannot transmit an electronically transmitted prescription due to temporary technological or electrical failure.

(2) The prescriber issues a prescription to be dispensed by a pharmacy located outside Indiana.

(3) The prescriber and the pharmacist are the same entity.

(4) The prescriber issues a prescription that meets any of the following:

(A) The prescription contains elements that are not supported by the technical standards developed by the National Council for Prescription Drug Programs for electronically transmitted prescriptions (NCPDP SCRIPT).

(B) The federal Food and Drug Administration requires the prescription to contain certain elements that cannot be supported in an electronically transmitted prescription.

(C) The prescription is a non-patient specific prescription in response to a public health emergency or another

instance allowable under state law and that requires a non-patient specific prescription under:

(i) a standing order;

(ii) approved protocol for drug therapy;

(iii) collaborative drug management; or

(iv) comprehensive medication management.

(D) The prescription is issued under a research protocol.

(5) The prescriber has received a waiver or a renewal of a previously received waiver from the board in accordance with rules adopted under section 9 of this chapter.

(6) The board, in accordance with rules adopted under section 9 of this chapter, has determined that issuing an electronically transmitted prescription would be impractical and cause delay, adversely impacting the patient's medical condition.

Sec. 9. (a) The board shall, in consultation with the medical licensing board, adopt rules under IC 4-22-2 to implement this chapter, including:

(1) a process to grant or deny waivers or renewals of waivers from the requirement to issue electronically transmitted prescriptions for controlled substances due to:

(A) economic hardship;

(B) technological limitations outside the control of the prescriber; or

(C) other circumstances determined by the board; and

(2) a list of circumstances in which issuing an electronically transmitted prescription would be impractical and cause delay that would adversely impact the user's medical condition.

(b) Any rules adopted under this chapter must be substantially similar to the requirements and exceptions under 42 U.S.C. 1395w-104.

Sec. 10. The following do not violate this chapter if the pharmacy or pharmacist fills a written, faxed, or oral prescription for a controlled substance and the pharmacy or pharmacist is unaware that the prescription does not fall within an allowable exception under section 8 of this chapter:

(1) A pharmacy.

(2) A pharmacist.

Sec. 11. A prescriber who violates this chapter is subject to disciplinary action by the prescriber's governing board under IC 25-1-9.

SECTION 10. IC 25-1-9.5-8, AS AMENDED BY P.L.150-2017,

SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 8. (a) A prescriber may issue a prescription to a patient who is receiving services through the use of telemedicine if the patient has not been examined previously by the prescriber in person if the following conditions are met:

(1) The prescriber has satisfied the applicable standard of care in the treatment of the patient.

(2) The issuance of the prescription by the prescriber is within the prescriber's scope of practice and certification.

(3) The prescription:

(A) meets the requirements of subsection (b); and

(B) is not for an opioid. However, an opioid may be prescribed if the opioid is a partial agonist that is used to treat or manage opioid dependence.

(4) The prescription is not for an abortion inducing drug (as defined in IC 16-18-2-1.6).

(5) The prescription is not for an ophthalmic device, including:

(A) glasses;

(B) contact lenses; or

(C) low vision devices.

(b) Except as provided in subsection (a), a prescriber may issue a prescription for a controlled substance (as defined in IC 35-48-1-9) to a patient who is receiving services through the use of telemedicine, even if the patient has not been examined previously by the prescriber in person, if the following conditions are met:

(1) The prescriber maintains a valid controlled substance registration under IC 35-48-3.

(2) The prescriber meets the conditions set forth in 21 U.S.C. 829 et seq.

(3) The patient has been examined in person by a licensed Indiana health care provider and the licensed health care provider has established a treatment plan to assist the prescriber in the diagnosis of the patient.

(4) The prescriber has reviewed and approved the treatment plan described in subdivision (3) and is prescribing for the patient pursuant to the treatment plan.

(5) The prescriber complies with the requirements of the INSPECT program (IC 35-48-7).

(c) A prescription for a controlled substance under this section must be prescribed and dispensed in accordance with **IC 25-1-9.3 and** IC 35-48-7.

SECTION 11. IC 25-1-9.5-11, AS AMENDED BY P.L.150-2017,

SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 11. A pharmacy does not violate this chapter if the pharmacy fills a prescription for an opioid and the pharmacy is unaware that the prescription was written **or electronically transmitted** by a prescriber providing telemedicine services under this chapter.

SECTION 12. IC 25-22.5-1-1.1, AS AMENDED BY P.L.82-2016, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1.1. As used in this article:

(a) "Practice of medicine or osteopathic medicine" means any one (1) or a combination of the following:

(1) Holding oneself out to the public as being engaged in:

(A) the diagnosis, treatment, correction, or prevention of any disease, ailment, defect, injury, infirmity, deformity, pain, or other condition of human beings;

(B) the suggestion, recommendation, or prescription or administration of any form of treatment, without limitation;

(C) the performing of any kind of surgical operation upon a human being, including tattooing (except for providing a tattoo as defined in IC 35-45-21-4(a)), in which human tissue is cut, burned, or vaporized by the use of any mechanical means, laser, or ionizing radiation, or the penetration of the skin or body orifice by any means, for the intended palliation, relief, or cure; or

(D) the prevention of any physical, mental, or functional ailment or defect of any person.

