# SENATE BILL No. 219

DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 16-31-3-23.7; IC 35-48-7.

**Synopsis:** INSPECT program reporting and review. Requires the medical director of the law enforcement agency or an emergency medical services agency supervising an emergency medical services provider to transmit certain information to the INSPECT program when an emergency medical services provider administers an overdose intervention drug to a patient. Removes lapsed provisions. Establishes the INSPECT peer review subcommittee.

**Effective:** July 1, 2018.

## Houchin

January 3, 2018, read first time and referred to Committee on Health and Provider Services.

Introduced

Second Regular Session 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

# SENATE BILL No. 219

A BILL FOR AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 16-31-3-23.7, AS AMENDED BY P.L.6-2016, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 23.7. (a) An advanced emergency medical technician, an emergency medical responder, an emergency medical technician, a firefighter, a volunteer firefighter, a law enforcement officer, or a paramedic who:

(1) administers an overdose intervention drug; or

(2) is summoned immediately after an overdose intervention drug is administered;

shall inform the emergency ambulance service responsible for submitting the report to the commission of the number of times an overdose intervention drug has been administered.

(b) The emergency ambulance service shall include information received under subsection (a) in the emergency ambulance service's report to the commission under the emergency medical services system review in accordance with the commission's rules.

**(c) If an individual who is an advanced emergency medical**

**technician, an emergency medical responder, an emergency medical technician, a firefighter, a volunteer firefighter, a law enforcement officer, or a paramedic administers an overdose intervention drug to a patient in the course of the individual's employment, the medical director of the law enforcement agency or an emergency medical services agency supervising the individual shall transmit to the INSPECT program the information required under IC 35-48-7-8.1.**

SECTION 2. IC 35-48-7-3.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 3.1. As used in this chapter, "emergency medical services provider" means an individual who administers an overdose intervention drug in the course of the individual's employment and who is employed as any of the following:**

**(1) An advanced emergency medical technician.**

**(2) An emergency medical responder.**

**(3) An emergency medical technician.**

**(4) A firefighter or volunteer firefighter.**

**(5) A law enforcement officer.**

**(6) A paramedic.**

SECTION 3. IC 35-48-7-5.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 5.3. As used in this chapter, "medical director" means the medical director of the law enforcement agency or an emergency medical services agency who is required to transmit overdose intervention drug information to the INSPECT program under IC 16-31-3-23.7.**

SECTION 4. IC 35-48-7-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 5.5. As used in this chapter, "overdose intervention drug" has the meaning set forth in IC 16-18-2-263.9.**

SECTION 5. IC 35-48-7-7.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 7.7. As used in this chapter, "subcommittee" refers to the INSPECT peer review subcommittee established in section 18 of this chapter.**

SECTION 6. IC 35-48-7-8.1, AS AMENDED BY P.L.164-2017, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 8.1. (a) The board shall provide for an ephedrine, pseudoephedrine, ~~and~~ controlled substance prescription, **and overdose intervention drug** 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) Each time an overdose intervention drug is administered by an emergency medical services provider, the medical director who supervises the emergency medical services provider shall transmit to the INSPECT program the following information:**

**(A) The overdose intervention drug recipient's name.**

**(B) The overdose intervention drug recipient's or the recipient representative's identification number or the identification number or phrase designated by the INSPECT program, if known.**

**(C) The overdose intervention drug recipient's date of birth.**

**(D) The national drug code number of the overdose intervention drug administered.**

**(E) The date the overdose intervention drug was administered.**

**(F) The quantity of the overdose intervention drug administered.**

**(G) The medical director's United States Drug Enforcement Agency registration number.**

**(H) Other data required by the board.**

~~(2)~~ **(3)** 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 **the:**

**(A)** ephedrine, pseudoephedrine, or a controlled substance is dispensed; **or**

**(B) medical director receives information from the emergency medical services provider that an overdose intervention drug is administered.**

However, if the dispenser's pharmacy **or medical director's office** is closed the day following the dispensing **or receiving information on the overdose drug being administered,** the information must be transmitted by the end of the next business day.

~~(3)~~ **(4)** A dispenser **or medical director** 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)~~ **(5)** 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)~~ **(6)** The costs of the program.

~~(6)~~ **(7)** As part of the information to be completed in the data base and if available, an entry where a dispenser indicates that a patient is participating in a pain management contract with a designated practitioner.

(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 7. IC 35-48-7-10.1, AS AMENDED BY P.L.5-2016, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: 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, **or an overdose intervention drug** recipient's name.

(B) An ephedrine, pseudoephedrine, ~~or~~ a controlled substance, **or an overdose intervention drug** recipient's or recipient representative's identification number.

