



January 24, 2020

HOUSE BILL No. 1207

DIGEST OF HB 1207 (Updated January 22, 2020 8:23 pm - DI 77)

Citations Affected: IC 5-10; IC 16-18; IC 16-41; IC 25-1; IC 25-26; IC 27-1; IC 27-8; IC 27-13; IC 34-30.

Synopsis: Pharmacy matters. Provides that a state employee plan, health maintenance organization, insurer, or pharmacy benefits manager (health plan provider) may not require a pharmacy or pharmacist to collect a higher copayment for a prescription drug from a covered individual than the health plan provider allows the pharmacy or pharmacist to retain. Allows a pharmacist who meets certain requirements to dispense auto-injectable epinephrine by standing order to a person who: (1) has completed a course on auto-injectable epinephrine; and (2) is an individual is in a position to assist an individual who is at risk of experiencing anaphylaxis. Allows a person to administer auto-injectable epinephrine to an individual who is experiencing anaphylaxis if certain conditions are met. Requires the state department of health (state department) to issue a statewide standing order authorizing the dispensing of auto-injectable epinephrine. Authorizes the state health commissioner and certain designated public health authorities to issue a statewide standing order authorizing the dispensing of auto-injectable epinephrine. Extends certain immunities to the state department, the state health commissioner, and certain designated public health authorities. Requires the state department to approve courses concerning the administration of auto-injectable epinephrine. Requires a person to have successfully completed the course to be immune from civil liability. Adds exceptions to the requirement that controlled substance prescriptions be in an electronic format. Provides that the board of pharmacy, in consultation with the medical licensing board, may adopt
(Continued next page)

Effective: July 1, 2020.

Davisson, Barrett

January 16, 2020, read first time and referred to Committee on Public Health.
January 23, 2020, amended — Do Pass.

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Digest Continued

emergency rules. Adds advanced practice registered nurses and physician assistants to the list of out-of-state providers whose prescriptions a pharmacist has a duty to honor. Allows a prescription for a patient to be transferred electronically or by facsimile by a pharmacy to another pharmacy if the pharmacies do not share a common data base. Allows a licensed pharmacy technician to transfer the prescription. Allows a pharmacist to substitute a therapeutic alternative for epinephrine products for a patient. Subject to rules adopted by the board of pharmacy, allows a pharmacy technician to administer an influenza immunization to an individual under a drug order or prescription. Requires a manufacturer that engages in prescription drug marketing to provide to a practitioner the wholesale acquisition cost of the prescription drug.

HB 1207—LS 6876/DI 77



January 24, 2020

Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

HOUSE BILL No. 1207

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

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

1 SECTION 1. IC 5-10-8-20, AS ADDED BY P.L.209-2018,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2020]: Sec. 20. (a) As used in this section, "covered
4 individual" means an individual entitled to coverage under a state
5 employee plan.
6 (b) As used in this section, "drug" means a prescription drug.
7 (c) As used in this section, "pharmacy" refers to a pharmacist or
8 pharmacy that has entered into an agreement with a state employee
9 plan to provide drugs to individuals covered under a state employee
10 plan.
11 (d) As used in this section, "state employee plan" refers to the
12 following that provide coverage for drugs:
13 (1) A self-insurance program established under section 7(b) of
14 this chapter to provide group health coverage.
15 (2) A contract with a prepaid health care delivery plan that is
16 entered into or renewed under section 7(c) of this chapter.
17 The term includes a person that administers drug benefits on behalf of

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1 a state employee plan.

2 (e) A pharmacy or pharmacist shall have the right to provide a
3 covered individual with information concerning the amount of the
4 covered individual's cost share for a prescription drug. Neither a
5 pharmacy nor a pharmacist shall be proscribed by a pharmacy benefits
6 manager from discussing this information or from selling to the
7 covered individual a more affordable alternative if an affordable
8 alternative is available.

9 (f) A pharmacy benefits manager that covers prescription drugs may
10 not include a provision that requires a covered individual to make
11 payment for a prescription drug at the point of sale in an amount that
12 exceeds the lesser of:

- 13 (1) the contracted copayment amount; or
14 (2) the amount of total approved charges by the pharmacy benefits
15 manager at the point of sale.

16 This subsection does not prohibit the adjudication of claims in
17 accordance with the state employee plan administered by a pharmacy
18 benefits manager. The covered individual is not liable for any
19 additional charges or entitled to any credits as a result of the
20 adjudicated claim.

