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, reported — Do Pass.

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.

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:

SECTION 1. IC 5-10-8-20, AS ADDED BY P.L.209-2018, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 20. (a) As used in this section, "covered individual" means an individual entitled to coverage under a state employee plan.

(b) As used in this section, "drug" means a prescription drug.

(c) As used in this section, "pharmacy" refers to a pharmacist or pharmacy that has entered into an agreement with a state employee plan to provide drugs to individuals covered under a state employee plan.

(d) As used in this section, "state employee plan" refers to the following that provide coverage for drugs:

(1) A self-insurance program established under section 7(b) of this chapter to provide group health coverage.

(2) A contract with a prepaid health care delivery plan that is entered into or renewed under section 7(c) of this chapter.

The term includes a person that administers drug benefits on behalf of

a state employee plan.

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

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

(1) the contracted copayment amount; or

(2) the amount of total approved charges by the pharmacy benefits manager at the point of sale.

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

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

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. 1395w-104.

(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.

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

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

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

SECTION 10. IC 25-26-13-24.8, AS ADDED BY P.L.28-2019, SECTION 16, AND P.L.246-2019, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 24.8. **(a)** 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.

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

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

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

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

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

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

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

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

(1) must provide for the direct supervision of the pharmacy technician by a pharmacist, a physician, a physician assistant, or an advanced practice registered nurse; and

(2) may not be less stringent than the requirements applying to a pharmacist who administers an influenza immunization to an individual as provided under section 31.2 of this chapter.

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

(1) is a manufacturer (as defined in IC 25-26-14-8) or a representative, agent, or employee of a manufacturer;

(2) engages in prescription drug marketing while employed by or under a contract to represent a manufacturer; and

(3) provides information concerning the drug to the practitioner in the course of conducting business;

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

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

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

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

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

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

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

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

(1) the contracted copayment amount; or

(2) the amount of total approved charges by the insurer at the point of sale.

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

(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.

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

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

(1) A limited service health maintenance organization.

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

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

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

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

(1) the contracted copayment amount; or

(2) the amount of total approved charges by the health

maintenance organization at the point of sale.

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

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

SECTION 17. 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).**

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.

1395w-104.

(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.