(2) The maintenance of an office or a place of business for the reception, examination, or treatment of persons suffering from disease, ailment, defect, injury, infirmity, deformity, pain, or other conditions of body or mind.

(3) Attaching the designation "doctor of medicine", "M.D.", "doctor of osteopathy", "D.O.", "osteopathic medical physician", "physician", "surgeon", or "physician and surgeon", either alone or in connection with other words, or any other words or abbreviations to a name, indicating or inducing others to believe that the person is engaged in the practice of medicine or osteopathic medicine (as defined in this section).

(4) Providing diagnostic or treatment services to a person in Indiana when the diagnostic or treatment services:

(A) are transmitted through electronic communications; and

(B) are on a regular, routine, and nonepisodic basis or under an oral or written agreement to regularly provide medical

services.

In addition to the exceptions described in section 2 of this chapter, a nonresident physician who is located outside Indiana does not practice medicine or osteopathy in Indiana by providing a second opinion to a licensee or diagnostic or treatment services to a patient in Indiana following medical care originally provided to the patient while outside Indiana.

(b) "Board" refers to the medical licensing board of Indiana.

(c) "Diagnose or diagnosis" means to examine a patient, parts of a patient's body, substances taken or removed from a patient's body, or materials produced by a patient's body to determine the source or nature of a disease or other physical or mental condition, or to hold oneself out or represent that a person is a physician and is so examining a patient. It is not necessary that the examination be made in the presence of the patient; it may be made on information supplied either directly or indirectly by the patient.

(d) "Drug or medicine" means any medicine, compound, or chemical or biological preparation intended for internal or external use of humans, and all substances intended to be used for the diagnosis, cure, mitigation, or prevention of diseases or abnormalities of humans, which are recognized in the latest editions published of the United States Pharmacopoeia or National Formulary, or otherwise established as a drug or medicine.

(e) "Licensee" means any individual holding a valid unlimited license issued by the board under this article.

(f) "Prescribe or prescription" means to direct, order, or designate the use of or manner of using a drug, medicine, or treatment, by spoken or written words or other means **and in accordance with IC 25-1-9.3.**

(g) "Physician" means any person who holds the degree of doctor of medicine or doctor of osteopathy or its equivalent and who holds a valid unlimited license to practice medicine or osteopathic medicine in Indiana.

(h) "Medical school" means a nationally accredited college of medicine or of osteopathic medicine approved by the board.

(i) "Physician assistant" means an individual who:

(1) is supervised by a physician;

(2) graduated from an approved physician assistant program described in IC 25-27.5-2-2;

(3) passed the examination administered by the National Commission on Certification of Physician Assistants (NCCPA) and maintains certification; and

(4) has been licensed by the physician assistant committee under

IC 25-27.5.

(j) "Agency" refers to the Indiana professional licensing agency under IC 25-1-5.

(k) "INSPECT program" means the Indiana scheduled prescription electronic collection and tracking program established by IC 25-1-13-4.

SECTION 13. IC 25-23-1-19.5, AS AMENDED BY P.L.129-2018, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 19.5. (a) This section does not apply to certified registered nurse anesthetists.

(b) The board shall establish a program under which advanced practice registered nurses who meet the requirements established by the board are authorized to prescribe drugs, including controlled substances (as defined in IC 35-48-1-9) **in accordance with IC 25-1-9.3.**

(c) The authority granted by the board under this section:

(1) expires on October 31 of the odd-numbered year following the year the authority was granted or renewed; and

(2) is subject to renewal indefinitely for successive periods of two (2) years.

(d) The rules adopted under section 7 of this chapter concerning the authority of advanced practice registered nurses to prescribe drugs must do the following:

(1) Require an advanced practice registered nurse or a prospective advanced practice registered nurse who seeks the authority to submit an application to the board.

(2) Require an applicant to satisfy the following as a prerequisite to the initial granting of the authority:

(A) Meet all the qualifications for licensure as a registered nurse under this article.

(B) Successfully complete:

(i) education requirements determined by the board to be appropriate to the advanced practice registered nurse's role; and

(ii) a graduate level course in pharmacology providing at least two (2) semester hours of academic credit.

(C) Either:

(i) provide documentation, as requested by the board, that the applicant has graduated before December 31, 1997, from an advanced, organized formal education program appropriate to the practice and that is acceptable to the board; or

(ii) complete a graduate, postgraduate, or doctoral advanced

practice registered nurse program from an accredited college or university.

(3) Establish requirements for an advanced practice registered nurse to comply with national certification or the certification's equivalence, including a portfolio equivalence, appropriate to the advance practice registered nurse's role.

(4) Require, as a condition of the renewal of the authority, the completion by the advanced practice registered nurse of the continuing education requirements set out in section 19.7 of this chapter.