21 **(g) The state employee plan or a pharmacy benefits manager
22 may not require a pharmacy or pharmacist to collect a higher
23 copayment for a prescription drug from a covered individual than
24 the state employee plan or pharmacy benefits manager allows the
25 pharmacy or pharmacist to retain.**

26 SECTION 2. IC 16-18-2-338.3, AS ADDED BY P.L.32-2015,
27 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
28 JULY 1, 2020]: Sec. 338.3. **(a)** "Standing order", for purposes of
29 IC 16-31 and IC 16-42-27, means:

30 (1) a written order; or
31 (2) an order transmitted by other means of communication;
32 that is prepared by a person authorized to write a prescription for the
33 distribution and administration of an overdose intervention drug,
34 including any actions and interventions to be used in order to ensure
35 timely access to treatment.

36 **(b)** "Standing order", for purposes of IC 16-41-43, means:

37 (1) a written order; or
38 (2) an order transmitted by other means of communication;
39 that is prepared by a person authorized to write a prescription for
40 the distribution and administration of auto-injectable epinephrine,
41 including any actions and interventions to be used in order to
42 ensure timely access to treatment.



1 SECTION 3. IC 16-41-43-2.3 IS ADDED TO THE INDIANA
2 CODE AS A NEW SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2020]: Sec. 2.3. (a) A pharmacist may, by
4 standing order, dispense auto-injectable epinephrine without
5 examining the individual to whom it may be administered if all of
6 the following conditions are met:

7 (1) The auto-injectable epinephrine is dispensed to a person
8 who:

9 (A) presents a certificate of completion issued under
10 section 2.5(c) of this chapter to the pharmacist before the
11 auto-injectable epinephrine is dispensed; and

12 (B) is an individual who is or may be in a position to assist
13 an individual who is at risk of experiencing anaphylaxis.

14 (2) The pharmacist provides instruction concerning how to
15 properly administer auto-injectable epinephrine from the
16 specific device being dispensed at the time of the device's
17 dispensing.

18 (3) The pharmacist instructs the individual receiving the
19 auto-injectable epinephrine to summon emergency medical
20 services either immediately before or immediately after
21 administering the auto-injectable epinephrine to an individual
22 experiencing anaphylaxis.

23 (b) A person wishing to receive auto-injectable epinephrine by
24 standing order must do the following:

25 (1) Successfully complete the course described in section
26 2.5(a) of this chapter.

27 (2) Present a certificate of completion issued under section
28 2.5(c) of this chapter to a pharmacist at the time the
29 auto-injectable epinephrine is requested.

30 (c) An individual described in subsection (a)(1) may administer
31 auto-injectable epinephrine to an individual that the person
32 reasonably believes is experiencing anaphylaxis.

33 (d) An individual described in subsection (a)(1) may not be
34 considered to be practicing medicine without a license in violation
35 of IC 25-22.5-8-2 if the individual, acting in good faith:

36 (1) obtains auto-injectable epinephrine from a pharmacist by
37 standing order;

38 (2) administers auto-injectable epinephrine to an individual
39 that the person reasonably believes is experiencing
40 anaphylaxis in a manner that is consistent with:

41 (A) the training provided during the course described in
42 section 2.5(a) of this chapter; or



1 **(B) the instruction provided to the person by a pharmacist
2 at the time the auto-injectable epinephrine was dispensed;
3 and**

4 **(3) attempts to summon emergency medical services either
5 immediately before or immediately after administering the
6 auto-injectable epinephrine.**

7 (e) The state department shall ensure that a statewide standing
8 order for the dispensing of auto-injectable epinephrine in Indiana
9 is issued under this section. The state health commissioner may, as
10 part of the individual's official capacity, issue a statewide standing
11 order that may be used for the dispensing of auto-injectable
12 epinephrine under this section. The immunity provided in
13 IC 34-13-3-3 applies to an individual described in this subsection.

14 SECTION 4. IC 16-41-43-2.5 IS ADDED TO THE INDIANA
15 CODE AS A NEW SECTION TO READ AS FOLLOWS
16 [EFFECTIVE JULY 1, 2020]: Sec. 2.5. (a) The state department
17 shall approve courses concerning allergies and the administration
18 of auto-injectable epinephrine that are offered by an approved
19 organization (as defined in IC 25-1-4-0.2).