(C) An ephedrine, pseudoephedrine, ~~or~~ a controlled substance, **or an overdose intervention drug** recipient's date of birth.

(D) The national drug code number of:

**(i)** ephedrine, pseudoephedrine, or a controlled substance dispensed; **or**

**(ii) an overdose intervention drug administered.**

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

(F) The quantities of:

**(i)** ephedrine, pseudoephedrine, or controlled substance dispensed; **or**

**(ii) overdose intervention drug administered.**

(G) The number of days of supply dispensed.

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

(I) A prescriber's **or medical director'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 8. IC 35-48-7-11.1, AS AMENDED BY P.L.164-2017, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: 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~~ controlled substance, **or an overdose intervention drug** 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 issued under IC 25-22.5-5-4.6.

(10) ~~Beginning July 1, 2016,~~ A county coroner conducting a medical investigation of the cause of death.

(11) The management performance hub established by Indiana Executive Order 14-06 and continued by Executive Order 17-09.

(12) The state epidemiologist under the state department of health.

(e) Information provided to a person 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;

(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; and

(3) subsection (d)(11) must be released to the extent disclosure of the information is not prohibited by applicable federal law.

(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 who checks the INSPECT program for the available data on a patient is immune from civil liability for an injury, death, or loss to a person solely due to a practitioner:

(1) seeking information from the INSPECT program; and

(2) in good faith using the information for the treatment of the patient.

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.

(o) A practitioner's agent may act as a delegate and check INSPECT program reports on behalf of the practitioner.

(p) A patient may access a report from the INSPECT program that has been included in the patient's medical file by a practitioner.

SECTION 9. IC 35-48-7-18 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 18. (a) The INSPECT peer review subcommittee is established.**

**(b) The subcommittee consists of the following members:**

**(1) The INSPECT director, who shall serve as the chairperson of the subcommittee.**

**(2) Two (2) physicians.**

**(3) Two (2) pharmacists.**

**(4) One (1) osteopathic physician.**

**(5) One (1) dentist.**

**(6) One (1) podiatrist.**

**(7) One (1) veterinarian.**

**(8) One (1) advanced practice nurse.**

**(9) One (1) physician assistant.**

**(10) One (1) optometrist.**

**(11) The director of the division of mental health and addiction or the director's designee.**

**(12) The attorney general or the attorney general's designee.**

**(13) The commissioner of the state department of health or the commissioner's designee.**

**A member of the subcommittee may not be a current board member of the licensing board that oversees the member's profession.**

**(c) Subcommittee members under subsections (b)(2) through (b)(10) shall be appointed by the governor.**

**(d) The term of a member of the subcommittee appointed under this section is four (4) years. The term of a member of the committee expires July 1, but a member may continue to serve on the subcommittee until a successor is appointed.**

**(e) The subcommittee shall meet:**

**(1) at least four (4) times each calendar year; and**

**(2) at the call of the chairperson.**

**(f) The subcommittee shall periodically review the data contained within INSPECT to identify those practitioners who may be prescribing or dispensing outside the currently established professional standards for the prescriber's or dispenser's field of practice and for the type of medication or type of care applicable to the prescription under review.**

**(g) The subcommittee shall identify practitioners who may be prescribing outside of the currently accepted medical standards in the course of their professional practice and send the identified**

**practitioner a request for information regarding the prescriber's prescribing or dispensing practices. A practitioner has thirty (30) days to respond to the request for information.**

**(h) The subcommittee shall refer a practitioner to the office of the attorney general for investigation:**

**(1) if a practitioner does not respond to a request for information;**

**(2) if, in the opinion of a majority of the members of the subcommittee, the practitioner does not have a satisfactory explanation for:**

**(A) the practices identified by the subcommittee; or**

**(B) the practices identified by the subcommittee in its request for information; or**

**(3) if, following communications with the subcommittee, the practitioner does not sufficiently rectify the practices identified in the request for information in the opinion of the majority of the members of the subcommittee.**

**(i) Except after a referral has been made to the office of the attorney general for an investigation of a practitioner, all materials submitted to the subcommittee by a practitioner are confidential.**

**(j) Notwithstanding subsection (d), the initial terms for the members appointed under this section are as follows:**

**(1) One (1) member appointed under subsection (b)(2) and the members appointed under subsection (b)(4) and (b)(8) for a term of four (4) years.**

**(2) One (1) member appointed under subsection (b)(3) and the members appointed under subsection (b)(5) and (b)(9) for a term of three (3) years.**

**(3) One (1) member appointed under subsection (b)(2) and the members appointed under subsection (b)(6) and (b)(10) for a term of two (2) years.**

**(4) One (1) member appointed under subsection (b)(3) and the member appointed under subsection (b)(7) for a term of one (1) year.**

**This subsection expires July 1, 2022.**