SECTION 14. IC 25-23-1-19.6, AS AMENDED BY P.L.129-2018, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 19.6. (a) When the board grants authority to an advanced practice registered nurse to prescribe legend drugs under this chapter, the board shall assign an identification number to the advanced practice registered nurse.

(b) An advanced practice registered nurse who is granted authority by the board to prescribe legend drugs must do the following:

(1) Enter on each prescription form that the advanced practice registered nurse uses to prescribe a legend drug:

(A) the signature of the advanced practice registered nurse;

(B) initials indicating the credentials awarded to the advanced practice registered nurse under this chapter; and

(C) the identification number assigned to the advanced practice registered nurse under subsection (a).

(2) Transmit the prescription in an electronic format for an electronically transmitted prescription.

~~(2)~~ **(3)** Comply with all applicable state and federal laws concerning prescriptions for legend drugs, **including the requirement to issue electronically transmitted prescriptions under IC 25-1-9.3.**

(c) An advanced practice registered nurse may be granted authority to prescribe legend drugs under this chapter only within the scope of practice of the advanced practice registered nurse and the scope of the licensed collaborating health practitioner.

SECTION 15. IC 25-24-3-8, AS ADDED BY P.L.157-2006, SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 8. As used in this chapter, "prescription" means a written order or an order transmitted by other means of communication that is immediately reduced to writing by the pharmacist or, for electronically transmitted orders **in accordance with IC 25-1-9.3,** recorded in an electronic format from an optometrist to or

for an ultimate user for a drug or device, containing:

(1) the name and address of the patient;

(2) the date of issue;

(3) the name and strength or size (if applicable) of the drug or device;

(4) the amount to be dispensed (unless indicated by directions and duration of therapy);

(5) adequate directions for the proper use of the drug or device by the patient;

(6) the name and certification number of the prescribing optometrist; and

(7) if the prescription:

(A) is in written form, the signature of the optometrist; or

(B) is in electronic form, the electronic signature of the optometrist.

SECTION 16. IC 25-26-13-24.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 24.8. Upon request of a patient, a pharmacy shall transfer to another pharmacy a prescription for the patient that the pharmacy has received but not filled unless:**

(1) prohibited in writing on the prescription by the prescriber; or

(2) otherwise prohibited by federal law.

SECTION 17. IC 25-27.5-5-4, AS AMENDED BY P.L.135-2015, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. (a) Except as provided in this section, a physician assistant may prescribe, dispense, and administer drugs and medical devices or services to the extent delegated by the supervising physician.

(b) A physician assistant may not prescribe, dispense, or administer ophthalmic devices, including glasses, contact lenses, and low vision devices.

(c) A physician assistant may use or dispense only drugs prescribed or approved by the supervising physician, **in accordance with IC 25-1-9.3.** A physician assistant may not prescribe or dispense a schedule I controlled substance listed in IC 35-48-2-4.

(d) A physician assistant may request, receive, and sign for professional samples and may distribute professional samples to patients if the samples are within the scope of the physician assistant's prescribing privileges delegated by the supervising physician.

(e) A physician assistant may not prescribe drugs unless the physician assistant has successfully completed at least thirty (30)

contact hours in pharmacology from an educational program that is approved by the committee.

(f) A physician assistant may not prescribe, administer, or monitor general anesthesia, regional anesthesia, or deep sedation as defined by the board. A physician assistant may not administer moderate sedation:

(1) if the moderate sedation contains agents in which the manufacturer's general warning advises that the drug should be administered and monitored by an individual who is:

(A) experienced in the use of general anesthesia; and

(B) not involved in the conduct of the surgical or diagnostic procedure; and

(2) during diagnostic tests, surgical procedures, or obstetric procedures unless the following conditions are met:

(A) A physician is physically present in the area, is immediately available to assist in the management of the patient, and is qualified to rescue patients from deep sedation.

(B) The physician assistant is qualified to rescue patients from deep sedation and is competent to manage a compromised airway and provide adequate oxygenation and ventilation by reason of meeting the following conditions:

(i) The physician assistant is certified in advanced cardiopulmonary life support.

(ii) The physician assistant has knowledge of and training in the medications used in moderate sedation, including recommended doses, contraindications, and adverse reactions.

(g) Before a physician assistant may prescribe a controlled substance, the physician assistant must have practiced as a physician assistant for at least one thousand eight hundred (1,800) hours.

SECTION 18. [EFFECTIVE UPON PASSAGE] **(a) The legislative council is urged to assign to an appropriate interim study committee the task of studying:**

(1) the advantages, disadvantages, and feasibility of requiring health care providers to issue prescriptions in an electronic format and by electronic transmission; and

(2) any exceptions that would be needed to a requirement for health care providers to issue prescriptions in an electronic format and by electronic transmission.

(b) If an appropriate interim study committee is assigned the topic described under subsection (a), the interim study committee shall issue to the legislative council a report containing the interim study committee's findings and recommendations, including any

recommended legislation, in an electronic format under IC 5-14-6 not later than November 1, 2019.

(c) This SECTION expires January 1, 2020.

SECTION 19. **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: _____