20 (b) The state department shall do the following:

21 (1) Maintain, on the agency's Internet web site, a list of all
22 approved courses.

23 (2) Prescribe the certification process for the course described
24 in subsection (a).

25 (3) Revoke the certification of an organization that fails to
26 comply with any certification prerequisite specified by the
27 state department.

28 (c) A person who successfully completes a certified course shall
29 receive a certificate of completion. The state department may
30 contract with a third party for the purpose of creating or
31 manufacturing the certificate of completion, which must meet the
32 requirements set forth in subsection (d).

33 (d) A certificate of completion issued under subsection (c) must:

34 (1) have dimensions that permit the certificate of completion
35 to be carried in a wallet; and

36 (2) display the following information:

37 (A) The first and last name of the person.

38 (B) The first and last name of the course instructor.

39 (C) The name of the entity responsible for providing the
40 course, if applicable.

41 (D) The date the course described in subsection (a) was
42 completed.



(E) Any other information required by the state department.

(e) The state department may adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, to implement this section.

SECTION 5. IC 16-41-43-3.5, AS ADDED BY P.L.117-2017, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 3.5. Injectable epinephrine that is filled and used in accordance with this chapter must have an expiration date of not less than twelve (12) months from the date that the pharmacy dispenses the injectable epinephrine to the entity **or person, as applicable**.

SECTION 6. IC 16-41-43-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 5.5. (a) This chapter does not apply to a person who is eligible for immunity specified in one (1) or more of the following sections:

- (1) Section 6 of this chapter.
 - (2) IC 20-34-4.5-4.
 - (3) IC 21-44.5-2-6.

(b) Except as provided in subsection (d), a person who meets all of the following criteria is not liable for civil damages for any act or omission related to the administration of auto-injectable epinephrine:

- (1) The person has successfully completed a course described in section 2.5(a) of this chapter before administering auto-injectable epinephrine to a person.
 - (2) The person administered the auto-injectable epinephrine in a manner that was consistent with:
 - (A) the training provided during the course described in section 2.5(a) of this chapter; or
 - (B) the instruction provided to the person by the pharmacist at the time the auto-injectable epinephrine was dispensed to the person.
 - (3) The person reasonably believed that the recipient of the auto-injectable epinephrine was suffering from anaphylaxis at the time the auto-injectable epinephrine was administered.

c) A pharmacist who complies with section 2.3(a) of this chapter is not liable for civil damages resulting from the administration of auto-injectable epinephrine.

d) The immunity described in subsection (b) or (c) does not apply to any act or omission that constitutes gross negligence or willful and wanton misconduct.



1 SECTION 7. IC 25-1-9.3-8, AS ADDED BY P.L.28-2019,
2 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2020]: Sec. 8. A prescriber may issue a prescription for a
4 controlled substance in a written format, a faxed format, or an oral
5 order if any of the following apply:

- 6 (1) The prescriber cannot transmit an electronically transmitted
7 prescription due to:
8 (A) temporary technological or electrical failure; **or**
9 (B) **the technological inability to issue a prescription**
10 **electronically.**
11 (2) The prescriber issues a prescription to be dispensed by a
12 pharmacy located outside Indiana.
13 (3) The prescriber and the pharmacist are the same entity.
14 (4) The prescriber issues a prescription that meets any of the
15 following:
16 (A) The prescription contains elements that are not supported
17 by the technical standards developed by the National Council
18 for Prescription Drug Programs for electronically transmitted
19 prescriptions (NCPDP SCRIPT).
20 (B) The federal Food and Drug Administration requires the
21 prescription to contain certain elements that cannot be
22 supported in an electronically transmitted prescription.
23 (C) The prescription is a non-patient specific prescription in
24 response to a public health emergency or another instance
25 allowable under state law and that requires a non-patient
26 specific prescription under:
27 (i) a standing order;
28 (ii) approved protocol for drug therapy;
29 (iii) collaborative drug management; or
30 (iv) comprehensive medication management.
31 (D) The prescription is issued under a research protocol.
32 (5) The prescriber has received a waiver or a renewal of a
33 previously received waiver from the board in accordance with
34 rules adopted under section 9 of this chapter.
35 (6) The board, in accordance with rules adopted under section 9
36 of this chapter, has determined that issuing an electronically
37 transmitted prescription would be impractical and cause delay,
38 adversely impacting the patient's medical condition.
39 (7) **The prescriber reasonably determines that it would be**
40 **impractical for the patient to obtain an electronic prescription**
41 **in a timely manner and the delay would adversely affect the**
42 **patient's medical condition.**



1 **(8) The prescriber provides notice to the board that the
2 prescriber does not use an electronic medical record.**

3 SECTION 8. IC 25-1-9.3-9, AS ADDED BY P.L.28-2019,
4 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2020]: Sec. 9. (a) The board shall, in consultation with the
6 medical licensing board, adopt rules under IC 4-22-2 to implement this
7 chapter, including:

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

11 (A) economic hardship;

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

14 (C) other circumstances determined by the board; and

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

18 (b) Any rules adopted under this chapter must be substantially
19 similar to the requirements and exceptions under 42 U.S.C.
20 1395w-104.

21 (c) **The board, in consultation with the medical licensing board,**
22 **may adopt emergency rules in the manner provided in**
23 **IC 4-22-2-37.1. A rule adopted under this section expires on the**
24 **earlier of the following:**

25 (1) **The date that the rule is superseded, amended, or repealed**
26 **by a permanent rule adopted under IC 4-22-2.**

27 (2) **July 1, 2023.**

28 SECTION 9. IC 25-26-13-16 IS AMENDED TO READ AS
29 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 16. (a) A pharmacist
30 shall exercise ~~his~~ **the pharmacist's** professional judgment in the best
31 interest of the patient's health when engaging in the practice of
32 pharmacy.

33 (b) A pharmacist has a duty to honor all prescriptions from a
34 practitioner or from a physician, podiatrist, dentist, **advanced practice**
35 **registered nurse, physician assistant**, or veterinarian licensed under
36 the laws of another state. Before honoring a prescription, the
37 pharmacist shall take reasonable steps to determine whether the
38 prescription has been issued in compliance with the laws of the state
39 where it originated. The pharmacist is immune from criminal
40 prosecution or civil liability if ~~he~~, **the pharmacist**, in good faith,
41 refuses to honor a prescription because, in ~~his~~ **the pharmacist's**
42 professional judgment, the honoring of the prescription would:



- 1 (1) be contrary to law;
2 (2) be against the best interest of the patient;
3 (3) aid or abet an addiction or habit; or
4 (4) be contrary to the health and safety of the patient.

5 SECTION 10. IC 25-26-13-24.8, AS ADDED BY P.L.28-2019,
6 SECTION 16, AND P.L.246-2019, SECTION 9, IS AMENDED TO
7 READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 24.8. **(a)**
8 Upon request of a patient, a pharmacy shall transfer to another
9 pharmacy a prescription for the patient that the pharmacy has received
10 but not filled unless:

- 11 (1) prohibited in writing on the prescription by the prescriber; or
12 (2) otherwise prohibited by federal law.

13 **(b) Unless prohibited by federal law, a prescription for a patient**
14 **may be transferred electronically or by facsimile by a pharmacy to**
15 **another pharmacy if the pharmacies do not share a common data**
16 **base.**

17 **(c) A licensed pharmacy technician may transfer a prescription**
18 **under subsection (b).**

19 SECTION 11. IC 25-26-13-25.3, AS ADDED BY P.L.246-2019,
20 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
21 JULY 1, 2020]: Sec. 25.3. **(a) Beginning January 1, 2020,** A pharmacy
22 may not dispense injectable epinephrine or glucagon to a person
23 unless:

- 24 (1) the injectable epinephrine or glucagon has an expiration date
25 of not less than twelve (12) months from the date that the drug is
26 dispensed; or
27 (2) the person consents to the injectable epinephrine or glucagon
28 having an expiration date of less than twelve (12) months from
29 the date that the drug is dispensed.

30 **(b) Except as provided in IC 25-26-16.5, a pharmacist may**
31 **substitute a therapeutic alternative (as defined in IC 25-26-16.5-4)**
32 **for epinephrine products for a patient.**

33 SECTION 12. IC 25-26-13-31.7 IS ADDED TO THE INDIANA
34 CODE AS A NEW SECTION TO READ AS FOLLOWS
35 [EFFECTIVE JULY 1, 2020]: Sec. 31.7. **(a) Subject to rules adopted**
36 **under subsection (c), a pharmacy technician may administer an**
37 **influenza immunization to an individual under a drug order or**
38 **prescription.**

39 **(b) Subject to rules adopted under subsection (c), a pharmacy**
40 **technician may administer an influenza immunization to an**
41 **individual or a group of individuals under a drug order, under a**
42 **prescription, or according to a protocol approved by a physician.**



1 (c) The board shall adopt rules under IC 4-22-2 to establish
2 requirements applying to a pharmacy technician who administers
3 an influenza immunization to an individual or group of individuals.
4 The rules adopted under this section:

- 5 (1) must provide for the direct supervision of the pharmacy
6 technician by a pharmacist, a physician, a physician assistant,
7 or an advanced practice registered nurse; and
8 (2) may not be less stringent than the requirements applying
9 to a pharmacist who administers an influenza immunization
10 to an individual as provided under section 31.2 of this chapter.

11 SECTION 13. IC 25-26-13-34 IS ADDED TO THE INDIANA
12 CODE AS A NEW SECTION TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 2020]: Sec. 34. A person who:

14 (1) is a manufacturer (as defined in IC 25-26-14-8) or a
15 representative, agent, or employee of a manufacturer;
16 (2) engages in prescription drug marketing while employed by
17 or under a contract to represent a manufacturer; and
18 (3) provides information concerning the drug to the
19 practitioner in the course of conducting business;

20 shall provide to the practitioner, in writing, the wholesale
21 acquisition cost of the prescription drug.

22 SECTION 14. IC 27-1-24.8-5 IS ADDED TO THE INDIANA
23 CODE AS A NEW SECTION TO READ AS FOLLOWS
24 [EFFECTIVE JULY 1, 2020]: Sec. 5. A pharmacy benefits manager
25 may not require a pharmacy or pharmacist to collect a higher
26 copayment for a prescription drug from a customer than the
27 pharmacy benefits manager allows the pharmacy or pharmacist to
28 retain.

29 SECTION 15. IC 27-8-11-12, AS ADDED BY P.L.209-2018,
30 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
31 JULY 1, 2020]: Sec. 12. (a) As used in this section, "drug" means a
32 prescription drug.

33 (b) As used in this section, "insurer" refers to an insurer that
34 provides coverage for drugs. The term includes a person that
35 administers drug benefits on behalf of an insurer.

36 (c) As used in this section, "pharmacy" refers to a pharmacist or
37 pharmacy that has entered into an agreement with an insurer under
38 section 3 of this chapter.

39 (d) A pharmacy or pharmacist shall have the right to provide an
40 insured with information concerning the amount of the insured's cost
41 share for a prescription drug. Neither a pharmacy nor a pharmacist
42 shall be proscribed by an insurer from discussing this information or



1 from selling to the insured a more affordable alternative if an
 2 affordable alternative is available.

3 (e) An insurer that covers prescription drugs may not include a
 4 provision that requires an insured to make payment for a prescription
 5 drug at the point of sale in an amount that exceeds the lesser of:

- 6 (1) the contracted copayment amount; or
- 7 (2) the amount of total approved charges by the insurer at the
 point of sale.

9 This subsection does not prohibit the adjudication of claims in
 10 accordance with an accident and sickness insurance policy issued or
 11 administered by an insurer. The insured is not liable for any additional
 12 charges or entitled to any credits as a result of the adjudicated claim.

13 (f) **The insurer or a pharmacy benefits manager may not require a pharmacy or pharmacist to collect a higher copayment for a prescription drug from an insured than the insurer or pharmacy benefits manager allows the pharmacy or pharmacist to retain.**

18 SECTION 16. IC 27-13-15-6, AS ADDED BY P.L.209-2018,
 19 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2020]: Sec. 6. (a) As used in this section, "drug" means a
 21 prescription drug.

22 (b) As used in this section, "health maintenance organization" refers
 23 to a health maintenance organization that provides coverage for drugs.
 24 The term includes the following:

- 25 (1) A limited service health maintenance organization.
- 26 (2) A person that administers drug benefits on behalf of a health
 maintenance organization or a limited service health maintenance
 organization.

29 (c) As used in this section, "pharmacy" refers to a pharmacist or
 30 pharmacy that is a participating provider.

31 (d) A pharmacy or pharmacist shall have the right to provide an
 32 enrollee with information concerning the amount of the enrollee's cost
 33 share for a prescription drug. Neither a pharmacy nor a pharmacist
 34 shall be proscribed by a health maintenance organization from
 35 discussing this information or from selling to the enrollee a more
 36 affordable alternative if an affordable alternative is available.

37 (e) A health maintenance organization that covers prescription drugs
 38 may not include a provision that requires an enrollee to make payment
 39 for a prescription drug at the point of sale in an amount that exceeds the
 40 lesser of:

- 41 (1) the contracted copayment amount; or
- 42 (2) the amount of total approved charges by the health



1 maintenance organization at the point of sale.

2 This subsection does not prohibit the adjudication of claims in
3 accordance with an individual contract or group contract issued or
4 administered by a health maintenance organization. The enrollee is not
5 liable for any additional charges or entitled to any credits as a result of
6 the adjudicated claim.

7 **(f) The health maintenance organization or a pharmacy benefits
8 manager may not require a pharmacy or pharmacist to collect a
9 higher copayment for a prescription drug from an enrollee than
10 the health maintenance organization or pharmacy benefits
11 manager allows the pharmacy or pharmacist to retain.**

12 SECTION 17. IC 34-30-2-83.6 IS ADDED TO THE INDIANA
13 CODE AS A NEW SECTION TO READ AS FOLLOWS
14 [EFFECTIVE JULY 1, 2020]: Sec. 83.6. IC 16-41-43-5.5 (Concerning
15 the administration of auto-injectable epinephrine by laypersons
16 and the dispensing of auto-injectable epinephrine by pharmacists).



COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1207, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, between lines 25 and 26, begin a new paragraph and insert:

"SECTION 2. IC 16-18-2-338.3, AS ADDED BY P.L.32-2015, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 338.3. (a) "Standing order", for purposes of IC 16-31 and IC 16-42-27, means:

(1) a written order; or

(2) an order transmitted by other means of communication;

that is prepared by a person authorized to write a prescription for the distribution and administration of an overdose intervention drug, including any actions and interventions to be used in order to ensure timely access to treatment.

(b) "Standing order", for purposes of IC 16-41-43, means:

(1) a written order; or

(2) an order transmitted by other means of communication;

that is prepared by a person authorized to write a prescription for the distribution and administration of auto-injectable epinephrine, including any actions and interventions to be used in order to ensure timely access to treatment.

SECTION 3. IC 16-41-43-2.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 2.3. (a) A pharmacist may, by standing order, dispense auto-injectable epinephrine without examining the individual to whom it may be administered if all of the following conditions are met:

(1) The auto-injectable epinephrine is dispensed to a person who:

(A) presents a certificate of completion issued under section 2.5(c) of this chapter to the pharmacist before the auto-injectable epinephrine is dispensed; and

(B) is an individual who is or may be in a position to assist an individual who is at risk of experiencing anaphylaxis.

(2) The pharmacist provides instruction concerning how to properly administer auto-injectable epinephrine from the specific device being dispensed at the time of the device's dispensing.

(3) The pharmacist instructs the individual receiving the auto-injectable epinephrine to summon emergency medical



services either immediately before or immediately after administering the auto-injectable epinephrine to an individual experiencing anaphylaxis.

(b) A person wishing to receive auto-injectable epinephrine by standing order must do the following:

(1) Successfully complete the course described in section 2.5(a) of this chapter.

(2) Present a certificate of completion issued under section 2.5(c) of this chapter to a pharmacist at the time the auto-injectable epinephrine is requested.

(c) An individual described in subsection (a)(1) may administer auto-injectable epinephrine to an individual that the person reasonably believes is experiencing anaphylaxis.

(d) An individual described in subsection (a)(1) may not be considered to be practicing medicine without a license in violation of IC 25-22.5-8-2 if the individual, acting in good faith:

(1) obtains auto-injectable epinephrine from a pharmacist by standing order;

(2) administers auto-injectable epinephrine to an individual that the person reasonably believes is experiencing anaphylaxis in a manner that is consistent with:

(A) the training provided during the course described in section 2.5(a) of this chapter; or

(B) the instruction provided to the person by a pharmacist at the time the auto-injectable epinephrine was dispensed; and

(3) attempts to summon emergency medical services either immediately before or immediately after administering the auto-injectable epinephrine.

(e) The state department shall ensure that a statewide standing order for the dispensing of auto-injectable epinephrine in Indiana is issued under this section. The state health commissioner may, as part of the individual's official capacity, issue a statewide standing order that may be used for the dispensing of auto-injectable epinephrine under this section. The immunity provided in IC 34-13-3-3 applies to an individual described in this subsection.

SECTION 4. IC 16-41-43-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 2.5. (a) The state department shall approve courses concerning allergies and the administration of auto-injectable epinephrine that are offered by an approved organization (as defined in IC 25-1-4-0.2).



(b) The state department shall do the following:

- (1) Maintain, on the agency's Internet web site, a list of all approved courses.**
- (2) Prescribe the certification process for the course described in subsection (a).**
- (3) Revoke the certification of an organization that fails to comply with any certification prerequisite specified by the state department.**

(c) A person who successfully completes a certified course shall receive a certificate of completion. The state department may contract with a third party for the purpose of creating or manufacturing the certificate of completion, which must meet the requirements set forth in subsection (d).

(d) A certificate of completion issued under subsection (c) must:

- (1) have dimensions that permit the certificate of completion to be carried in a wallet; and**
- (2) display the following information:**
 - (A) The first and last name of the person.**
 - (B) The first and last name of the course instructor.**
 - (C) The name of the entity responsible for providing the course, if applicable.**
 - (D) The date the course described in subsection (a) was completed.**
 - (E) Any other information required by the state department.**

(e) The state department may adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, to implement this section.

SECTION 5. IC 16-41-43-3.5, AS ADDED BY P.L.117-2017, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 3.5. Injectable epinephrine that is filled and used in accordance with this chapter must have an expiration date of not less than twelve (12) months from the date that the pharmacy dispenses the injectable epinephrine to the entity **or person, as applicable**.

SECTION 6. IC 16-41-43-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 5.5. **(a) This chapter does not apply to a person who is eligible for immunity specified in one (1) or more of the following sections:**

- (1) Section 6 of this chapter.**
- (2) IC 20-34-4.5-4.**
- (3) IC 21-44.5-2-6.**



(b) Except as provided in subsection (d), a person who meets all of the following criteria is not liable for civil damages for any act or omission related to the administration of auto-injectable epinephrine:

(1) The person has successfully completed a course described in section 2.5(a) of this chapter before administering auto-injectable epinephrine to a person.

(2) The person administered the auto-injectable epinephrine in a manner that was consistent with:

(A) the training provided during the course described in section 2.5(a) of this chapter; or

(B) the instruction provided to the person by the pharmacist at the time the auto-injectable epinephrine was dispensed to the person.

(3) The person reasonably believed that the recipient of the auto-injectable epinephrine was suffering from anaphylaxis at the time the auto-injectable epinephrine was administered.

(c) A pharmacist who complies with section 2.3(a) of this chapter is not liable for civil damages resulting from the administration of auto-injectable epinephrine.

(d) The immunity described in subsection (b) or (c) does not apply to any act or omission that constitutes gross negligence or willful and wanton misconduct.

SECTION 7. IC 25-1-9.3-8, AS ADDED BY P.L.28-2019, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: 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:

(A) temporary technological or electrical failure; or

(B) the technological inability to issue a prescription electronically.

(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.
 - (7) The prescriber reasonably determines that it would be impractical for the patient to obtain an electronic prescription in a timely manner and the delay would adversely affect the patient's medical condition.**
 - (8) The prescriber provides notice to the board that the prescriber does not use an electronic medical record.**
- SECTION 8. IC 25-1-9.3-9, AS ADDED BY P.L.28-2019, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: 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.



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(c) The board, in consultation with the medical licensing board, may adopt emergency rules in the manner provided in IC 4-22-2-37.1. A rule adopted under this section expires on the earlier of the following:

- (1) The date that the rule is superseded, amended, or repealed by a permanent rule adopted under IC 4-22-2.**
- (2) July 1, 2023.".**

Page 6, delete lines 9 through 32, begin a new paragraph and insert:
"SECTION 18. IC 34-30-2-83.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 83.6. IC 16-41-43-5.5 (Concerning the administration of auto-injectable epinephrine by laypersons and the dispensing of auto-injectable epinephrine by pharmacists).".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1207 as introduced.)

KIRCHHOFER

Committee Vote: yeas 12, nays 0.

HB 1207—LS 6876/DI 77

